United States
of America

Congressional Record

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

Vol. 146 WASHINGTON, WEDNESDAY, JULY 26, 2000 *No. 99*

Senate

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

PRAYER

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

Almighty God, take charge of the control centers of our brains. Think Your thoughts through us and send to our nervous systems the pure signals of Your peace, power, and patience. Give us minds responsive to Your guidance.

Take charge of our tongues so that we may speak truth with clarity, without rancor or anger. May our debates be efforts to reach agreement rather than simply to win arguments. Help us to think of each other as fellow Americans seeking Your best for our Nation, rather than enemy parties seeking to defeat each other. Make us channels of Your grace to others. May we respond to Your nudges to communicate affirmation and encouragement.

Help us to catch the drumbeat of Your direction and march to the cadence of Your guidance. Here are our lives. Inspire them with Your calming Spirit, strengthen them with Your powerful presence, and imbue them with Your gift of faith to trust You to bring unity into our diversity. In our Lord's name. 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 PRESIDENT pro tempore. The acting majority leader, Senator ALLARD, is recognized.

SCHEDULE

Mr. ALLARD. Mr. President, today the Senate will be in a period of morning business until 10:15 a.m. with Senators DURBIN and COLLINS in control of the time. Following morning business, the Senate will proceed to a cloture vote on the motion to proceed to the Treasury and general government appropriations bill. If cloture is invoked, the Senate will begin 30 hours of postcloture debate. If cloture is not invoked, the Senate will proceed to a second vote on the motion to proceed to the intelligence authorization bill. Again, if cloture is invoked on the motion, postcloture debate will begin immediately.

As a reminder, on Thursday the morning hour has been set aside for those Senators who wish to make their final statements in remembrance of the life of our former friend and colleague, Senator Paul Coverdell. At the expiration of that time, a vote on the motion to proceed to the energy and water appropriations bill will occur.

I thank my colleagues for their attention. I yield the floor. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. ALLARD). Without objection, it is so ordered.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business for debate only, except for a motion to proceed made by the majority leader or his designee and the filing of a cloture motion thereon. Senators will be permitted to speak therein for up to 10 minutes each. Under the previous order, there should be 20 minutes under the control of the Senator from Illinois, Mr. DURBIN, or his designee, and under the previous order there should be 20 minutes under the control of the Senator from Maine, Ms. COLLINS, or her designee.

The Senator from Illinois.

LEGISLATIVE PRIORITIES

Mr. DURBIN. Mr. President, I am certain those who were observing the Senate Chamber yesterday and perhaps the day before are curious as to why absolutely nothing is happening. It reflects the fact that there is no agreement between the parties as to how to proceed on the business of the Senate, particularly on the appropriations bills.

At this moment in time negotiations are underway, and hopefully they will be completed successfully very soon. At issue is the number of amendments to be offered, the time for the debate, and some tangential but very important issues such as the consideration of appointments of Federal district court judges across America to fill vacancies. These judgeships have been a source of great controversy in recent times because there is a clear difference of opinion between Democrats and Republicans about how many judges should be appointed this year.

Of course, the Republicans in control of the Senate are hopeful that their candidate for President will prevail in November and that all of the vacancies can then be filled by a Republican President. That is understandable. The Democrats, on the other hand, in the minority in the Senate, have a President who has the authority to appoint these judges and wants to exercise that

authority in this closing year. Therein lies the clash in confrontation.

Historically, the last time the tables were turned and there was a Republican President and a Democratic Senate, President Ronald Reagan had 60 Federal district court judges appointed in the election year. In fact, there were hearings on some of them as late at September of that year. This year, we have had about 30 appointed and we have many more vacancies, many more pending. We are hopeful, on the Democratic side, these will be filled. Those on the Republican side are adamant that they do not want to bring them up. I hope they will reconsider that and at least give Democrats the same consideration we offered President Reagan when he faced a Democratic Senate with many Federal district court vacancies.

The other item of business which consumed our attention over the last week or two related to tax relief. It is an interesting issue and one that many Members like to take back home and discuss; certainly most American families, regardless of whether they are rich or poor, desire some reduction in their tax burden.

The difference of opinion between the Democrats and Republicans on this issue is very stark. There is a consideration on the Republican side that tax relief should go to those who pay the most. Of course, those who pay the most taxes are, in fact, the wealthiest in this country. We have a progressive tax system. We have had it for a long time. We believe if one is fortunate enough to be successful, those taxpayers owe something back to this country. Those who are more successful owe more back to this country. You can't take blood from a turnip; you can't put a high tax rate on a person with a low income. But you can certainly say to a successful person: We ask you to contribute back to America. We ask you, in the payment of taxes, to help maintain this great Nation which has given you, your family, and your business such a wonderful opportunity.

The Republican program from the start, as long as I have served in Congress, has always been to reduce the tax burden on those who are the wealthiest in this country. I happen to believe the tables should be turned and we should have a situation where those who are in the lower income groups and middle-income families who are struggling to make ends meet should be the ones most deserving of tax relief. That is a difference in philosophy, a difference between the parties, and is reflected very clearly in the debate we have had over the last 2 weeks.

This is a chart which I have been bringing to the floor on a regular basis. Some House Republicans told me this morning that they are tired of seeing my chart. They are going to have to get a little more exhausted because I am going to produce it again today. This chart outlines what happens with the Republican tax plans, with their idea of tax cuts.

In the area of the estate tax, a tax is imposed on less than 2 percent of the American population. Of 2.3 million people who die each year, only 40,000 end up with any liability under the estate tax. It is a tax reserved for those who really have large estates that they have accumulated during a lifetime. There are exemptions that people can write off when it comes to the estate tax liability, and those exemptions are growing, as they should, to reflect the cost of living increases.

By and large, the Republicans have proposed to do away with the tax completely, so the very wealthiest of Americans who pay this tax would receive the tax relief.

What does it mean? On the Republican plan, if you happen to be a person making over $300,000 a year in income—if my calculations are correct, that is about $25,000 a month in income—the Republicans have suggested you need an annual tax cut of $23,000 as a result of their elimination of the estate tax. That boils down to close to $2,000 a month, for those making $25,000 a month, that the Republicans would send your way when it comes to tax relief.

Most American income categories are people making between $40,000 and $65,000 a year. Under the Republican plan, if you happen to be with the vast majority of Americans paying taxes, you aren't going to notice this tax relief; $200 a year is what the Republicans offer to you. That comes down to $16 a month they are going to send your way. If you are in the highest income categories, you receive $2,000 a month; if you happen to be with the vast majority of Americans, you receive $16 a month.

That is the Republican view of the world. That is the Republican view of tax relief: If we are going to help people, for goodness' sake, let's help the wealthy feel their pain, understand the anxiety they must face in making investments, in choosing locations for new vacation homes, and give them some tax relief.

The fact is that 80 percent of Americans are making under $50,000 a year. For these Americans, $15 or $16 a month is something, but it is certainly not going to change their lifestyle.

Mr. President, 26 percent of Americans make between $50,000 and $100,000 a year. In those two categories of people under $100,000 a year and under $50,000 a year, we find the vast majority of American families, the overwhelming majority, and the people who will not benefit from the idea of tax relief propounded by the Republicans on the floor. They suggest to all American families they have them in mind when it comes to tax relief. The facts tell a different story.

Look at what we have suggested instead. The Democrats think we have to be much more responsible in spending this Nation's surplus or investing. It wasn't that long ago we were deep in deficit with a national debt that accumulated to almost $6 trillion. Now we are at a point where we have a strong economy, families are doing better, businesses are doing better, people are making more money, and the tax revenues coming in reflect it. That surplus is what we are debating. We have gone from the days of the Reagan-Bush deficits to a new era where we are talking about a surplus and what we will do with it.

Those who are younger in America should pay attention to this debate. If you are a young person in America, we are about to give you a very great nation. Our generation hopes to hand over as good a country as we found, perhaps even better, but we are also going to hand over to you a very great debt of $6 trillion. That debt we have to pay interest on. It is like a mortgage. You say to your children and grandchildren: Welcome to America, welcome to this land of opportunity, here's the debt you will have to pay.

In the late 1980s and 1990s in America, the political leadership in this country accumulated a massive debt, starting with the election of President Reagan, then with President Bush, and for the first few years of President Clinton we continued to see this debt grow. We have turned the corner. Under the Clinton-Gore leadership, under the votes that have been cast by Democrats in Congress, we now have a stronger economy.

People have a right to ask, What are we going to do with the surplus? The Republican answer is: Tax cuts for wealthy people. The Democratic answer is much different: First, pay down the national debt. We can't guarantee the surplus will be here in a year, 2 years, or 10 years. If it is here, shouldn't it be our highest priority? Let's wipe off the debt of this country as best we can, reduce the burden on our children, invest in Social Security and in Medicare.

This is not a wild-eyed idea. It is what Alan Greenspan of the Federal Reserve recommends. It is what major economists recommend. But you cannot sell it on the Republican side of the aisle. They think, instead, we should give tax cuts to the wealthy.

We think we should bring down the national debt and invest in Social Security and Medicare. If we are to have tax cuts, let us target these tax cuts to people who really need them, not the folks making over $300,000 a year. They are going to do quite well. They are going to have nice homes on islands off the coast of Maine. They are going to have places in Florida and California. They are going to have a very comfortable life.

But what about the people who live in Chicago? What about the people who live in Portland, ME? What about those who live in Philadelphia, PA? I would like to take to them this proposal, not to eliminate taxes on those making

over $300,000 a year but to say to working families and middle-income families: Here are targeted tax cuts that you can use, that will help your life. Let's provide for a marriage tax penalty elimination for working families. Let's expand educational opportunities by making tuition costs tax deductible. Think about your concern of sending your son or daughter through college and the increasing cost of a college education. For a family who is struggling to try to make ends meet and to give their kids the best opportunity, to be able to deduct those college education expenses means an awful lot more to them than the comfort in knowing that Donald Trump does not have to pay estate taxes under the Republican proposal.

That is the difference in our view of the world. The Republicans feel the pain of Donald Trump, that he might have to pay these estate taxes. We believe that families across America face a lot more anxiety and pain over how to pay for college education expenses. We had a vote on the floor here, up or down, take your pick: Estate tax relief for Donald Trump or college deductions for the families working across America. Sadly, the Republicans would not support the idea of college education expense deductions.

Let's talk about caring for elderly parents. Baby boomers understand this. Everyone understands it. As your parents get older, they need special help. You are doing your best. I cannot tell you how many of my friends this affects. I am in that generation of baby boomers—slightly older, I might add—but in a generation where a frequent topic of conversation for my age group is how are your mom and dad doing? The stories come back, and some of them are heartbreaking, about Parkinson's and Alzheimer's and complications with diabetes that lead to amputations and people finally having to make the tough decision of asking their parents to consider living in a place where they can receive some assistance.

It is expensive. We, on the Democratic side, believe that helping to pay for those expenses the families endure because of aging parents is a good tax cut, one that is good for this country and good for the families. Not so on the Republican side. When we offered this, they voted against it. They would rather give estate tax relief to the wealthiest people.

How about child care? Everybody who got up this morning in America and headed to work and left a small child with a neighbor or at a day-care center understands that this is tugging at your mind constantly during the day. Is my child in safe hands? Is this a quality and positive environment for my child to be in? How much does it cost? Can we afford it? Can we do a little better?

We, on the Democratic side, think we ought to help these families. They are working families who should have peace of mind. Senator DODD offered an amendment that proposed tax credits, not only for day care, but also tax credits for stay-at-home moms who decide they are going to forgo working, to stay with the children and try to raise them. We want to help in both of those circumstances. We think those are the real problems facing America. The Republicans instead believe that estate tax relief for the superrich is much more important.

Expand the earned-income tax credit for the working poor, help families save for retirement, provide estate tax relief—particularly to make sure that a family-owned farm or a family-owned business can be passed on to the next generation. I think the estate tax needs reform. We support that. We voted for it. But we think the Republican proposal goes way too far in proposing we abolish it.

I see my time is coming to a close. We think the agenda before this Congress is an agenda of missed opportunities. The Republicans are in control in the House and Senate. They decide what will be considered on the floor, if anything. They have failed to bring forward commonsense gun safety legislation after Columbine, to try to keep guns out of the hands of kids and criminals. We passed it in the Senate with AL GORE's vote, sent it to the House—the gun lobby killed it. We lose 30,000 Americans every year to gun violence; 12 children every single day. For the Republicans, it is not a priority to bring this bill forward.

The Patients' Bill of Rights, so your doctor can make the call on your medical treatment or your family's medical treatment—most people think that is common sense. The insurance companies do not. They want their clerks to make the decision based on the bottom line of profit and loss. It is not a medical decision for them, it is a financial decision. And for a lot of families it is disastrous when they cannot get the appropriate care for their kids and their families. We think a Patients' Bill of Rights makes sense. The insurance lobby opposed it. The insurance lobby prevailed. The special interest groups won on the floor and we have gone nowhere with this proposal.

Minimum wage: $5.15 an hour for a minimum wage that affects some 10 million workers across America. It is about time for a pay raise. These folks deserve to do better. It used to be bipartisan. We didn't even argue about it. Now the Republicans say: No, no no, we can't give a 50-cent-an-hour pay raise to people making $5.15 an hour. Do you realize that 50 cents an hour comes out to, what, $1,000 a year that we will give these people?

Yet we are going to turn around and give Donald Trump a $400 million tax break on his estate? You cannot give working families a thousand bucks a year, but you can give the one of the superrich $400 million tax relief? Is something upside-down in this Chamber? I think so.

Take a look at the prescription drug benefit. Ask Americans—Democrats, Republicans, and Independents—the one thing we ought to do this year? A guaranteed universal prescription drug benefit under Medicare. The pharmaceutical companies oppose it. They are pretty powerful characters in this town. They have stopped this Senate and this House from considering it. Here we are, languishing, doing nothing, when it comes to a prescription drug benefit.

Finally, something for our schools. Seven million kids in America attend schools with serious safety code violations; 25,000 schools across our country are falling down. Are we going to be ready for the 21st century? Will our kids be ready? Will our workforce be ready? You can answer that question by deciding at this point in time whether education is truly a priority and, if it is such a priority, then for goodness' sakes we should invest more than 1 percent of our Federal budget in K–12 education. That is what we invest. The Democrats, under the leadership of Senator KENNEDY, believe that investment is overdue. We think that is what families in America are looking for, not for tax relief for the wealthiest among us.

I yield the floor.

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

Ms. COLLINS. I thank the Chair.

(The remarks of Ms. COLLINS pertaining to the introduction of S. 2924 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Ms. COLLINS. Mr. President, I see that the Senate majority leader has come to the floor, so I yield to him. I thank the Chair.

The PRESIDING OFFICER (Mr. L. CHAFEE). The Senate majority leader.

Mr. LOTT. Mr. President, I thank the Senator from Maine for her comments, her leadership on so many important issues in the Senate, and for yielding to me at this time so we may proceed.

ORDER OF BUSINESS

Mr. LOTT. Mr. President, obviously I had hoped we would be making a lot more progress this week on appropriations bills and other issues. That has not transpired yet. But we have been filing cloture motions, and we will be getting votes. In some way we will deal this week with the Treasury-Postal Service appropriations bill. I hope we can find a way to proceed on the energy and water appropriations bill. We will get to a vote at some point on the intelligence authorization bill. So, hopefully, we can still go forward.

I do not feel as if we are proceeding appropriately, but in spite of that, I think it generally was interpreted or understood that I would try to begin the discussion on the China PNTR bill. Even though it will be difficult to get through the maze of clotures we have

had to file this week, I still think it is the appropriate thing to do to begin this process because we do not know exactly how long it will take to get to a final vote on the China trade issue.

I am still going to do my best to find a way to have the Thompson-Torricelli legislation considered in some manner before we get to the substance of the China trade bill because I think Chinese nuclear weapons proliferation is a very serious matter. We should discuss that and have a vote on it. I think it would be preferable to do it aside from the trade bill itself.

In the end, if we can't get any other way to get at it, these two Senators may exercise their right to offer it to the China PNTR bill. But I am going to continue to try to find a way for that to be offered in another forum. I think Senator DASCHLE indicated he would work with us to try to see if we could find a way to do that. But I do think if we can go ahead and get started—and since there will be resistance to the motion to proceed—then we will file cloture and have a vote on it then on Friday.

NONDISCRIMINATORY TREATMENT TO THE PEOPLE'S REPUBLIC OF CHINA—MOTION TO PROCEED

Mr. LOTT. So, Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 575, H.R. 4444, regarding normal trade relations with the People's Republic of China.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. I am sorry there is objection just to proceeding to the bill. But I know that Senator REID is objecting on behalf of others who do not want us to proceed to it. I hope we can get to a vote on Friday; and then when we come back in September this will be an issue we can go to soon rather than later in the month.

CLOTURE MOTION

I move to proceed to the bill. So I make that motion to proceed at this time, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to calendar No. 575, H.R. 4444, a bill to authorize extension of nondiscriminatory treatment (normal trade relations treatment) to the People's Republic of China:

Trent Lott, Pat Roberts, Larry E. Craig, Christopher Bond, Chuck Grassley, Ted Stevens, Connie Mack, Orin Hatch, Frank H. Murkowski, Wayne Allard, Kay Bailey Hutchinson, Don Nickles, Bill Roth, Michael Crapo, Slade Gorton, and Craig Thomas.

Mr. LOTT. Mr. President, this cloture vote will occur on Friday, unless consent can be granted to conduct the vote earlier or we are in a postcloture situation on the Treasury-Postal Service appropriations bill. There is opposition, obviously, to this motion to proceed. But I still think that adequate time can be used for discussion. I know there are a number of Senators who would like to see this vote occur on Thursday instead of Friday. I am willing to accommodate that. But if that cannot be worked out, then we will have the vote on Friday. If we are in a postcloture situation, the vote could be postponed for some time. But I ask unanimous consent that the mandatory quorum be waived.

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

Mr. LOTT. I now withdraw the motion to proceed. I believe I have that right.

The PRESIDING OFFICER. The Senator has that right.

The motion is withdrawn.

Mr. LOTT. In conclusion, while we seek Utopia in dealing with these appropriations bills, the promised land of how we can work together to do the people's business, which we are not doing right now, at least in the case of this bill, I believe we will have broad bipartisan support for the China PNTR bill. I might add, there is going to be some bipartisan opposition, too.

So as we get into the substance of this—which I would rather be getting into rather than having to once again file cloture on a motion to proceed—I think we will have a good debate. I think it is going to serve the Senate well. I think it will serve the American people well. I believe when we do finally get to a vote, it will pass—and probably should. But there are a lot of serious questions still involved in how we are going to deal with China. So I look forward to this discussion.

Mr. President, I yield the floor.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2001—MOTION TO PROCEED—Resumed

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to calendar number 704, H.R. 4871, a bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 2001, and for other purposes:

Trent Lott, Ben Nighthorse Campbell, Pat Roberts, Richard G. Lugar, Jesse Helms, Jeff Sessions, Larry E. Craig, Jon Kyl, Craig Thomas, Don Nickles, Strom Thurmond, Michael Crapo, Mitch McConnell, Fred Thompson, Judd Gregg, and Ted Stevens.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of H.R. 4871, an act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2001, and for other purposes, shall be brought to a close?

The yeas and nays are required under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Wyoming (Mr. THOMAS) is necessarily absent.

Mr. REID. I announce that the Senator from New Jersey (Mr. TORRICELLI) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 97, nays 0, as follows:

[Rollcall Vote No. 227 Leg.]

YEAS—97

Abraham	Feingold	Lugar
Akaka	Feinstein	Mack
Allard	Fitzgerald	McCain
Ashcroft	Frist	McConnell
Baucus	Gorton	Mikulski
Bayh	Graham	Moynihan
Bennett	Gramm	Murkowski
Biden	Grams	Murray
Bingaman	Grassley	Nickles
Bond	Gregg	Reed
Boxer	Hagel	Reid
Breaux	Harkin	Robb
Brownback	Hatch	Roberts
Bryan	Helms	Rockefeller
Bunning	Hollings	Roth
Burns	Hutchinson	Santorum
Byrd	Hutchison	Sarbanes
Campbell	Inhofe	Schumer
Chafee, L.	Inouye	Sessions
Cleland	Jeffords	Shelby
Cochran	Johnson	Smith (NH)
Collins	Kennedy	Smith (OR)
Conrad	Kerrey	Snowe
Craig	Kerry	Specter
Crapo	Kohl	Stevens
Daschle	Kyl	Thompson
DeWine	Landrieu	Thurmond
Dodd	Lautenberg	Voinovich
Domenici	Leahy	Warner
Dorgan	Levin	Wellstone
Durbin	Lieberman	Wyden
Edwards	Lincoln	
Enzi	Lott	

NOT VOTING—2

Thomas	Torricelli

The PRESIDING OFFICER. If there are no Senators wishing to vote or change their votes, on this vote, the yeas are 97, the nays are 0. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from South Carolina.

(The remarks of Senator THURMOND pertaining to the introduction of S. 2925 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. DORGAN. Mr. President, I take a few moments following this cloture vote to talk about the appropriations bill and a couple of related matters to that bill that are to be brought to the Senate floor. We are completing the last week of the legislative session before the August break. When we come back following the August break, we will have a number of weeks in September and a couple of weeks in October, perhaps, at which time the 106th Congress will be history.

We will have an election in early November, something that the late Congressman Claude Pepper, a wonderful public servant, used to call one of the miracles of democracy. He said: Every even numbered year, our Constitution provides that the American people grab the steering wheel and decide in which direction this country moves. He said it was one of the miracles of democracy. Indeed it is. We are headed toward an election. That will affect the Senate schedule. That means it is likely the Senate will complete its work, the Congress will complete its work, in the 106th Congress by the middle of October.

As we look to that moment, we have a lot of work to do between now and then. We have appropriations bills to complete. After all that, one of the fundamental responsibilities we have is to provide for the funding of things we do together in government. We build our roads together. It doesn't make sense for each family to build their own road to the supermarket. It is called government. We come together and build a system of roads. We come together to build schools and maintain and operate schools in which the American people can send their children. It doesn't make sense for each and every person to build their own school. So we have roads and schools. Then we hire a police force. We hire folks who will serve in the Armed Forces to defend our liberty and freedom.

All of these things we do, and much more, as a part of our governing process. I am proud of much of what we do. Much of what we have accomplished in this country is a result of the ingenuity of people in the private sector, in the market system, competing, the genius of those who are willing to take risks and use ideas to build new products and create new markets; on the other side, in the public sector, the vision that has been exhibited by some who have served this country for many years to do the right things in the public sector, to do together what we should do to provide for our common defense and build our schools, build roads, and do those things that we know also make this a better country.

One of the pieces of legislation we are intending to bring to the floor very soon is the Treasury-Postal appropriations subcommittee bill. That is through the full Appropriations Committee in the Senate. It is legislation that will be, I hope, debated next on the Senate floor. The bill is through the full Appropriations Committee and includes funding for a wide range of things we do in this country.

One of the larger portions of the bill is the funding for the Customs Service. The Customs Service is a very important element. Given the expanding nature of world trade, with the amount of commerce and goods and services moving in and out of our country and across our borders, the Customs Service provides an ever increasing important service to our country.

We fund the Internal Revenue Service which collects the revenue by which we fund most of the government services we have in this country. One of the areas of this legislation is the national youth antidrug media campaign. That campaign in the drug czar's office is now about 3 years old, and the Congress has been working on that diligently, as well.

We have a number of issues in this legislation that are very important, that are timely, and that we need to get to the floor of the Senate to debate and try to make some decisions about them.

Let me comment for a moment about a couple of issues that no doubt will be brought to the Senate floor on this bill. I will talk about why these issues are important and what I think will happen with these issues. In the House of Representatives, when they wrote the legislation dealing with Treasury and general government in that subcommittee, that legislation included some amendments dealing with the subject of Cuba and the sanctions with respect to food and medicine that exist with respect to Cuba.

I want to talk just a bit about that because those provisions are included in the House bill. We will undoubtedly have amendments on that same subject in the Senate bill. There will be a defense of germaneness on those amendments. I will offer one of those amendments. I believe my colleagues Senator DODD, Senator ROBERTS, perhaps Senator BAUCUS, and others will offer similar amendments. I want to describe why this is an important issue and why the Senate should consider these amendments, especially inasmuch as these types of amendments are in the House bill coming over for consideration in conference.

There are some bad actors internationally who run governments in a way that is well outside the norm of international behavior. We understand that. Saddam Hussein is one of those leaders. There are others. We have watched the behavior and the activities of countries such as Cuba, Iraq, Iran, North Korea, and others, and view with alarm some of the things that are happening.

Cuba is a country that is run, with a Communist government, by Fidel Castro. North Korea is a relatively closed society run by a Communist government, a Communist dictator. Iran is a different kind of country, run by a group of folks who seem to operate—at least they have for some while—outside the norms of international behavior, engaged in an attempt to acquire sophisticated missile technology. I suspect they and others on the list would love to acquire nuclear weapons. These are countries that have demonstrated by their behavior, by their actions, that they are operating outside the norms of what we consider acceptable behavior. I am talking now about the international community, the community of nations.

So what do we do? What we do is we say to Saddam Hussein: We are going to impose economic sanctions on your country. These sanctions, in the form of either sanctions or an embargo, are an attempt to choke your economy and cause you economic pain. They cause you to understand when you operate outside the norms of international behavior, when you are attempting to acquire nuclear weapons, chemical weapons, and biological weapons with which you can threaten your neighbors, we care about that and we intend to do something about that. We and other countries have imposed sanctions against the country of Iraq.

We have had an embargo against the country of Cuba for some 40 years. It is a small country 90 miles off the tip of Florida. We have had an embargo for some 40 years against the country of Cuba, preventing goods from being shipped to Cuba, preventing Cuban goods from coming into our country, essentially trying to shut down their economy with that embargo. We have had similar sanctions against North Korea and Iran.

One of the mistakes this country has made—and a very serious mistake—is deciding we will include food and medicine as a part of our economic sanctions. We should not have done that. This country should never have done that. This country is bigger and better than that. We should never use food as a weapon.

We produce food in such abundant quality—the best quality food in the world. We have farmers today who are out driving a tractor in some field somewhere, planting a seed and raising crops with great hope they will be able to make a living on their family farm. We produce such wonderful quality food in such abundance, and then we say to countries whose behavior we don't like: By the way, we are going to slap you with economic sanctions. We are going to put our fist around your economic throat, and included in that, we are going to prevent the movement of food in and out of your country.

I am all for economic sanctions. There is not any reason to make life better for Saddam Hussein. He ought to pay a price for his behavior. But this country is shortsighted to believe that using food as a weapon is an advancement in public policy for us. It is not. First, it hurts our farmers who are prevented from moving food through the international markets. Second, it takes aim at a dictator and ends up

hitting hungry people. That is not the best of what this country has to offer.

So we have a very simple proposition—those of us who care about this issue. We say let's stop using food as a weapon; let us, as Americans, decide we shall never use food as a mechanism to try to punish others. We understand that Saddam Hussein and Fidel Castro have never missed a meal. They have never missed breakfast, they have never missed dinner, never missed supper. They eat well. When we use food as a weapon, it is only poor people, sick people, and hungry people who pay a price; and of course, our farmers here in America also pay a price.

So last year we had a debate about this. My colleague Senator ASHCROFT, I, Senators DODD, ROBERTS, BAUCUS—a range of people—have offered amendments. Last year we had a vote, and 70 Senators said: No, we shall not any longer ever use food as a weapon. Let us lift the sanctions on food and medicine; 70 percent of the Senate said let's stop it.

I cannot speak for all 70, but I will speak for myself to say it is immoral to have a public policy that uses food as a weapon. It is immoral to punish hungry, sick, and poor people around the world because we are angry at dictators. Seventy percent of the Senate said: Let's stop. Let's change the sanctions. We can continue some of the economic sanctions. We are not making a judgment about using economic sanctions to punish dictators or punish countries whose behavior is outside the international norm. We are saying, however, we should not any longer use food or medicine as a weapon or as part of the sanctions.

So 70 percent of the Senate voted. It was on the Senate agricultural appropriations bill, and off we marched to conference. I was one of the conferees. One of the first acts of conference between the House and Senate was my offering an amendment insisting that the Senate retain its position. In other words, we were saying as a group of Senators who were conferees: We insist on our provision, lifting the sanctions on food and medicine.

I offered the amendment in the conference. We had a vote of the Senate conferees, and my amendment carried. Therefore, the Senators at this conference with the House Members said: We insist on the provision. We insist on our policy of removing food and medicine as part of our economic sanctions.

Guess what. A Member of the House moved that the conference adjourn. We adjourned. It was late one morning, and we never, ever returned to conference. Do you know why? Because the House leaders, the House leadership, did not like that provision and they intended to kill it. They knew they could not kill it with their conferees. If there were a vote on it in the conference, they would lose. If there were a vote on it on the floor of the House, they would lose. So the only way they could win was to hijack that conference, adjourn it, never come back into session, and throw the ingredients of that bill into a broader bill, and we never saw the light of day on our policy.

The result is we are back on the floor right now and this country still has in place a policy of using food and medicine as part of our economic sanctions. It is wrong. It is wrong.

Following that conference last year, I had the opportunity to go to Cuba. I have traveled some, in various parts of the world, and have seen that what we produce in such abundance, the world needs so desperately. The winds of hunger blow every minute, every hour, and every day all across this world. So many people die of hunger, malnutrition, and hunger-related causes, and so many of them are children—every single day.

I went to Cuba. What I saw was a country in collapse. It is a beautiful country with wonderful people. The city of Havana is a beautiful city, but in utter collapse. There are gorgeous buildings designed in the 1940s and 1950s by some of the best architects—beautiful architecture, in total disrepair. The city is collapsing. The Cuban economy is in collapse. There is no question about that.

I visited a hospital, and I saw a young boy lying in a coma. His mother was seated by his bedside holding his hand. This was in an intensive care ward of a Cuban hospital. This young boy in intensive care was not hooked up to any wires. There was no fancy gadgetry, no fancy equipment, no beeping that you hear in intensive care—the beeping of equipment—no, none of that. He was lying on his bed with his mother holding his hand.

I asked the doctor, Do you not have equipment with which to monitor this young boy? He had a head injury and was in a coma. He said, Oh, no; they didn't have any of that equipment. They didn't even have any rudimentary equipment with which to make a diagnosis. Intensive care was to lay this boy in a room. They told me they were out of 250 different kinds of medicine in that hospital.

My point is this. The Cuban people do not deserve Fidel Castro—that is for sure. They deserve a free and open country, a free and open economy; they deserve the liberties we have and the freedom we have. But 40 years of an embargo, and especially 40 years preventing the movement of food and medicine back and forth, surely makes no sense.

It has not hurt Mr. Castro. It has hurt the poor people of Cuba and the hungry people of Cuba. It is time to change that policy. A year ago we tried it. Seventy percent of the Senate voted for it, and it has not happened.

This is what we have done this year: I offered an amendment, with Senator GORTON from the State of Washington, on the Agriculture appropriations bill that lifts the sanctions on food and medicine and also let's us do one other thing. It prevents any future President from ever including food and medicine as part of economic sanctions unless they come to the Senate and get a vote and the Senate says: Yes, we ought to do that.

We do two things: We lift the sanctions on food and medicine that exist with those countries that are subject to our economic sanctions, and we prevent future Presidents from imposing sanctions and using food as a weapon. That is in the Agriculture appropriations bill which came to the floor of the Senate. The Senate passed that bill. My amendment is in it. We will go to conference.

The only way we can lose that issue is if the House leaders hijack it once again. There is a member of the leadership of the House, whom I shall not name, who makes it his cause to derail us. He believes we ought to use food as a weapon, especially with respect to Cuba. He believes we ought not change the policy and will do everything he can to stop us.

My colleague in the House who has been working on this passed some legislation that was negotiated with the House leadership, but it turns out the legislation, when one looks at the language, is a step backward, not a step forward.

We will go to conference on the Agriculture appropriations bill with my amendment in it, and I say to those who might pay attention to the Senate record from the House side, if the House leaders expect to hijack this once again this year, they are in for a long session because there is a group of us—Republicans and Democrats—who insist this country change its policy. This policy is wrongheaded and it must change.

Yes, we have some people in the Senate who are still fighting the cold war. We have people in the Senate—not very many, I admit—but we have a few people in the Senate who do not want this changed, but 70 percent of the Senate want this changed. At some point, if they get a full vote in the House and we have a full vote in the Senate, 70 percent of the Congress will say: Let's change this foolish policy. This policy is not the best of this country. This policy is wrong, and we aim to change it.

Now we bring this bill to the floor of the Senate. We had a cloture vote on the motion to proceed today, and the Treasury-Postal bill will come to the floor at some point. As I indicated, in addition to the description of the amendment I offered to the Agriculture appropriations bill on the floor of the Senate dealing with sanctions on Cuba, a couple Members of the House applied some amendments, which were successful, to the Treasury-general government bill which means when our bill comes to the floor of the Senate, it will also attract these amendments. That is fine with me. Having them in two places is better than having them in one place. Perhaps one conference will be successful in changing this policy.

My colleagues in the House added a piece of legislation, for example, dealing with travel in Cuba saying that no funds will be used to enforce the restrictions on travel to Cuba. I prefer to do it a different way. Who is going to believe it makes sense to travel to Cuba if it is still illegal but they just will not enforce it? If we change travel, let's change travel. Let's not say you shall not enforce something that remains illegal. Let's say the travel restrictions are lifted. Period. End of story.

I hope my colleague who intends to offer that amendment in the Senate will consider doing that. We have other amendments as well, and I intend to offer an amendment dealing with food and medicine sanctions on Cuba on the Treasury-Postal bill when it is brought to the floor of the Senate.

There is another issue I wish to talk about briefly that relates in some measure to this bill, but especially to the issue of the Customs Service and our borders and the issue of international trade. I am going to talk in a bit about our trade problem because we have the largest trade deficit in the history of humankind.

There is a lot right with this country. There is a lot going on to give us reason to say thanks and hosanna. We have a wonderful economy. It is producing new jobs and new opportunity. All of the indices are right: unemployment is down; home ownership is up; inflation is way down. All the things one expects to happen in a good economy have been happening.

Some parts of the country are left behind, such as rural areas. We have a farm program that is a debacle, and we cannot get anybody to even hold a hearing to change the farm program, but that is another story.

There are some areas that have not kept pace with the prosperity. We need to continue to fight to write a better farm program and make sure those rural areas share in the full economic prosperity of America.

There is a lot right in this country. This is a good economy. It is producing unprecedented opportunities.

The one set of storm clouds above the horizon, however, is in international trade. We have a huge trade deficit. Our merchandise trade deficit was nearly $350 billion in 1999, and is projected to exceed $400 billion this year. Put another way: We are buying $1 billion more in goods from overseas than we are selling each and every day, 7 days a week.

Some say: Does that matter? Is it important? Gee, our economy is doing well. How on Earth can you make the case we should care about this?

You can live in a suburb someplace and have a wonderful home with a huge Cadillac in the driveway and have all the evidence of affluence, but if it is all borrowed, you are in trouble. On the borrowing side, we have made a lot of progress dealing with Federal budget deficits. In fact, we have eliminated the Federal budget deficits, and good for us, but the deficits on the trade side have continued to mushroom, and we must get a handle on that as well and deal with our trade imbalance.

What causes the trade imbalance, and what relevance does it have to this bill? In this bill, we fund the Customs Service, and the Customs Service evaluates what comes in, what goes out, and they try to assist in the flow of goods moving back and forth across our borders.

The fact is, they have an old, antiquated computer system to take care of all of that and it is melting down. With expanded trade coming in and going out, we need a new system. The Customs Service has proposed a new system to accommodate and facilitate their needs. We need to fund it. It is very important we fund this system. It is called the Automated Commercial Environment or ACE system. We need to keep it operational, and we need to build it and make it work.

In 1 day, the Customs Service processes $8.8 billion in exports and imports. They have to keep track of it all: $8.8 billion in daily exports and imports; and 1.3 million passengers and 350,000 vehicles moving back and forth across our borders. Think of that. This is the agency that has the responsibility of keeping track of all of it—whose vehicle, when did it come in, when did it go out, who is coming in, who is leaving our country, what are the goods coming in, what kind of tariffs exists on those goods, who is sending them, who is receiving them.

All of that is part of what we have to keep track of in terms of movement across our border. The current system that keeps track of all of that is nearly two decades old, and running at near capacity. It is the single most important resource in collecting duties and enforcing Customs laws and regulations.

This system has been experiencing brownouts over the past months that have brought the Customs operation at these border ports, in some cases, to a dead halt.

Over 40 percent of the Customs stations are using work stations that are unreliable, are obsolete operating systems, and are no longer supported by a vendor.

Trade volume has doubled in 10 years. The rate of growth in trade is astronomical. The Customs Service anticipates an increase of over 50 percent in the number of entries by 2005. That means the current system just can't and will not handle it.

So we have a responsibility to do something about that. If anybody wonders whether all this trade is important, and keeping track of it is important, as I said, look at the trade deficit and look at what is happening in this country.

From the standpoint of policy—I was talking about the system that keeps track of it—but from the standpoint of policy, we also have to make significant changes. We will not make them in this bill because this isn't where we do that, but you can't help but look at what is happening in our country and understand that our own trade policy does not work. It just does not work.

We have a huge and growing trade deficit with China—growing rapidly—of nearly $70 billion a year. We have a large abiding trade deficit with Japan that has gone on forever—$50 to $70 billion a year.

This Congress, without my vote—because I voted against it—passed something called NAFTA, the North American Free Trade Agreement. It was billed as a nirvana. What a wonderful thing, we were told, if we can do a trade agreement with Mexico and Canada. What a great hemispheric trade agreement, and how wonderful it would be for our country.

In fact, a couple of economists teamed together and said: If you just pass NAFTA, you will get 300,000 new jobs in the United States. The problem is, there is never accountability for economists. Economists say anything, any time, to anybody, and nobody ever goes back to check.

The field of economics is psychology pumped up with helium and portrayed as a profession. I say that having taught economics a couple years in college, but I have overcome that to do other things.

But economists told us, if we pass NAFTA, it will be a wonderful thing for our country. Well, this Congress passed NAFTA. I didn't vote for it. Guess what. We had a trade surplus with Mexico. We have now turned a trade surplus with Mexico into a significant deficit with the country of Mexico.

They said, by the way, if we pass NAFTA, the products that will come in from Mexico will be products produced by low-skilled labor. Not true. The products that are coming in from Mexico are the product of higher-skilled labor, principally automobiles, automobile parts, and electronics. Those are the three largest imports into the United States from Mexico.

So the economists were wrong. I would love to have them come back and parade around, and say: I said NAFTA would work, but I apologize. We had a trade surplus with Mexico. Now it is a fairly large deficit. We had a trade deficit with Canada, and we doubled the deficit. I want one person to stand up in the Senate and say: This is real progress. Doubling the deficit with Canada, and turning a surplus into a deficit with Mexico—hooray for us. That is real progress. I want just one inebriated soul to tell me here in Washington, DC, that this makes sense. Of course it does not make sense.

It did not work. So we have trade policy challenges dealing with Mexico, Canada, and NAFTA. We have policy differences dealing with our big trade deficit with China. We are going to have other struggles and challenges

dealing with the recurring deficit that goes on forever with Japan.

It might be useful—I know people get tired of me talking about this—but it might be useful to describe our diminished expectations in this county and why we are in such trouble on trade.

About 10 years ago—we have always had a struggle with Japan—we were having, at that time, an agreement negotiated on the issue of American beef going to Japan. We were not getting enough beef into Japan. At that point, it cost about $30 a pound to buy a T-bone steak in Tokyo. Why? Because there was not enough beef. So you keep the supply low, the demand and price go up, and a T-bone steak costs a lot of money in Tokyo.

We wanted to get American beef into Japan. After all, we buy all their cars, VCRs and television sets. Maybe they should buy American beef. So we sent our best negotiators, and they negotiated. Our negotiators were hard nosed. It only took them a couple of days to lose. They sat at the table, and they negotiated and negotiated. And guess what they negotiated? They had a press conference and said: We have a victory. We have a beef agreement with Japan. What a wonderful deal. You would have thought they had just won the Olympics because they celebrated. And everybody said: Gosh, what a great deal.

Here is the agreement. You get more American beef into Japan. Yes, you do. And we did.

Ten or 11 years after the beef agreement with Japan, the tariff on American steak or American ground beef or American beef going to Japan today is 40 percent on a pound of beef. Can you imagine that? What would people think if you told them: In the United States, we only have a 40 percent tariff on your product coming into our country? They would say: What kind of nonsense is that? That is not free trade. Yet we celebrated the fact that we had an agreement with Japan that takes us to a 50 percent tariff, which is reduced over time, but snaps back up if we get more beef into Japan. We celebrated that.

This is the goofiest set of priorities I have ever heard. We ought to learn to negotiate trade agreements that are in this country's interests.

I have threatened, from time to time, to introduce a piece of legislation in Congress that says: When our trade negotiators go to negotiate, they must wear a jersey that says ''USA,'' just so that they can look down, from time to time, and see who they are negotiating for. ''I am from the United States. I have the United States's best interests at heart. When we negotiate with you, Japan, China, Mexico, Canada, or others, we insist on fair trade.''

Yes, our producers will compete. We are not afraid of competition. But we are not going to compete with one hand tied behind our back. Our negotiators negotiated GATT with Europe, and they said to the Europeans: You know what—my colleague, Senator CONRAD, talks about this a lot—we will have a deal with you. You can have 6, 8, or 10 times greater subsidies on your sales of grain to other countries than we will have. And we will have a deal where we will agree to limit our support payments to family farmers to a fraction of what yours are. So once we have done that, we have tied both of our hands behind our back, and then said let's go ahead and compete.

That is what our negotiators have done virtually every time they have negotiated a trade agreement. They did it in GATT to family farmers and did it with Japan to our ranchers. I should say, our ranchers were pleased with the agreement with Japan. I would say to them: How can you be pleased? How can you call that success? It is because they have such low expectations in our trade negotiations. We give away everything. We expect little, get almost nothing, and then we are so pleased.

When you have roughly $1 billion a day in the merchandise trade imbalance, it is time to wonder whether your policy is working. When you have a $1-billion-a-day deficit—every single day—in merchandise trade, it is time to ask whether this is a policy that works. The answer is no.

I think it would behoove this Congress to say: Good for all the wonderful things that are happening in this country. Everybody deserves a little credit for all of that. Good for all the good things happening in our economy. But it is important for all of us to look at the storm clouds as well, and evaluate what is wrong, and try to fix that. If we did that, it would behoove us to bring to the floor of the Senate a debate and full discussion about America's trade policy.

Every time I come and talk about this issue, there is someone watching or someone listening, or somebody later will say: That guy sounds like a protectionist. There is this caricature: You are either for free trade or you are some isolationist, xenophobic stooge. You are either for free trade or you don't get it. You either see the horizon or you are nearsighted. That is the way it all works.

Even the largest newspapers do that. Try to get an op-ed piece in the Washington Post on trade issues. If you happen to believe we ought to stand up for our economic interests in trade, you can't do it.

It is not my intention to say this country should not be a leader in expanding trade. This country ought to be a leader in promoting an expanded free and fair opportunity for international trade. This country ought to be a leader. We ought to expect that other countries would be involved in saying the things that we fought for for 75 to 100 years. This country will be part of the discussions about trade.

We had people dying in the streets in this country, fighting for the right to organize in labor unions, fighting for the right to create labor unions. We had people die on the streets of America.

Some will say: We can avoid all that, having labor unions, having to worry about dumping chemicals into the water and the air, having to have a safe workplace, having to be prohibited from hiring kids; we can avoid all of that. We have debated it for 75 or 100 years in this country. We have made a lot of progress. We can avoid it all by moving our plant to some other Third World country where they don't have those inconveniences, where you can hire 12-year-old kids and work them 12 hours a day and pay them 12 cents an hour and everybody calls it free trade.

This country has a responsibility also to lead on the issues of what are the fair rules for international trade—not protectionism, what are the fair rules for trade that establish fair competition. That is something this country has a responsibility to be involved with as well.

Talking about trade in the context of the Customs Service and our responsibility to keep track of what is happening around the world, it is true that my frustration from time to time boils over on the issue. I come to the floor and talk about it without much effect because there are not sufficient votes in the Senate to require a very robust debate on trade policy. It is coming. We ought to make it happen.

If I can digress—because I have the time this morning, and I don't see anyone else waiting to speak—I want to mention something that happened some years ago that made a profound impact on me. I mentioned a moment ago that we struggled in this country to establish the right to form labor unions and establish collective bargaining. There are plenty of countries where, if you try to form labor unions, try to get workers together to see if they can't get a better deal, they can be thrown in jail. As I said, we had people who died in the streets in this country fighting for that opportunity. We now understand the consequences of that. We have labor unions, and we have management and labor, collective bargaining. It is a better country because of that. There are some areas of the world where we don't have the opportunity to do that. People who try to demonstrate for those rights are thrown in jail.

Let me describe something that happened in Congress a long while ago related to that point. We had a fellow who spoke to a joint session of Congress. Normally, a speaker to a joint session of Congress is a President. The pageantry is quite wonderful when there is a joint session. It is normally in the House Chamber because that is the larger Chamber. The Senators come in and are seated in the House Chamber, Cabinet officials come in, the Supreme Court comes in. The American people see this. That is when the network television cameras come on.

Then the Doorkeeper says: Mr. Speaker, the President of the United

States. And the President marches in and gives a State of the Union speech.

We occasionally have other speakers who are invited to give an address to a joint session of Congress. On rare occasions, it has been a head of state. Many will remember other circumstances: General Douglas MacArthur coming back from Korea, when he was relieved of his command by President Truman, was invited to address a joint session of Congress; Winston Churchill addressed a joint session of Congress.

One day about 10 or 12 years ago, I was a Member of the U.S. House, it was a joint session of Congress. In the back of the room, the Doorkeeper announced the visitor. The Doorkeeper said: Mr. Speaker, Lech Walesa from Poland. And this fellow walked in, a rather short man with a mustache. He had red cheeks and probably a few extra pounds, an ordinary looking fellow who walked into the Chamber of the House, walked up to the microphone. The joint session stood and applauded and didn't stop. This applause continued to create waves, and it went on for some minutes. Then this man began to speak. Most of us, of course, knew the history. But in a very powerful way this ordinary man told an extraordinary tale.

He said 10 years before, he was in a shipyard in Gdansk, Poland on a Saturday leading a strike for workers to be able to chart their own destiny, leading a strike for a free labor movement in Poland against a Communist government. On that day, he had already been fired from his job as an electrician at a shipyard for his activities to fight for a free labor movement in Poland. The Communist government had him fired from his shipyard. So this unemployed electrician, on a Saturday morning, was leading a strike, leading a parade inside this shipyard for a free labor movement. He was grabbed by some Communist thugs and beaten and beaten badly. As they beat him, they took him to the edge of the shipyard, hoisted him up and unceremoniously dumped him over the barbed-wire fence outside the shipyard face down in the dirt. He lay there bleeding, wondering what to do next.

Of course, we know what he did next. Ten years later, he was introduced to a joint session of Congress as the President of the country of Poland. This man went to the microphone and said the following to us: We didn't have any guns; the Communists had all the guns. We didn't have any bullets; the Communists had all the bullets. We were armed only with an idea.

What he did next that Saturday morning, from lying on the ground bleeding from the beating he had received from the Communist agents of that Government of Poland, the history books record. He pulled himself back up and climbed back over the fence and climbed back into the shipyard.

This unemployed electrician showed up in the Chamber of the U.S. House to speak to a joint session of Congress 10 years later as the President of his country—not a diplomat, not a politician, not an intellectual, not a scholar, an unemployed electrician who showed up in this country 10 years later as the President of his country.

He said: We didn't break a windowpane in Poland. We didn't have guns. We didn't have bullets. We were armed with an idea and that idea simply was that free people ought to be free to choose their own destiny.

I have never forgotten that moment, understanding the power of ideas and understanding that common people can do uncommon things. Ordinary people can do extraordinary things. Wondering where did Lech Walesa get the courage to pull himself up that Saturday morning in a shipyard in Gdansk, an unemployed electrician, believing so strongly in the need to provoke change in this Communist country that this man and his followers toppled a Communist government and lit the fuse, caused a spark that lit the fuse that began to topple Communist governments all through Eastern Europe. That is the power of an idea.

What are the ideas that exist in this country that will make a better America and create a better future? We know from our history that in two centuries, a series of ideas by some remarkable men and women have created the best country in the world. It is the freest. I know there are a lot of blemishes, but there is no country that has freedoms like ours. There is no country that has accomplished what we have accomplished in every area. Find an area where we have had difficulty, we have confronted it. We have had difficult times, but we have solved the issues. We survived a civil war. We survived a great depression. When you think of what this country has done, it is quite remarkable.

We stand today at the edge of a new century, the year 2000, with a lot of challenges in front of us. Some say we are just sort of content to be where we are and to kind of nick around the edges. No person, no country, no organization ever does well by resting.

There are challenges in front of us. We have talked about some of them. Some of them will be in this legislation when we bring it to the floor. Some will be in other legislation. I was on the floor yesterday and Senator DURBIN, who is on the floor at the moment, talked about the challenge of making our health care system work; the challenge of passing a Patients' Bill of Rights, and one that is a real Patients' Bill of Rights; the challenge of putting a prescription drug benefit in the Medicare program. Those are ideas—ideas with power and resonance, ideas which ought to relate to the public policy this Congress embraces. I talked, a little bit ago, about trade policy, the idea that we need to change trade policy to make it a policy that is effective for our country, to reduce the trade deficits and continue to expand markets, and to have fair rules of trade.

There are so many things we need to do. Yesterday, I showed some of the challenges that we ought to address now in the coming weeks. For instance, gun safety. This is a wonderful country, but when you read the newspapers and read of the killings, and then you understand that we have a right to own weapons—and nobody is changing that right; it is a constitutional right. But we have said it makes sense for us to keep guns out of the hands of convicted felons. How do we do that?

We have a computer base with the names of felons on it. When you want to buy a gun, your name has to be run against the computer base. At the gun store, they run your name to find out if you are a convicted felon. If you are, you don't get a gun. But guess what. You can go to a gun show on a Saturday someplace and buy a gun or a weapon, and nobody is going to run your name through an instant check.

We say let's close that loophole. Are those who don't want to close it saying they don't want to keep guns out of their hands? I hope not. So join us in fixing this problem. That is an idea. That has some power. How many Americans will that save? How many children will it save by keeping the gun out of the hands of a convicted felon? We are not talking about law-abiding citizens. We are not going to disadvantage them. Let's keep guns out of the hands of convicted felons. Close the gun show loophole. It is a simple idea; yet one we can't get through the Congress because people are blocking the door on this issue.

The Patients' Bill of Rights: We talked about that yesterday. We talked about putting a drug benefit in the Medicare program. We talked about school modernization. I will conclude by talking for a moment about school modernization.

Our future is education. I have told my colleagues many times about walking into the late-Congressman Claude Pepper's office and seeing two pictures, both autographed, behind his chair. One was a picture of Orville and Wilbur Wright making the first airplane flight. It was autographed by Orville Wright, saying, ''To Congressman Pepper, with deep admiration, Orville Wright.''

Then, the first person to stand on the Moon, Neil Armstrong, gave him an autographed picture. I thought to myself, this is really something. Here is a living American who has an autographed picture of the first person to leave the ground in powered flight, and also the person who flew all the way to the Moon. What was the in between? What was the difference between just leaving the ground and arriving on the Moon? Education, schools, learning; it is our future—allowing every young boy and girl in this country to become the very best they can be; universal education, saying that every young boy or girl, no matter what their background or circumstances are, can walk through a schoolroom door and be

whatever they want to be in life, universal opportunity in education.

In the middle part of this past century, those who came back fighting for liberty in the Second World War, fighting for freedom, built schools all across our country as they went to school on the GI bill, got married, and had children. They built schools all across America. Now those schools, in many cases, are 45, 50 years old and in desperate need of repair and renovation. This country, as good as it is, can send our kids to the schoolroom doors of the best schools in the world. And we should. That ought to be our policy. So before this Congress ends, let's embrace our ideas and policies of saying let's modernize our schools, renovate our schools, and connect our schools to the Internet. Let's reduce the size of classes and make sure every student has the opportunity to go through a schoolroom door that we as parents are proud of. Let's make sure we keep the finest teachers, the best teachers in our classrooms and pay them a fair wage. These are ideas that we have that we can't get through this Congress. It doesn't make any sense to me.

So we are prepared to bring the Treasury-general government appropriations bill to the floor. In that legislation there will be several of the ideas I have talked about, and other appropriations bills, and other pieces of legislation. We will continue to pound away at this Congress to say: Accept some of these ideas. Accept some progress. Join us. This isn't partisan. Our kids and our schools don't represent a partisan issue. Keeping guns out of the hands of felons surely can't be a Republican or Democratic issue. Surely, every American should embrace that goal. Putting the prescription drug benefit in the Medicare program so senior citizens who have reached their declining income years have the opportunity and can afford to buy life-saving drugs surely can't be a Republican or Democratic approach. There can't be differences here in terms of goals. So let's resolve to join together to meet these goals, to do our work and embrace ideas—yes, big ideas—that recognize, yes, this country is doing very well in a lot of areas, but we are at the first stage of a new century, and we need to embrace new ideas to advance this country's interests and prepare for this country's future. Nowhere is that preparation more necessary than with our children and our schools.

Mr. President, I have spoken at some length. I know others on the floor have comments about these and other issues.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I understand that we are running out the clock on a motion to bring to the floor the Treasury-Postal appropriations bill. So I think my comments are pertinent to that bill and to the situation in which we find ourselves.

Mr. President, about 14 months ago, those of us in this Chamber passed a juvenile justice bill. Prior to its passage, many of us on this side of the aisle came together to say if we want to really achieve some limited improvements in targeted gun measures, what should they be? We decided on a few, and the Republican side had a few. So some targeted measures were added to that bill.

One of them was that guns should not be sold without trigger locks. That was made from our side of the aisle. One from the Republican side of the aisle was that children should not be permitted to buy assault weapons—a no-brainer. That was accepted by this body. A third vote was to close the gun show loophole which enabled the two youngsters from Columbine, 16 years old, to go to a gun show and buy two assault weapons with no questions asked. The final one was one I offered on the floor, which was to plug a hole in the assault weapons legislation.

Under the assault weapons legislation, it is illegal to manufacture, possess, sell, or to transfer a large-capacity ammunition feeding device in this country. So, in other words, nobody can manufacture one domestically in this country now. The loophole is that they can come in, if manufactured in foreign countries, and be sold. So since the passage of the original assault weapons legislation, about 18 million large-capacity ammunition feeding devices have come into the country. But just in the last 14 months, since the passage of the juvenile justice bill, 6.3 million of these clips have come into this country, many of them 250 rounds, but most 30 rounds.

What is the use of these clips? You can't hunt with them. You can't carry a clip with more than 10 bullets in virtually any State if you are going to hunt. You don't use them for self-protection. The street price of them has dropped. You can buy them, no questions asked, over the Internet for $7, $8, $9. The only reason for them is to turn a weapon into a major killing machine. They are used by drive-by shooters, by the gangs, and by the grievance killer who has a grievance and wants to walk into his place of business and kill a large number of people. Well, this body passed that, and the other body actually passed it by unanimous consent. So those are measures that have held up a whole huge juvenile justice bill for that period of time.

So in 14 months, we have gone nowhere in achieving safety regulations, prudent targeted gun regulations to protect people.

A million women—now 240 new organizations—in the Million Mom March, went to the streets of their cities and to the Capitol on Mother's Day to say they wanted prudent gun regulations. But what has happened since then is we have actually back slipped. The backsliding is taking place right in this very bill which time is running on.

An amendment was put in the bill that says this:

> None of the funds made available in this Act may be used to implement a preference for the acquisition of a firearm or ammunition based on whether the manufacturer or vendor of the firearm or ammunition is a party of an agreement with a department, agency, or instrumentality of the United States regarding codes of conduct, operating practices, or product design specifically related to the business of importing, manufacturing, or dealing in firearms or ammunition under chapter 44 of title 18, United States Code.

This amendment is essentially meant to prohibit the U.S. Government from giving any preference to any responsible gun manufacturer. I believe this measure is simply the worst possible public policy. I would rather not have a Treasury-Postal appropriations bill that has this kind of disincentive to good conduct in a manufacturer of weapons in this country.

When this bill comes to the floor, the first amendment from our side will be the amendment to strip this verbiage from the bill.

I am pleased to say I am joined in cosponsoring this by the Senator from Illinois, Mr. DURBIN, and the Senator from New Jersey, Mr. LAUTENBERG.

First, it is important to point out that no such preferences have been given. The thrust of this provision is based on a hypothetical. But it is based to be a deterrent. It is based to send a message. The message is to every manufacturer of weapons that there can be no reward in government if you manufacture safe guns. If you put trigger locks, if you have good, safe marketing practices, if you manufacture guns and see they are sold and distributed in a way to keep them out of the hands of children, people who are mentally deficient, or criminals—that is the thrust of this amendment—to reduce the gun industry to its lowest possible common denominator all across the United States of America, that is the worst possible public policy. Members on both sides of this aisle should stand together and refute it.

At least one company, Smith & Wesson, has agreed to adopt certain reasonable, responsible marketing practices. While this agreement was made under the threat of litigation, it is important to note that no dealer has to comply, and no measures have been forced on Smith & Wesson. Smith & Wesson has decided to take a responsible path to produce responsible policy, and for that this body would slap them on the hand.

As a result of their effort, Smith & Wesson has allegedly been targeted by others in the gun industry that are unhappy with the agreement who say you can't march ahead of us; you can't do something right; we all want to be able to do something wrong. There has been talk of boycotts and anticompetitive behavior. In fact, I recently joined a number of my colleagues in writing to the Federal Trade Commission, asking them to look into these allegations.

Given the determination of the National Rifle Association and its allies

to stop any and all reasonable control of the flow of guns to criminals and children, I believe it would be dreadful to prevent the administration from encouraging agreements such as this one.

Let me be clear. No one is saying that law enforcement should buy inferior weapons simply because the manufacturer has agreed to act responsibly. The fact is, Smith & Wesson produces very good weapons. I have certainly never been one to argue that we should leave law enforcement without adequate weaponry. But where technology and safety of guns are similar, it makes eminent sense to give preference to the manufacturer that has agreed to certain commonsense standards.

I wish to take a few moments and go over a few of the details in the Smith & Wesson settlement document. This is what it looks like.

First, under the agreement, all handguns and pistols will be shipped from Smith & Wesson with child-safety devices. Again, the juvenile justice bill would have made this provision unnecessary. But, again, that bill has gone nowhere.

What would that do?

In Memphis, TN, not too long ago, a 5-year-old took a weapon off of his grandfather's dresser. It was loaded. He took it to kindergarten to kill the kindergarten teacher because that youngster had been given a ''time out'' the day before. The gun was discovered because a bullet dropped out of his backpack—a 5-year-old child toting in his backpack a loaded pistol with no safety lock to kill the teacher because he had been given a ''time out'' the day before. With the safety lock, the gun would have been inoperable to that child.

Another child in Michigan, a 6-year-old, has an argument with a child, brings a gun to school, and actually kills another 6-year-old.

These may not be everyday events. But they would be prevented from happening if guns were made with smart technology and, prior to that, with safety locks.

Also in the agreement, every handgun would be designed with a second hidden serial number. Why that? Because it prevents criminals from easily eradicating a serial number to impede tracing. How can we not support that?

New Smith & Wesson models will be no longer able to accept any large-capacity magazine. What is important about that? That immediately limits the kill power of that weapon. The weapon can still be used for defense. But the drums of 250 or 75 rounds with clips of 30 rounds, which are there for one reason—to kill large numbers of people—would not be accepted into that gun.

Within 2 years, every Smith & Wesson model would have a built-in, on-board locking system by which the firearm could only be operated with the key, or combination, or other mechanism unique to that gun.

Two percent of Smith & Wesson's firearms revenue would be devoted to developing smart gun technology for all future gun models. What a good thing to have happen.

Next, within a year of the agreement, each firearm would be designed so it could not be readily operated by a child under the age of six. This might include increasing the trigger-pull resistance, designing the gun so a small hand could not operate it, or perhaps requiring a sequence of actions to fire the gun that could not be easily accomplished by a 5-year-old. Who believes the Federal Government should not encourage manufacturers to make weapons so five- and six-year-olds cannot fire them?

The agreement includes safety in manufacturing tests, such as minimum barrel length and firing tests to ensure that misfires, explosions, and cracks such as those found in Saturday night specials do not occur. A drop test is also included.

I remember very well a major robbery in San Francisco where a police officer with a semiautomatic handgun went into the robbery, pulled out his weapon, and the clip dropped out. He was shot and killed. And I remember another incident where the gun was dropped and fired accidentally.

Another provision: each pistol would have a clearly visible chamber load indicator, so that the user can see whether there is a round in the chamber.

No new pistol design would be able to accept large-capacity ammunition clips.

The packaging of new guns will include a safety warning regarding the list of unsafe storage and use. What a good thing, a gun manufacturer that will put a warning with the gun that says to the prospective gun owner: Understand this is a lethal weapon. Here is how to keep it safely. Put it in a cabinet which is secure and locked. Keep the ammunition separate from the gun.

And we are going to prevent anyone who provides this from gaining any kind of preference? We give preference with merit pay. There are all kinds of preferences in Federal law. Yet we are to deny this to anybody who does the right thing and manufactures safe guns, smart guns, better guns.

Under the agreement, any dealer wishing to sell Smith & Wesson firearms would comply with a series of commonsense measures. Let me state what they are. Any dealer wishing to sell Smith & Wesson firearms first agrees not to sell at any gun show unless all the sellers in the gun show provide background checks. What a responsible thing to do. Again, this provision would be unnecessary if Congress had simply passed the juvenile justice bill and sent it to the President for his signature because all sellers at all gun shows would already be performing background checks. That bill is stalled in conference, and this provision of the agreement is a small step in the right direction.

Again, under the agreement, any dealer wishing to sell Smith & Wesson firearms must carry insurance against liability for damage to property or injury to persons resulting in firearm sales. The same thing would apply if you had a swimming pool. You would have some liability insurance if a neighbor fell into the pool and drowned. This isn't asking too much.

Any dealer wishing to sell Smith & Wesson firearms must maintain an up-to-date and accurate set of records and must keep track of all inventory at all times.

Any dealer wishing to sell Smith & Wesson firearms must agree to keep all firearms within the dealership safe from loss or theft, including locking display cases and keeping guns safely locked during off hours.

Ammunition must be stored separate from firearms.

Any dealer wishing to sell Smith & Wesson must stop selling large-capacity ammunition feeding devices and assault weapons.

This gun company has set itself in the vanguard of reform in the gun industry, and the Treasury-Postal bill coming before the Senate penalizes them for doing so. What kind of public policy is that? It simply says we are going to try, by law, to lower safety, regulation, careful record keeping, and all the things that are positive to the lowest possible denominator. We are not going to commend anybody who does the right thing. We are going to see they are not given preference. We are going to provide a disincentive to gun companies that want to do the right thing.

More than any other piece of legislation I have seen, this shows the disingenuousness of those who say they are for some targeted gun regulations. This speaks to what this is all about, that there should remain one, and one industry only, without regulation, without any kinds of standards, and that is the gun industry.

I think there is no better time to join this debate than in the upcoming Treasury-Postal bill. The amendment to strip this language from Treasury-Postal will be the first item of business of this side.

Mr. President, I will make this agreement available to anyone from either side of this aisle who wants to inspect it.

Mr. President, Senator KENNEDY is a cosponsor of the amendment. I thank him, as well.

I yield the floor.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Delaware.

Mr. BIDEN. Mr. President, the Senate will soon be considering the Treasury and general government appropriations bill. This is one of the important funding bills we will have to pass this year to keep the Government open and running.

In addition to the Department of the Treasury, this is the bill that provides moneys for the operation of the White House, the Executive Office of the President, and it also provides funds

for the construction of new courthouses, reflecting the priorities of the administrative offices of the courts. It is this third branch of our Government that I will take a few minutes to talk about.

In 1994, the Senate and the House passed the Violence Against Women Act which President Clinton then signed into law. As the author of that legislation, securing its passage had been my highest priority for three sessions of Congress. The cause of eliminating violence against women remains my highest priority. I have watched the progress of the implementation of my Violence Against Women Act. In that act we included a provision giving anyone who had been the victim of a crime of violence motivated by gender the right to bring a lawsuit seeking damages from the assailant.

On May 15 of this year, in a case called United States v. Morrison, the Supreme Court struck down this provision. The Court said that addressing the problems of violence against women in this way was beyond the constitutional authority of the elected representatives of the United States. Flat out, they said it was an unconstitutional act we engaged in.

In ruling it was beyond the constitutional authority of the Congress, the Court said that it does not matter how great an effect such acts of violence have on interstate commerce. They said gender-based violence could be crippling large segments of our national economy, but, nonetheless, even if that were proven—according to the Court—the Congress is powerless to enact a law to deter such active violence because although we have acted this way under the commerce clause of the Constitution before, the Court ruled violence in and of itself is not commerce.

I believe this is a constitutionally wrong decision. It is true that it does not strike a fatal blow against the struggle to end violence against women in this country. The other parts of the Violence Against Women Act are unaffected by this decision. I am pleased to report that these other provisions, together with changing attitudes in this country, are beginning to make a difference in this struggle in the lives of women who have been victimized.

I have introduced a bill with, now, I think over 60 cosponsors, to enhance the provisions of my Violence Against Women Act so that we can continue to make progress. Nonetheless, the decision in Morrison is a wrongheaded decision. It is not just an isolated error. No, it is part of a growing body of decisions in which this Supreme Court is seizing the power to make important social decisions that, under our constitutional system of government, are properly made by elected representatives who answer to the people, unlike the Court.

I said at the time that the case came down, striking down the provisions of the Violence Against Women Act, that the decision does more damage to our constitutional jurisprudence than it does to the fight against gender-based violence. Since I said that, a number of people have asked me to explain what I mean by that. Today, since we have the time, I am beginning a series of speeches to do just that by placing the Morrison decision in a larger context of what an increasingly out-of-touch Supreme Court has been doing in recent years.

I plan on making two additional speeches on this subject over the next several weeks and months. It is crucial, in my view, that the American people understand the larger pattern of the Supreme Court's recent decisions and, to me, the disturbing direction in which the Supreme Court is moving because the consequences of these cases may well impact upon the ability of American citizens to ask their elected representatives in Congress to help them solve national problems that have national impact.

Many of the Court's decisions are written in the name of protecting prerogatives of the State governments and speak in the time honored language of federalism and States rights. But as my grandmother would say, they have stood federalism on its head. Make no mistake, what is at issue here is the question of power, who wants it, who has it, and who controls it—basically, whether power will be exercised by an insulated judiciary or by the elected representatives of the people.

In our separation of powers doctrine, upon which our Government rests, that power is being wrestled by the Court from the elected representatives, for in every case in which the Court has struck down a Federal statute, it has invalidated a statute that the people of the United States have wanted. As a matter of fact, in many of the cases of statutes that have been struck down, the numerous attorneys general of the various States have sided with the Federal Government in briefs filed with the Court, saying that they supported the decision taken by the Congress and the President.

Let's give the emerging pattern of Supreme Court decisions a name. In a speech I gave before the New Hampshire Supreme Court last year, I referred to this pattern as an emerging pattern of an imperial judiciary. I meant to describe the judiciary that is making decisions and seizing power in areas in which the judgment of elected branches of government ought to be the controlling judgment, not the Court's. With increasing frequency, the Supreme Court is taking over the role of government for itself.

The imperial judging might also be called a kind of judicial activism. ''Judicial activism'' is an overworked expression, one that has often been used by conservatives to criticize liberal judges. Under this Supreme Court, however, the shoe is plainly on the other foot. It is now conservative judges who are supplanting the judgment of the people's representatives and substituting their own for that of the Congress and the President.

This is not just JOE BIDEN talking. The Violence Against Women Act case came to the Supreme Court through the Fourth Circuit Court of Appeals, where Judge J. Harvie Wilkinson is the chief judge. Judge Wilkinson has been on many so-called short lists for possible Supreme Court nominees of Governor Bush and is a well recognized conservative. In the opinion he wrote, agreeing that the civil rights remedy in the Violence Against Women Act was unconstitutional, Judge Wilkinson praised the result as an example of ''this century's third and final era of judicial activism.''

He, Judge Wilkinson, acknowledges that the decision represents the ''third and,'' he says, ''final era of judicial activism.'' And he said he hoped this new activism would be enduring presence in our Federal courts.

That was in Brzonkala v. VPI, 169 F.3d 820, 892–893.

Or consider Judge Douglas Ginsburg of the Court of Appeals for the District of Columbia, another well recognized conservative. Judge Ginsburg has quite explicitly criticized the interpretation of the Constitution that has prevailed through the better part of this entire century and, indeed, throughout most of our country's history, an interpretation which correctly recognizes the broad capacity and competence of the people to govern themselves through their elected officials, not through the court system.

According to Judge Ginsburg, the correct interpretation of the Constitution produces results that severely restrict the power of elected government. He calls the Constitution ''the Constitution in Exile.'' Under that Constitution, the one that he thinks controls, unelected Federal judges would wield enormous power to second-guess legislative bodies on both the State and the Federal levels.

When Judge Ginsburg wrote about these ideas in a magazine article in 1995, he was eagerly awaiting signs that the Supreme Court would begin to embrace his notion of a Constitution in exile. Five short years later, much has changed. As Linda Greenhouse recently put it in a New York Times column, Judge Ginsburg's hopes:

> . . . sound decidedly less out of context today than they did even 5 years ago, just before the court began issuing a series of decisions reviving a limited vision of federal power.

By taking a closer look at these series of decisions referred to in the New York Times, the pattern I have been referring to will become quite evident.

The first clear step toward an imperial judiciary was taken in the case called Lopez v. United States, which invalidated a Federal law making it a crime to possess a gun in a school zone. The Supreme Court held that it was not obvious ''to the naked eye'' that the nationwide problem of school violence has a substantial effect on the

national economy and interstate commerce, the predicate we have to show to have jurisdiction under the commerce clause to pass such a law.

In our desire to respond quickly to the epidemic of school violence, which we all talk about here on the floor, we in the Congress did not make findings—that is, we did not have hearings that said ''we find that the following actions have the following impact on commerce''—we did not make findings to relate school violence to interstate commerce. Subsequently, however, we did make such findings and pointed to the voluminous evidence that was before the Congress at the time we passed Senator KOHL's Gun-Free School Zone Act.

Nonetheless, the Court, this new imperial judiciary, ignored our findings and the raft of supporting evidence, and drew its own conclusions. They concluded—the Court concluded—that the threat of school violence to national commerce is not substantial enough to justify a legislative response on the part of those of us elected to the Congress.

The Lopez case startled many people. Numerous law schools sponsored conferences to discuss the meaning of this case. Constitutional scholars debated how great a departure this case signaled from the settled approach to congressional power that has been taken over the 20th century, at least the last two-thirds of the 20th century, by all previous Supreme Courts.

Immediately after the decision, no consensus emerged. Many scholars plausibly concluded that Lopez was, as one put it, just an ''island in the stream,'' a decision that breaks the flow of the river of cases before it, but which will have no lasting effect of any significance on those that follow it.

How wrong he was. It now turns out that if Lopez is an island, it is one the size of Australia. The Court soon followed Lopez by striking down the Religious Freedom and Restoration Act that Senator HATCH and I had worked so hard to craft and the Senate and House passed and the President signed.

In Boerne v. Flores—that is the name of the case that struck down the Religious Freedom Act we passed—the Congress of the United States enacted the Religious Freedom Act in response to an earlier Supreme Court decision.

In 1990, the Court ruled in Employment Decision v. Smith that the constitutional freedom of religion is not offended by a State law that significantly burdens the ability of members of that religion to practice their religion, so long as that law applies across the board, without singling out religious practices of any one denomination in any way.

For example, under the Smith decision, a dry county which prohibits the consumption of all alcohol could prohibit a church from using sacramental wine when they give communion, as they do in my church; I am a Roman Catholic; and they do so in other churches as well.

Smith broke with the prior line of decisions holding that such laws needed to make reasonable accommodations for religion unless the Government had a very good reason for applying the law when it offended someone's sincere religious practices to do so. In other words, unless the Government had an overwhelming reason why in a Catholic Church they could not serve, when they give communion, a sip of wine with the host, prior decisions said you cannot pass a law to stop that.

The overwhelming majority of both Houses of Congress thought the Smith decision was incorrect as a matter of constitutional interpretation and as a matter of policy. We concluded that because section 5 of the 14th amendment authorized the Congress to protect fundamental civil liberties by appropriate legislation, we could enact a statute providing greater protection than the Smith decision did to accepted religious practices.

After extensive hearings under the leadership of Senator HATCH and Senator KENNEDY, the so-called RFRA, Religious Freedom and Restoration Act, was drafted to require that the application of neutral laws had to make reasonable accommodation to bona fide religious objections.

The Supreme Court struck down our effort to extend reasonable protections to religious practices. It held that the 14th amendment does not authorize the Congress to confer civil rights by statute or to give judicially recognized rights a greater scope than the Court has set forth.

In the Court's view, the power of section 5 of the 14th amendment gives the Congress the power to ''enforce'' the rights established in that amendment, but it only amounts to a power to provide remedies for the violations of the rights that the Court has recognized—not the Congress, the Court has recognized—not to protect any broader conception of civil rights than the Court has already recognized.

In the Flores case, it was another sign that we are on the road to judicial imperialism. Recognizing the implications of the decision, the Republican majority on the Judiciary Committee's Subcommittee on the Constitution in the House held a hearing on the Court's refusal to defer to Congress' factual findings and the policy determinations it based on those findings.

Judicial deference to congressional findings and congressional authority to enforce civil rights are obviously important questions standing alone, but the Supreme Court raised the stakes even higher in two decisions relating to what we call State sovereign immunity. In those cases, Seminole Tribe of Florida v. Florida and Alden v. Maine, the Court declared the Congress may not use its commerce clause powers to abrogate State sovereign immunity.

What this means, translated, is that when Congress acts under its broad power to improve the national economy, a power granted to it by the Constitution, the Congress, in the Court's view, cannot authorize an individual to sue a State even if they are suing over a purely commercial transaction with that State. For example, as the Court held in the Alden case, an employee of a State now cannot sue his or her employer for failing to comply with the Fair Labor Standards Act just because the employer happens to be a State.

If it is a business person, a corporation, and they violate the Fair Labor Standards Act, which we passed to protect all people who work, they can be held accountable under that act. The Supreme Court came along and said: But, Congress, you can't pass a law that holds a State accountable.

The Seminole Tribe and Alden cases highlight the importance of the issue of congressional power under the 14th amendment because the Court continues to recognize that Congress can authorize individuals to sue States if our legislation is authorized by the 14th amendment rather than by the commerce clause.

By limiting Congress' 14th amendment powers, therefore, the Boerne decision, which is the Religious Freedom Act decision, draws into question our capacity to meaningfully protect civil rights at all whenever remedies directly against a State are being considered.

Viewed in its historical context, this is a remarkable development in and of itself. The text of the 14th amendment was drafted immediately after the Civil War, and it grants powers to only one branch of the Government, the only one named in the amendment: the Congress, not the Court. Specifically, the amendment sought to grant the Congress ample power to enforce civil rights against the States. That is what the Civil War was about. That is why the Civil War amendments were passed: to put it in stone. Developments in these recent cases I have cited are in profound tension with the sentiments and concerns of the drafters of the 14th amendment.

Still, after that case, some might continue to say it is not clear where the Court was really headed. It was possible to say in the Flores case that it was simply articulating the standard governing the nature of Congress' power; namely, that it was purely remedial and not substantive.

Because the legislative record was designed to support an exercise of substantive power, that record did not so clearly support the exercise of the remedial power.

On this reading, the Court did not second-guess the congressional findings. It just saw them as answering the wrong question. Subsequent events, however, have confirmed that the Subcommittee on the Constitution had a right to be worried about Boerne because Boerne was much more ominous than that.

In one of the last cases decided in the 1998 term, the Court laid down yet another marker, perhaps the most bold

decision yet in the trend of the Court usurping democratic authority.

In that decision, the Court held unconstitutional a Federal statute, the Patent and Plant Variety Protection Remedy Clarification Act. That act provided a remedy for patent holders against any State that infringes on the patent holder's patent. That was in Florida Prepaid Postsecondary Education Expense Board v. College Savings Bank.

Before enacting this remedial legislation, the Congress had developed a specific legislative record detailing specific cases where States had infringed a federally conferred patent and evidence suggested the possibility of a future increase in the frequency of State infringements of patents held by individuals.

Unlike Lopez, the Patent Protection Act did not lack findings or legislative record. Unlike Boerne, the legislative record demonstrated that the statute was remedial and not substantive. Nonetheless, the Supreme Court decided, independently, that the facts before the Congress, as it, the Court, interpreted them, provided, in the Court's words, ''little support'' for the need for a remedy.

Get this: We, up here, concluded, on the record, that States have, in fact, infringed upon the patents held by individuals. We laid out why we thought—Democrat and Republican, House, Senate, and President—we should protect individuals from that and why we thought the problem would get worse. We set that out in the record when we passed the legislation.

But the Supreme Court comes along and says: We don't think there is a problem. Who are they to determine whether or not there is a problem? It is theirs to determine whether our action is constitutional, not whether or not there is a problem. But they said they found little support for our concern—the concern of 535 elected Members of the Congress and the President of the United States.

The Court was not substituting a constitutional principle here. The Court was substituting its own policy views for those of this body that described the problem of State infringement on Federal patents as being of national import. They concluded it is not that big of a deal.

We need to be clear about what the Court did in the patent remedy case. For a long time, it has been accepted constitutional law that once a piece of legislation has been found to be designed to cover a subject over which the Constitution gives the Congress the power to act—let me say that again—this has been accepted constitutional theory and law that once a piece of legislation has been found to be designed by the Congress to cover a subject over which the Congress has constitutional authority, that it then becomes wholly within the sphere of Congress to decide whether any particular action is wise or is prudent.

This has been constitutional law going all the way back as far as M'Culloch v. Maryland, written by the then-Chief Justice John Marshall, in 1819. There Chief Justice Marshall wrote that the ''government which has the right to act, and has imposed on it the duty of performing that act, must, according to the dictates of reason, be allowed to select the means [by which to act].''

In the patent remedy case, the Court quite clearly usurped the constitutional authority of Congress to select the means it thinks appropriate to remedy a problem that is admittedly within the authority of Congress to address.

In the patent remedy case, the Court did not hold that Congress has exercised a power in an area outside its constitutional authority. Instead, it disagreed with our substantive judgment as to whether the Federal remedy was warranted.

In short, the Court struck down the remedy just because it did not think the remedy was a good idea. Who are they to make that judgment? Talk about judicial activism. The cases I have reviewed today—Lopez, Boerne, Seminole Tribe, Alden, and Florida Prepaid—bring us up to this term just completed by the Supreme Court.

In the next series of speeches, I will show how the trend of judicial imperialism continued, and was extended by several cases decided this past year, including the Violence Against Women Act, which I began with today.

The bottom line here is, in the opinion of many scholars and observers of the Court, we are witnessing the emergence of what I referred to a year ago as the ''imperial judiciary.'' I just discussed five cases leading up to the just completed term.

Now I would like to discuss two significant decisions of this term. I will also begin the task of trying to place these decisions in a broader framework of the Constitution's allocation of responsibility between the elected branches of Government and the judiciary. It is a framework that this ''imperial judiciary'' is disregarding.

Last December, the Court focused its sight on the Age Discrimination in Employment Act. That is the act that protects Americans against discrimination based on age and is amply justified under our Constitution. Not only does it protect the basic civil rights of equal protection and nondiscriminatory treatment—with bipartisan support, I might add—it also promotes the national economy, by ensuring that the labor pool is not artificially limited by mandatory requirements to retire.

So the Congress had ample constitutional authority to enact the Age Discrimination Act. And the Court did not deny that. Nonetheless, the Court, this last term, gutted the enforcement of the act as the act applied to all State government employees.

Building on its earlier decisions in the Seminole Tribe and Alden cases, which I discussed a moment ago, the Court ruled that the Constitution prevents us from authorizing State employees to sue their employers for violation of the Federal Age Discrimination Act. The Court also said, however, that the Constitution does not prevent the Congress from applying the law to the States.

Now, you have to listen to this carefully. In a thoroughly bizarre manner, in my view, the Supreme Court has now held that the Constitution allows the Age Discrimination Act to apply to State employers, but it denies the employees the right to sue the State employers when their rights under the Federal law are violated. We learned in law school that a right without a remedy can hardly be called a right.

As a result of this case, called Kimel v. Florida Board of Regents, over 27,000 State employees in my State of Delaware are left without an effective judicial remedy for a violation of a Federal law that protects them against age discrimination. Across the Nation, nearly 5 million State employees no longer have the full protection of Federal law.

Recall that in the Boerne decision—the case that invalidated the Religious Freedom Restoration Act, which I discussed a moment ago—the Court had begun the process of undermining the ability of the Congress under section 5 of the 14th amendment to enact legislation protecting civil rights. In Kimel, they continued that process.

In Kimel, the Court held that Congress' 14th amendment power to enforce civil rights refers only to the enforcement of those rights that the Court itself has declared and not to rights that exist by virtue of valid statutes. Because the Court decided that the Age Discrimination Act goes beyond the general protection the Constitution provides when it says that all citizens are entitled to ''equal protection under the law,'' the Court ruled that the right to sue an employer for violations of the act was not ''appropriate'' and so ruled the act unconstitutional.

After Kimel, the pattern of the imperial judiciary now emerges with some clarity. First, the Court has repudiated over 175 years of nearly unanimous agreement that Congress, not the Court, will decide what constitutes ''necessary and proper'' legislation under any of its, Congress', enumerated powers. Then in a parallel maneuver, the Court has announced that it, not the Congress, will decide what constitutes ''appropriate'' remedial legislation to enforce civil rights and civil liberties.

Let me return for a moment to the Violence Against Women Act, which I began earlier in my speech. Prior to the enactment of the Violence Against Women Act, I held extensive hearings in the Judiciary Committee when I was chairman, compiling voluminous evidence on the pattern of violence against women in America. The massive legislative record Congress generated over a 4-year period of those

hearings supported Congress' explicit findings that gender-motivated violence does substantially and directly affect interstate commerce. How? By preventing a discrete group of Americans, i.e., women, from participating fully in the day-to-day commerce of this country. These are the types of findings, I might add, that were absent when the Congress first enacted the Gun-Free School Zone Act, struck down in the Lopez case.

Let me remind you that Congress, when we enacted the civil rights provision invalidated in Morrison, found:

[C]rimes of violence motivated by gender have a substantial adverse impact upon interstate commerce by deterring potential victims of violence from traveling interstate, from engaging in employment in interstate business, from transacting with businesses and in places involved in interstate commerce. Crimes of violence motivated by gender have a substantial adverse effect on interstate commerce by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products . . .

I cannot emphasize enough the seriousness of the toll that we found gender-motivated violence exacts on interstate commerce. Such violence denies women an equal opportunity to compete in the job market, imposing a heavy burden on our national economy.

Witness after witness at the hearing testified that as a result of rape, sexual assault, or domestic abuse, she was fired from, forced to quit, or abandoned her job. As a result of such interference with the ability of women to work, domestic violence was estimated to cost employers billions of dollars annually because of absenteeism in the workplace. Indeed, estimates suggested that we spend between $5 and $10 billion a year on health care, criminal justice, and other social costs merely and totally as a consequence of violence against women in America.

In response to this important national problem, one to which we found the States did not or could not adequately respond, Congress enacted my Violence Against Women Act in 1994, which included provisions authorizing women to sue their attackers in Federal court. This statute reflected the legislative branch's judgment that State laws and practices had failed to provide equal and adequate protection to women victimized by domestic violence and sexual assault and that the lawsuit would provide an adequate means of remedying these deficiencies. This was no knee-jerk response to a problem. Congress specifically found that State and Federal laws failed to ''adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests'' and that:

. . . existing bias and discrimination in the criminal justice system often deprives victims of crimes of violence motivated by gender of equal protection of the laws and the redress to which they are entitled.

The funny thing about these explicit congressional findings and this mountain of data, as Justice Souter in his dissent called it, showing the effects of violence against women on interstate commerce—the funny thing about this is that the Supreme Court acknowledged all of it. They said: We don't challenge that.

This is the new height in their imperial judicial thinking. That is right. The Court acknowledged all of the findings of my committee. In Morrison, the Supreme Court recognized that in contrast to the lack of findings in the legislation on the Gun-Free School Zone case, Lopez, that the civil rights provisions of the Violence Against Women Act were supported by ''numerous factual findings'' about the impact of gender-motivated violence on interstate commerce.

But the Court also acknowledged the failure of the States to address this problem—they acknowledged the States had not addressed it before we did—noting that the assertion that there was a pervasive bias in State justice systems against victims of gender-motivated violence was supported by a ''voluminous congressional record.'' They acknowledged that there was this great impact on interstate commerce. They acknowledged—because I had my staff, over 4 years, survey the laws and the outcomes in all 50 States—that many State courts had a bias against women.

So they acknowledged both those predicates.

Instead of according the deference typically given to congressional factual findings, supported by, as they said, a voluminous record, and without even the pretense of applying what we lawyers call the ''traditional rational basis test''—that is, if the Congress has a rational basis upon which to make its finding, then we are not going to second-guess it; that is what we mean by ''rational basis''—the Court simply thought it knew better.

This marks the first occasion in more than 60 years that the Supreme Court has rejected explicit factual findings by Congress that a given activity substantially affects interstate commerce. The Court justified this abandonment of deference to Congress by declaring that whether a particular activity substantially affects interstate commerce ''is ultimately a judicial rather than a legislative question.''

You got this? For the first time in 60 years, since back in the days of the Lochner era, the Supreme Court has come along and said they acknowledge that the Congress has these voluminous findings that interstate commerce is affected and the States aren't doing anything to deal with this national problem of violence against women; they are not doing sufficiently enough.

There is a bias in their courts. We acknowledge that. But they said, notwithstanding that, the question of whether a specific activity substantially affects interstate commerce ''is ultimately a judicial rather than a legislative question.'' Hang on, here we go back to 1925.

As Justice Souter said in his dissent, this has it exactly backwards, for ''the fact of such a substantial effect is not an issue for the courts in the first instance, but for the Congress, whose institutional capacity for gathering evidence and taking testimony far exceeds ours.''

In short, in a decision that reads more like one written in 1930 than in 2000, the Court held that the judicial, not the legislative, branch of the Government was better suited to making these decisions on behalf of the American people—a conclusion that certainly would have surprised Chief Justice Marshall, the author of the seminal commerce clause decision in Gibbons v. Ogden in the early 1800s.

The judgments that the Congress made in enacting the Violence Against Women Act were, in my view, the correct ones. Even if you disagree with me, though, they were the Congress' judgments to make, not the Court's judgments to make.

When it struck down the Violence Against Women Act, the Court left little doubt that it was acting outside its proper judicial role. They said that the commerce clause did not justify the statute because the act of inflicting violence on women is not a ''commercial'' act. It said that section 5 of the 14th amendment also did not justify this act because creating a cause of action against the private perpetrators of violence is not an ''appropriate'' remedy for the denial of equal protection that occurs when State law enforcement fails vigorously to enforce laws that ought to protect women against such violence.

Over the course of this speech today, I have discussed seven significant decisions since 1995: Lopez, the gun-free school zones case; Boerne against Flores, the Religious Freedom Restoration Act case; Seminole Tribe and Alden, the two decisions prohibiting us from creating judicial enforceable economic rights for State employees; Florida Prepaid, the patent remedy case; Kimel, the Age Discrimination Act case; and finally, Morrison, the Violence Against Women Act case.

None of them deal fatal blows to our ability to address these significant national problems, but they each, in varying degrees, make it much more difficult for us to be able to do so.

There are two even more important points to make about these cases.

First, together, these cases are establishing a pattern of decisions founded on constitutional error—an error that allocates far too much authority to the Federal courts and thereby denies to the elected branches of the Federal Government the legitimate authority vested in it by the Constitution to address national problems.

Second, this is a trend that is fully capable of growing until it does deal telling blows to our ability to address significant national problems. This is not only my assessment; it is shared, for example, by Justice John Paul Stevens, who was appointed to the Court

by Gerald Ford. Dissenting in the Kimel case, Justice Stevens has written that ''the kind of judicial activism manifested in [these cases] represents such a radical departure from the proper role of this Court that it should be opposed whenever the opportunity arises.''

That is not JOE BIDEN speaking; that is a sitting member of the Supreme Court appointed by a Republican President.

It is also shared by Justice David Souter, who was appointed by President Bush. Dissenting in the Lopez case, Justice Souter has written that ''it seems fair to ask whether the step taken by the Court today does anything but portend a return to the untenable jurisprudence from which the Court extricated itself almost 60 years ago.'' He was referring to the Lochner era.

It is shared by Justice Breyer, a Clinton appointee. Dissenting in College Savings Bank v. Florida Prepaid, Justice Breyer has written that the Court's decisions on State sovereign immunity ''threaten the Nation's ability to enact economic legislation needed for the future in much the way Lochner v. New York threatened the Nation's ability to enact social legislation over 90 years ago.''

Significantly, this imperialist trend can continue to grow and flower in two different places. The Supreme Court itself can continue to write more and more aggressive decisions, cutting deeper and deeper into the people's capacity to govern themselves effectively at a national level.

In the short term, perhaps the odds are that this will not occur. Many of the decisions in this pattern have been decided by votes of five Justices to four Justices, and it may be that one or more of the conservative majority has gone about as far as he or she is prepared to go at this time.

In the longer term, however, we can quite reasonably expect two or three appointments to the Court in the next 4 to 8 years, and if those appointments result in replacing moderate conservatives on the Court with activist conservatives, we have every reason to expect that this trend I have outlined for the last 45 minutes would gain momentum.

It can also bloom in the lower courts. This may, to some extent, be by design of the Justices who are taking the lead in the Court today. Certainly, many people have remarked on the proclivity of Justice Scalia to author opinions containing sweeping language that creates new ambiguities in the law and which then often provide a hook on which lower court judges can hang their judicial activism.

Already, opinions have been written by lower court judges overturning the Superfund legislation, challenging the constitutionality of the Endangered Species Act, calling into doubt Federal protection of wetlands, and eviscerating the False Claims Act, among others. Not all of these judicial exercises can be corrected by the Supreme Court, even if it were inclined to do so, because the Court decides only 80 or so cases a year from the entire Federal system.

In concluding, I wish to describe in the most basic terms why the imperialist course upon which the Court has embarked constitutes a danger to our established system of government.

In case after case, the Court has strayed from its job of interpreting the Constitution and has instead begun to second guess the Congress about the wisdom or necessity of enacted laws. Its opinions declare straightforwardly its new approach: The Court determines whether legislation is ''appropriate,'' or whether it is proportional to the problem we have validly sought to address, or whether there is enough reason for us to enact legislation that all agree is within our constitutionally defined legislative power.

If in the Court's view legislation is not appropriate, or proportional, or grounded in a sufficient sense of urgency, it is unconstitutional—even though the subject matter is within Congress' power, and even though Congress made extensive findings to support the measure.

More significant than the invalidation of any specific piece of legislation, this approach annexes to the judiciary vast tracts of what are properly understood as the legislative powers. If allowed to take root, this expanded version of judicial power will undermine the project of the American people, and that project is self-government, as set forth in the Constitution.

To understand the alarm that Justice Stevens, Justice Souter, and others have sounded about the Court's pattern of activism, we must understand the way the Constitution structures the Federal Government and the reasons behind that structure. We must also understand the history and the practice that have made the Constitution's blueprint a reality and provide a scale to measure when the balance of power has gone dangerously awry. These considerations amply support Justice Stevens's assessment of ''a radical departure from the proper role of this Court.''

The Constitution (supplemented by the Declaration of Independence) sets forth the great aspirations and objects of our nation. It does not, however, achieve them. That is the great project of American politics and government: to achieve the country envisioned in those founding documents. The way to meet our aspirations and establish our national identity and our character as a people is through the process of self-government.

The Declaration of Independence proclaims our fundamental commitment to liberty and equality. These commitments are by no means self-executing. The history of our nation is in no small part the history of a people struggling to comprehend these commitments and to put these high ideals into practice.

The Constitution itself was concerned with a more complex function. Whereas the Declaration explained the reasons for splitting from Great Britain, the Constitution was concerned with explaining why the former colonies should remain united as a single nation. It was also concerned with the task of providing a government that could fulfill the promise and purposes of union.

The Framers who arrived in Philadelphia to debate and draft the Constitution were no longer immediately animated by an overbearing and oppressive government. In fact, our first national government, under the Articles of Confederation, was the precise opposite.

The emergency that brought the leading citizens of the North American continent together in Philadelphia that Summer of 1787 was the inability of the national government to act in any effective way. These framers saw the vast potential of the new nation with its unparalleled natural and human resources.

They saw as well the danger posed by foreign powers and domestic unrest. They realized too that the Confederation could never act credibly to exploit the nation's potential or to quell domestic and foreign hostilities. As Alexander Hamilton put it, ''[w]e may indeed with propriety be said to have reached almost the last stage of national humiliation. There is scarcely anything that can wound the pride or degrade the character of an independent nation which we do not experience.''

Hamilton urged that the nation ratify the Constitution and throw off the ability of the states to constrain the national government: ''Here, my countrymen, impelled by every motive that ought to influence an enlightened people, let us make a firm stand for our safety, our tranquility, our dignity, our reputation. Let us at last break the fatal charm which has too long seduced us from the paths of felicity and prosperity.''

Indeed, Hamilton may have been understating the degree of the crisis. Gouverneur Morris, a leading delegate from Pennsylvania, warned that ''This country must be united. If persuasion does not unite it, the sword will . . . The scenes of horror attending civil commotion cannot be described . . . The stronger party will then make [traitors] of the weaker; and the Gallows & Halter will finish the word of the sword.''

The words of the Constitution's preamble are not idle rhetoric. The founding generation ratified the Constitution in order to establish a government that could decisively and effectively act to ''provide for the common defense, promote the general welfare, and secure the blessings of liberty.'' This is a fundamental constitutional value that must always be brought to bear when construing the Constitution.

Yet, it is precisely this constitutional value that the Supreme Court

has lost sight of. Consider, for example, Justice Kennedy's statement in the case striking down the Line Item Veto Act. ''A nation cannot plunder its own treasury without putting its Constitution and its survival in peril.

The statute before us then is of first importance, for it seems undeniable the Act will tend to restrain persistent excessive spending.'' Who is he to make that judgment? Yet, Justice Kennedy viewed this as completely irrelevant to the statute's constitutionality. He concurred that the Line Item Veto Act violates separation of powers even though there was no obvious textual basis for this conclusion and no apparent threat to any person's liberty.

Justice Kennedy is right about one thing. His statement is premised on the view that the Court is not particularly well-suited to make policy or political judgments. This is accurate and no mere happenstance. The Constitution itself structures the judiciary and the political branches differently by design.

The Judiciary is made independent of political forces. Judges hold life tenure and salaries that cannot be reduced. The purpose of the entire structure of the judiciary is to leave judges free to apply the technical skills of the legal profession to construe and develop the law, within the confines of what can be fairly deemed legal reasoning.

Outside this realm is the realm of policy. Here Congress and the President enjoy the superior place, again by constitutional design. The political branches are tied closely to the people, most obviously through popular elections.

Between elections, the political branches are properly subject to the public in a host of ways. Moreover, the political branches have wide-ranging access to information through hearings, through studies we commission, and through the statistics and data we routinely gather.

This proximity to the people and to information makes Congress the most suitable repository of the legislative power; that is, the power to deliberate as agents of the public and to determine what laws and structures will best ''promote the general welfare.''

It is much easier to describe the distinction between the judicial and the legislative power in the abstract than it is to apply in practice. That is why so much of our constitutional history has been devoted to developing doctrines and traditions that keep the judiciary within its proper sphere.

After much upheaval, the mid-twentieth century yielded a stable and harmonious approach to questions relating to the scope of Congress's powers: these questions are largely for the political branches and the political process to resolve—not the courts.

To be sure, the Court has a role in policing the outer boundaries of this power, but it is to be extremely deferential to the specific judgment of Congress that a given statute is a necessary and proper exercise of its constitutional powers. When the Court fails to defer, as it had during several periods prior to the New Deal, it inevitably finds itself making judgments that are far outside the sphere of the judicial power.

This is the point of Justice Stevens' warning. The Court is departing from its proper role in scope of power cases. What was initially uncertain, even after Lopez and Boerne, is now inescapable: This imperial Court, in case after case, is freely imposing its own view of what constitutes sound public policy. This violates a basic theory of government so carefully set forth in our Constitution. In theory, therefore, there is ample reason to expect that the Supreme Court's recent imperialism will undermine the fundamental value animating the Constitution, and that is the ability of the American people to govern themselves effectively and democratically.

I yield the floor.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Michigan.

Mr. LEVIN. Mr. President, I yield to the Senator from Missouri up to 7 minutes for a statement he wishes to make, and I ask unanimous consent I be allowed to do that without losing my right to the floor.

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

The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I thank the Senator from Michigan for his kindness to me. I certainly am not the one to object to that unanimous consent. I appreciate that very much.

I express my unequivocal support, and I rise to do so for the many efforts that we are making in this Congress to reform U.S. policy on embargoes of food and medicine. Now is the time to reevaluate the policies we have engaged in in the past that are perpetuating losses to America.

Food embargoes can be summed up as a big loss: a loss to the U.S. economy, a loss of jobs, a loss of markets. For example, embargoed countries buy 14 percent of the world's total rice, 10 percent of the world's total wheat purchases, and the list goes on.

When we lose those markets for America, we should have a very good reason. There should be some benefit if we are going to give up access to 14 percent of the world's rice import market, 10 percent of the world's wheat market, for soybean farmers, cattlemen, hog farmers, poultry producers, cotton, and corn farmers.

The nation of Cuba, for example, imports about 22 million pounds of pork a year. Someone says that is important to the livestock farmers. Feed that pig corn before exporting it, so it is important to the grain farmers, as well.

The embargo causes a loss in America's foreign policy. Often we think we will inflict some sort of pressure or injury on another country and, instead of hurting them, we help them. I don't think there was any more dramatic case of that than the Soviet grain embargo with 17 million tons of grain and those contracts were canceled. Instead of hurting the Soviet Union, they replaced the contracts in the world marketplace at a $250 million benefit to the Soviet Union. Instead of hurting the former Soviet Union, we helped the former Soviet Union. That particular weapon was dangerous. Using food and medicine as an embargo is dangerous because that weapon backfires. Instead of hurting our opponent, we helped our opponent.

Who did we hurt? We hurt the American farm agricultural community. We hurt the food processing community. We need to make a commitment to ourselves that we need to reform this area of embargoing food and medicine resources.

The provision the Senator from Kansas and I and others will likely offer today simply reaffirms what we have been trying to do for some time; that is, to get real reform of humanitarian sanctions. I will cosponsor Senator ROBERTS' and Senator BAUCUS' amendment. I support it fully. However, the amendment should not be necessary. Twice we have passed sanctions reform for food and medicine in the Senate. Why is it necessary to do this a third time? My clear preference is to pass sanctions reform for all countries, not only for Cuba. We should reform the sanctions regime for all countries, not only Cuba, and we should ensure that future sanctions will not be imposed arbitrarily.

Last year, the Senate accepted overwhelmingly, by a vote of 70–28, accepted an amendment that I and many of my colleagues offered. That amendment lifts food and medicine sanctions across the board, not only applying the lifting of the sanctions to Cuba.

When we went to the House-Senate conference, the democratic process was derailed. We were not voted down. The conference was shut down because the votes were there to affect what the Senate had clearly voted in favor of. That is, the reformulation of our policy in regard to food and medicine embargoes. The conference was shut down by a select few individuals in the Congress who were outside of the conference committee.

This reform proposal was then adopted by the Senate Foreign Relations Committee. I am pleased the Senate Foreign Relations Committee has embraced the concept, which the Senate voted 70–28 in favor of, in spite of the fact this was shot down when the committee was shut down in the conference last year.

Once again, this provision passed the Senate this year. Senators DORGAN and GORTON offered it as an amendment in the agricultural appropriations markup, and it was accepted overwhelmingly.

Once again, we are faced with a House-Senate conference. It would be very troublesome to me if the democratic process is not allowed to work,

especially after we have seen the will of Congress and the American people. That will is clearly expressed as a will to reform and embrace the reform of sanctions imposed by the President. It has passed the Senate Foreign Affairs Committee, and it has passed the Senate twice. Some version of this effort has now passed the House of Representatives and is broadly supported all across America.

I hold in my hand a list of about 50 organizations, dozens and dozens and dozens of organizations, including the American Farm Bureau, the National Farmers Union, the U.S. Chamber of Commerce, Gulf Ports of the Americas Association, the AFL–CIO. That is a pretty broad set of groups that want to reform this practice of embargoes.

I ask unanimous consent to have this list printed in the RECORD.

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

GROUPS AND INDIVIDUALS SUPPORTING THE AMENDMENT:

Missouri Farm Bureau, and numerous other Missouri farm organizations, The American Farm Bureau, The National Farmers Union, American Soybean Association, U.S. Rice Producers Association, Wheat Export Trade Education Committee, National Association of Wheat Growers, U.S. Wheat Associates, National Grain Sorghum Producers, Cargill.

ConAgra, Riceland, U.S. Chamber of Commerce, Grocery Manufacturers of America, Gulf Ports of the Americas Association, The AFL–CIO, Washington Office of Latin America, Resource Center of the Americas, The U.S.-Cuba Foundation, Cuban American Alliance Education Fund.

Association for Fair Trade with Cuba, The U.S.-Cuba Friendshipment/Bay Area, Americans for Humanitarian Trade with Cuba, Cuban Committee for Democracy, U.S.A./Cuba InfoMed, USCuBA Trade Association, Cuban Committee for Democracy, Cuban American Alliance Education Fund, Inc., InterAction (the American Council for Voluntary International Action).

Latin American and Caribbean Region American Friends Service Committee, World Neighbors, Lutheran World Relief, Church of the Brethren, Washington Office, Bread for the World, Paulist National Catholic Evangelization Association, World Education, Lutheran Brotherhood, PACT, Third World Opportunities Program.

Concern America, Center for International Policy, Program On Corporations, Law, and Democracy (POCLAD), Unitarian Universalist Service Committee, Committee of Concerned Scientists, Inc., (which is chaired by Joel Lebowitz, Rutgers University, Paul Plotz, National Institutes of Health, and Walter Reich, George Washington University), Women's International League for Peace and Freedom, Oxfam America, Institute for Food and Development Policy.

Paulist National Catholic Evangelization Association, The Alliance of Baptist, Institute for Human Rights and Responsibilities, Chicago Religious Leadership Network on Latin America, Fund for Reconciliation and Development, Guatemala Human Rights Commission, USA, The Center for Cross-Cultural Study, Inc., Mayor Gerald Thompson, City of Fitzgerald, Georgia, Professor Hose Moreno, Professor of Sociology, University of Pittsburgh, Berkeley Adult School, Career Center Director June Johnson, Youngstown State University, Dept. of Foreign Language, Lake Charles Harbor & Terminal District, Catholic Relief Services.

Mr. ASHCROFT. We are today offering yet another amendment because there is concern that the democratic process in the agricultural appropriations House-Senate conference will not be respected.

Let me be clear. We would not have to be here today offering this amendment that says ''don't enforce the law,'' if we in the Congress were allowed to change the law, which is the purpose of Congress.

If you don't want to change the law, you don't need a Congress. You can have the same laws all the time. We found a law that is not working; we should change the law. This amendment will be a ''don't enforce the law'' amendment, but the truth is, our prior expressions on this are clear. We ought to change the law so we won't have to talk about withdrawing funding for enforcement.

My preference is to get this issue resolved in the agricultural appropriations conference and pass embargo reform for all countries and for future sanctions. We need to send real embargo reform to the President's desk this year. That should be our objective. I will support this amendment today which I am cosponsor of, but real reform, and reforming the regime, the framework in which these sanctions are proposed, is what we ought to do. It is what we have done. I believe, ultimately, it is what we will do for the benefit of not only those who work in agriculture and who respect foreign policy but for future generations and the relations of the United States with other countries.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, the Treasury-Postal appropriations bill includes a provision to establish a special postage stamp called the semipostal, intended to raise funds for programs to reduce domestic violence.

I am a very strong supporter of programs to reduce domestic violence—I believe Congress should fully fund those programs—but I do not agree that another semipostal issue should be mandated by the Congress.

Semipostals are stamps that are sold with a surcharge on top of the regular first-class postage rate, with the extra revenue earmarked for a designated cause. Those causes are invariably causes which I think most, if not all, support. They are very appealing causes that come to Congress and ask to require the Postal Service to issue a stamp that has an amount for first-class postage more than the regular 33 cents amount, with the difference going to their cause.

The one and only time that we ever did that was for an extraordinarily worthy cause—breast cancer research. The question now is whether we are going to continue down that road and, as a Congress, mandate the Postal Service to issue those stamps for a whole bunch of causes that are competing with each other for us to mandate the Postal Service to issue such a stamp.

Section 414 of this bill says:

In order to afford the public a convenient way to contribute to funding for domestic violence programs, the Postal Service shall establish a special rate of postage for first-class mail under this section.

It then goes on to describe what that rate shall be. It says in part of this section that:

It is the sense of the Congress that nothing in this section should directly or indirectly cause a net decrease in total funds received by the Department of Justice or any other agency of the Government, or any component or program thereof below the level that would otherwise have been received but for the enactment of this section.

I am not sure how this can possibly be enforced. But that is just one of the problems, not the basic problem, with this language.

As I indicated, the first and only example in American history of a semipostal stamp being issued was the breast cancer research stamp which required the Postal Service to turn over extra revenue, less administrative costs, to the National Institutes of Health and the Department of Defense for its breast cancer research programs. That stamp broke tradition in Congress, not just because it was the first semipostal in our Nation's history but also because it was the first time that Congress mandated the issuance of any stamp in 40 years. I think our tradition of keeping Congress out of the stamp selection process has worked with respect to commemorative stamps, and I believe we should follow that with respect to semipostals as well.

For the last 40 years, Congress has deferred to the Postal Service and to an advisory board which it has set up, nonpartisan, out of politics, objective. That Citizens' Stamp Advisory Committee recommends subjects for the commemorative stamp program. That committee, the Citizens' Stamp Advisory Committee, was created more than four decades ago to take politics out of the stamp selection process. Committee members review thousands of stamp subjects each year and select only a small number that they believe will be educational and interesting to the public and meet the goals of the Postal Service.

Although Congress advises that advisory committee on stamp subjects by making recommendations through letters that we send or through sense-of-Congress resolutions, until now, for the last 40 years, Congress has left the decisionmaking on stamp issuance up to the Postal Service.

This is what the Postal Service says about the role of the Citizens Stamp Advisory Committee:

The U.S. Postal Service is proud of its role in portraying the American experience to a world audience through the issuance of postage stamps and postal stationery.

Almost all subjects chosen to appear on U.S. stamps and postal stationery are suggested by the public. Each year, Americans submit proposals to the Postal Service on literally thousands of different topics. Every stamp suggestion is considered, regardless of who makes it or how it is presented.

On behalf of the Postmaster General, the Citizens' Stamp Advisory Committee (CSAC) is tasked with evaluating the merits of all stamp proposals. Established in 1957, the Committee provides the Postal Service with a ''breadth of judgment and depth of experience in various areas that influence subject matter, character and beauty of postage stamps.''

The Committee's primary goal is to select subjects for recommendation to the Postmaster General that are both interesting and educational. In addition to Postal Service's extensive line of regular stamps, approximately 25 to 30 new subjects for commemorative stamps are recommended each year. Stamp selections are made with all postal customers in mind, not just stamp collectors. A good mix of subjects, both interesting and educational, is essential.

Committee members are appointed by and serve at the pleasure of the Postmaster General. The Committee is composed of 15 members whose backgrounds reflect a wide range of educational, artistic, historical and professional expertise. All share an interest in philately and the needs of the mailing public.

The Committee itself employs no staff. The Postal Service's Stamp Development group handles Committee administrative matters, maintains Committee records and responds to as many as 50,000 letters received annually recommending stamp subjects and designs.

The Committee meets four times yearly in Washington, D.C. At the meetings, the members review all proposals that have been received since the previous meeting. No in-person appeals by stamp proponents are permitted. The members also review and provide guidance on artwork and designs for stamp subjects that are scheduled to be issued. The criteria established by this independent group ensure that stamp subjects have stood the test of time, are consistent with public opinion and have broad national interest.

Ideas for stamp subjects that meet the CSAC criteria may be addressed to the Citizens' Stamp Advisory Committee, c/o Stamp Development, U.S. Postal Service, 475 L'Enfant Plaza, SW, Room 4474E, Washington, D.C. 20260–2437. Subjects should be submitted at least three years in advance of the proposed date of issue to allow sufficient time for consideration and for design and production, if the subject is approved.

The Postal Service has no formal procedures for submitting stamp proposals. This allows everyone the same opportunity to suggest a new postage stamp. All proposals are reviewed by the Citizens' Stamp Advisory Committee regardless of how they are submitted, i.e., postal cards, letters or petitions.

Afer a proposal is determined not to violate the criteria set by CSAC, research is done on the proposed stamp subject. Each new proposed subject is listed on the CSAC's agenda for its next meeting. The CSAC considers all new proposals and takes one of several actions: it may reject the new proposal, it may set it aside for consideration for future issue or it may request additional information and consider the subject at its next meeting. If set aside for consideration, the subject remains ''under consideration'' in a file maintained for the Committee.

What is important about all that is that there are very clear procedures where every citizen of this country can make a recommendation to the committee which has certain basic criteria to determine the eligibility of subjects for commemoration on U.S. stamps. These criteria are set forth for the general public to see—12 major areas guide the selection.

It is a general policy that U.S. postage stamps and stationery primarily will feature American or American-related subjects.

No living person shall be honored by portrayal on U.S. postage.

Commemorative stamps or postal stationery items honoring individuals usually will be issued on, or in conjunction with significant anniversaries of their birth, but no postal item will be issued sooner than ten years after the individual's death. The only exception to the ten-year rule is the issuance of stamps honoring deceased U.S. presidents. They may be honored with a memorial stamp on the first birth anniversary following death.

Events of historical significance shall be considered for commemoration only on anniversaries in multiples of 50 years.

Only events and themes of widespread national appeal and significance will be considered for commemoration. Events or themes of local or regional significance may be recognized by a philatelic or special postal cancellation, which may be arranged through the local postmaster.

Stamps or stationery items shall not be issued to honor fraternal, political, sectarian, or service/charitable organizations that exist primarily to solicit and/or distribute funds. Nor shall stamps be issued to honor commercial enterprises or products.

These criteria—I have just read six of them; there are a total of 12—are set forth for the public to see and for everybody to have a fair chance, according to certain criteria set forth in advance to have a recommendation considered.

The stamp advisory committee, however, does not issue semipostals. One of the questions we need to face as a Congress is whether or not, given the fact we now are beginning to authorize semipostage such as the breast cancer research, semipostal, it would not be better for us to authorize the advisory committee of the Postal Service to be performing this important function.

The problem is that since the breast cancer research stamp has been authorized, we have had dozens of requests for a semipostal stamp. This is a list of some of the bills that have been introduced. These are just the bills that have been introduced for semipostal: AIDS research and education; diabetes research; Alzheimer's disease research; prostate cancer research; emergency food relief in the United States; organ and tissue donation awareness; World War II memorial; the American Battle Monuments Commission; domestic violence programs; vanishing wildlife protection programs; highway-rail grade crossing safety; domestic violence programs—a second bill; another bill on organ and tissue donation awareness; childhood literacy.

There are not too many of us, I believe, who are about to vote against a stamp that could raise—could raise, I emphasize—some funds because the cost of these issues are supposed to be deducted from the receipts, but I do not believe there are too many of us who are in a position where we would want to vote against a stamp or anything else that could assist AIDS research, diabetes research, Alzheimer's disease, prostate cancer research, or organ and tissue donation. Many of us have devoted a great deal of our lives to those and other causes such as the World War II memorial and the National Battle Monuments Commission.

When the breast cancer research stamp was approved, I voted against it. I was one of the few who did. That created for me, and for others who voted no, the prospect that somebody would then say I opposed funds for breast cancer research, which obviously I do not. In a split second, I would have voted to increase the appropriation for breast cancer research by the amount of money which might have been raised by this stamp so we could give to NIH an amount of money at least equal to what might be raised by such a stamp. Obviously, I am not opposed to additional funds. Indeed, the opposite is true.

What does trouble me, however, is that we are now beginning a course which will politicize the issuance of stamps again in this country. We had taken politics out of it by the creation of an advisory committee. For 40 years this advisory committee, and this advisory committee alone, has decided and made the recommendation to the Postal Service what commemoratives will be issued. They have not issued any semipostals nor were any issued by this country until the breast cancer research stamp was approved.

Now in this bill we have another good cause, money which would go to programs aimed at reducing domestic violence. There is no doubt about the validity of the cause. The problem is that we have no criteria, that we do this ad hoc, helter-skelter.

We have already authorized one stamp, which I will get to in a moment, that relates to grade crossing safety. This is on the calendar, approved by the Governmental Affairs Committee, not yet approved by the Senate. This is going to unleash a politicization process of the issuance of stamps which I do not believe will benefit this Nation.

I think it will be incredibly difficult for the Postal Service, which does not want us to require the issuance of semipostals. They are still sorting through the breast cancer research stamp costs. We should reauthorize the breast cancer research stamp because we have already authorized the stamp and it has been printed, and unless we reauthorize it, then this program will run out. This is a very different issue from voting for an additional issue, and the next, and the next.

I will spend a couple of minutes this afternoon talking about what happened with another semipostal stamp which was proposed in a bill and was approved by the committee. I did not vote for it

in the Governmental Affairs Committee, not because I oppose its cause, but, again, for what this is going to unleash upon us in terms of politics—issuance of stamps and using the issuance of stamps to raise money for causes which will then be vying against each other. I do not think that is in anybody's interest.

The one example on which I want to focus for a few moments is a proposal which has already been approved by the Governmental Affairs Committee, and that is what is called the Look, Listen, and Live Stamp Act. That bill requires the Postal Service to issue a semipostal stamp for an organization called Operation Lifesaver.

Operation Lifesaver is a nonprofit organization which is dedicated to highway and rail safety through education. Operation Lifesaver seems to be a fine organization, but it is not the only organization which is committed to preventing railroad casualties. As a matter of fact, railway safety advocates are split on the issue of grade crossing safety and the best method to prevent rail-related injuries. Operation Lifesaver, for example, emphasizes safety through education, while other railway safety advocates promote safety by funding automatic lights and gates at railway crossings.

After the Governmental Affairs Committee reported this stamp proposal, railroad safety organizations contacted my office to represent their disagreement with the ''look, listen, and live stamp'' primarily because of the emphasis that one organization, Operation Lifesaver, puts on education and education only.

The president of a group called the Coalition for Safer Crossings wrote me the following letter:

Dear Senator LEVIN: I personally find Operation Lifesaver spin on education appalling. Three and a half years ago, I lost a very dear and close friend of mine at an unprotected crossing in southwestern Illinois. Eric was nineteen. I fought to close the crossing where Eric was killed and since helped many families after the loss of a loved one through my organization, the Coalition for Safer Crossings. And now today, we are moving forward with other smaller organizations to form a national organization to combat certain types of education being put out by other groups and to help victims' families and help change the trend of escalating collisions. The National Railroad Safety Coalition is comprised of families and friends of victims of railroad car collisions, unlike Operation Lifesaver.

Again, Operation Lifesaver is the group that is going to receive the net dollars that will be raised by the issuance of this ''look, listen, and live stamp.''

Then the head of this competing group says:

I personally and professionally oppose this measure. If the United States Congress is truly concerned about this issue of railroad crossing safety and is dead set on making stamps, then you should make a railroad safety stamp not a Operation Lifesaver stamp. And rather than have the money go to their type of education, have it go towards the States funds for grade crossing upgrades in that State. A matching dollar scheme comes to mind from the State.

He concludes:

I am currently 23 years old. When I was in high school, I received the same driver safety training regarding grade crossings safety as my best friend Eric did. Eric is now gone. The funds from this proposed stamp would not have helped him. Now if this stamp would have been around prior to 1996 and funds were allocated to the State of Illinois for hardware and a set of automatic lights and gates were installed at this crossing in question I wouldn't be writing you this letter today. I hope you understand the difference.

Mr. President, at the time that this stamp was approved in the Governmental Affairs Committee, I submitted minority views on this issue. In part, this is what I wrote just about a year ago this month:

For over 40 years, the U.S. Postal Service has relied on the Citizens' Stamp Advisory Committee to review and select stamp subjects that are interesting and educational. The committee chooses the subjects of U.S. stamps using as its criteria, 12 major guidelines, established about the time of the Postal Reorganization Act. [They] have guided the committee in its decisionmaking function for decades.

The tenth criteria guiding [their] selection makes reference to semi-postal stamps, the type of stamp that the Postal Service would be required to issue if the Look, Listen, and Live Stamp Act were enacted. With respect to semi-postals, the guidelines state, ''Stamps or postal stationery items with added values, referred to as 'semi-postals,' shall not be issued. Due to the vast majority of worthy fund-raising organizations in existence, it would be difficult to single out specific ones to receive such revenue. There is also a strong U.S. tradition of private fund-raising for charities, and the administrative costs involved in accounting for sales would tend to negate the revenues derived.'' This position was also reflected in a . . . letter from Postmaster General William Henderson.

He has also cautioned and urged our committee not to mandate the issuance of specific semipostals.

So I do not believe that we can and should be in the business of deciding to promote one worthy charity over another, one specific organization over another. This stamp, the one that is now on the calendar—not the one in this bill; the one on the calendar—for safety at railway crossings is, it seems to me, an example of a stamp that may not be workable, and yet the full Governmental Affairs Committee has reported this bill out.

Then what are we to do? We are going to be presented with a number of proposals relative to semipostals. Many of our colleagues have introduced bills. The bill before us has such a provision. I believe the answer comes from Representative MCHUGH and Representative FATTAH, who are the chairman and the ranking member of the House Government Reform Subcommittee on the Postal Service. They put their views in a bill, H.R. 4437, which passed the House of Representatives on July 17.

It gives the Postal Service the authority to issue semipostals. It requires the Postal Service to establish regulations, before issuing any stamp, relating to, first, which office within the Postal Service shall be responsible for making decisions with respect to semipostals; two, what criteria and procedures shall be applied in making those decisions; and, three, what limitations shall apply, such as whether more than one semipostal will be offered at any one time.

The McHugh bill also requires the Postal Service to establish how the costs incurred by the Postal Service as a result of any semipostal are to be computed, recovered, and kept to a minimum. One thing we learned from the breast cancer semipostal is that the Postal Service did not establish an accurate accounting system for tracking the cost of semipostals.

According to a recently released GAO report, ''Breast Cancer Research Stamp, Millions Raised for Research, But Better Cost Recovery Criteria Needed''—that is the title of the report—the Postal Service did not track all monetary or other resources used in developing and selling the breast cancer research stamp. They kept track of some costs but were not able to determine the full costs of developing and selling the stamp. Postal officials obviously should keep track of both revenues and their full costs so that the appropriate net can be determined for delivery to that particular cause.

The McHugh bill is before this body. The McHugh bill, in addition to authorizing the issuance of semipostals by the stamp advisory committee, also reauthorizes the breast cancer research stamp. It does both things. I hope this body will take up this bill and adopt this kind of procedure in order to attempt to take this issue out of politics and not put us in a position where we have to vote between a stamp raising money for AIDS research or diabetes research or Alzheimer's research or prostate cancer research, organ and tissue donation research, the World War II Memorial, domestic violence, and on and on.

I doubt very much that we would want to vote no to any of those. Yet we cannot possibly have all of them at once. The Postal Service cannot possibly handle the accounting, the delivery, the sale of all those stamps. They have urged us very strongly not to be authorizing and mandating the issuance of those stamps.

So I hope that when the bill comes before us, which I hope will be any time, we will reauthorize the breast cancer research stamp. Again, even though I voted against it, for the reasons I have given here this afternoon, nonetheless I think, given the fact that the stamps have been printed and that effort is already underway, and the huge number of people who have already been involved in promoting the sale, and the women and men from around this country who have gone out of their way to use that stamp are in

place—they have been operating; they have been very successful, very productive with millions of dollars that will be raised, the pluses of continuing to reauthorize that stamp, once it has been issued, and once that effort is underway, outweigh the negatives, which I have outlined this afternoon.

At the same time, I hope that the rest of the McHugh bill will be adopted by us so that we can put into place criteria which will make it a lot easier for us to have a sensible system for the issuance of semipostals.

Mr. President, on a matter that relates directly to this bill, because it is a Treasury bill, I want to just spend a few minutes talking about the issue of the budget surplus, and the response of the Congress to that budget surplus. I want to use, as my text, and then intersperse some comments into it, a memorandum that the Director of the Office of Management and Budget, Jacob Lew, wrote on the effect of congressional legislative action on the budget surplus. This is what the OMB Director wrote:

This memo is in response to your request that OMB assess the effect of legislative action on the budget surplus. Over the past six months, Congress has passed nine major tax cuts resulting in a cost of $712 billion over ten years. Draining this sum from the United States Treasury reduces the amount of debt reduction we can accomplish, thereby increasing debt service costs by $201 billion over ten years. Therefore, the Congressional tax cuts passed to date will draw a total of $913 billion from the projected surplus.

In addition, the Congressional majority has stated clearly that its tax cuts to date represent only a ''down payment'' in a long series of tax cuts it intends to realize. While there has been little specificity about the size and nature of the entire program, the full range of action taken by the 106th Congress, both last year and this, provides an indication of the total impact of the Congressional tax cut proposals on the surplus.

In the first session of the 106th Congress, the majority passed one large measure, which included a variety of tax cuts totaling $792 billion. Excluding certain individual tax cuts which passed this year as well as last year (such as elimination of the estate tax and the marriage penalty), the cost of tax cuts passed last year amounts to $737 billion, and the additional debt service amounts to $148 billion for a total of $885 billion.

Jacob Lew goes on as follows:

The bill-by-bill approach to tax cuts in the absence of an overall framework masks the full impact and risks of the cumulative cost.

I will repeat that because that is the heart of the matter.

The bill-by-bill approach to tax cuts in the absence of an overall framework masks the full impact and the risks of the cumulative cost. In the absence of more specific indications about the content and number of future tax cuts the congressional majority has stated it plans to produce, we have used the total costs associated with tax cuts from the 106th Congress as an illustration of Republican plans. If their plans remain consistent with the past activity, the full cost of this program would be:

—tax cuts of $1.44 trillion

—additional debt service of $349 billion

—for a total of $1.796 trillion.

The effect of such tax cuts would be to completely eliminate the projected non-Social Security/Medicare budget surplus at the end of ten years. Even by the more optimistic projections the entire surplus would be drained. The most recent CBO projections issued earlier this week estimate a ten-year non-Social Security/Medicare surplus of $1.8 trillion. OMB's recent projections estimate a ten-year non-Social Security/Medicare surplus of $1.5 trillion. In either case, because the costs of the tax cuts match or exceed the projected budget surplus, there would be no funds available for any of the nation's other pressing needs, including our proposals to establish a new voluntary Medicare prescription drug benefit, pay an additional $150 billion in debt reduction to pay down the debt by 2012, expand health coverage to more families, provide targeted tax cuts that help America's working families with the cost of college education, long-term care, child care and other needs, or extend the life of Social Security and Medicare.

Those are the options we are going to be faced with in the next few months, whether or not we want to take this projected surplus of either $1.5 trillion or $1.8 trillion—we are only talking about the non-Social Security, non-Medicare surplus—whether we want to take that surplus, which the CBO estimates is $1.8 trillion and the OMB estimates is $1.5 trillion, and use that almost exclusively or exclusively for the tax cuts which have been proposed, or whether we want to use a significant part of that surplus to pay down the national debt faster, to establish a new voluntary prescription drug benefit, to expand health coverage, to expand opportunity for college education, and to extend the life of Social Security and Medicare.

I want to put in the RECORD in a moment the list of the pending tax cuts in the 106th Congress which Jack Lew makes reference to, the $934 billion, approximately, in the 10-year cost. These are bills which have been passed by one body or another or one committee or another in one body: Marriage Penalty Conference Committee, $293 billion; Social Security tier 2 repeal, $117 billion; estate tax in the House $105 billion; the Patients' Bill of Rights in the House, $69 billion; the communications excise tax, $55 billion; the Taxpayers Bill of Rights, $7 billion; then the subtraction for provisions in multiple bills and so forth. Then you have to add the interest costs of these tax cuts. That comes out to be about $900 billion.

I ask unanimous consent to print this list in the RECORD.

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

PENDING TAX CUTS IN THE 106TH CONGRESS

[10-year cost, in billions of dollars]

Tax Legislation (Body Passed):	
Marriage Penalty (Conf. Cmte.)	293
Minimum Wage (House)	123
Social Security Tier II Repeal (W&M Cmte.)	117
Estate Tax (House)	105
Patient's Bill of Rights (House)	69
Communications Excise Tax (Finance Cmte.)	55
Pension Expansions (House)	52
Education Savings (Senate)	21
Taxpayer Bill of Rights 2000 (House)	7
Trade Act (Enacted)	4
Subtraction for Provisions in Multiple Bills (Estimate)	99
Interest Cost of Tax Cuts (Estimate)	187
Total, Pending Tax Legislation	934
Plus New Markets/Renewal Communities	20

Mr. LEVIN. Mr. President, there are problems with each of the major tax bills. I may spend a moment on each of those problems. On the estate tax bill, it has problems. There is an alternative which is a better alternative, which would help more people. For those relatively few people who do pay an estate tax, the alternative Democratic plan would provide immediate relief—100 percent relief to people who have less than $8 million per couple for family farms and small businesses; total and immediate relief for those people in the alternative plan.

The bill which has been adopted has a major problem in that it favors upper income individuals, the wealthiest among us, and most of its benefits go to those people rather than the people who need this the most, which are individuals and married couples who have estates that might be, in the case of a family farm or small business, $8 million or less. But there is a bigger problem, whether we are talking about repeal of the estate tax or the marriage penalty tax. And there—regarding the marriage penalty, we have an alternative as well which would benefit a larger number of low and moderate income people with a greater benefit instead of a group of people who are at the upper end of the income level. The major problem I have with these tax bills is that when you put them all together, what it means is that we would not be able to apply this surplus to reduction of the national debt.

I am out there, as all of us are, in our home States. I talk to people and ask people in all the meetings I have: What do you primarily want us to spend the surplus on? Do you want tax cuts—putting aside for the moment whether they benefit upper income folks or benefit working families, put aside that issue for the moment; that is a major issue—do you basically want us to take this $1.8 trillion and pay down the national debt? Or do you want that to go in tax cuts?

Overwhelmingly, repeatedly, I hear back from people, they want us to pay down the national debt. Whether we are talking about younger people, middle-age people, older people, they all come to the same conclusion: No. 1, we can't be sure the surplus will be that large so don't spend it all on anything, be it tax cuts or other programs. Spend most of it on protecting the future economy of the United States. Spend most of it on that $6 trillion debt that has been rung up—to reduce the amount of that debt, to try to assure that the economy, which we now have humming, will stay humming; that an economy which we finally have at a

point where we don't add to the national debt with annual deficits each year, that is healthy in terms of interest rates and job creation and in low inflation, that that economy will be there for us next year, next decade, next generation.

I believe that is what the American people overwhelmingly want us to do. We can argue, and we should, and we can debate, and we should, which estate tax proposal is a better estate tax proposal. That is a legitimate debate. We obviously have an alternative to the one that was adopted which is targeted to the people who need it the most, people who have farms and small businesses and estates worth up to $8 million, people who are still paying an estate tax even though it might mean in some cases that they could lose that family farm. Our alternative provides total relief to those families and immediate relief to those families, unlike the one that was passed by the Republican majority which gives most of its cuts to the people who need it the least, people who are in the higher brackets, higher asset levels, and phases it in and then only does it partially.

We should, and we do, debate those issues: Which alternative plans on the estate tax or on the marriage penalty tax provide the fairest kind of tax relief to the people who need it the most. But the underlying issue, which is one I hope we will keep in mind, is whether or not we want to commit this projected surplus of almost $2 trillion in 10 years to any of these proposals to the extent that we have. Be it tax cuts or be it efforts to improve education or health care or what have you, it is my hope and belief that the greatest contribution we can make to our children and to their children is to protect this economy, to try to keep an economy, which is now doing so well, healthy in future years, as it has been in the past few years. That means we need to protect that surplus, not spend it; not use it for tax cuts on the assumption that there is going to be $1.8 trillion or $1.5 trillion over the next 10 years, because there is too much uncertainty in that, because our people sense—and correctly—that we do not know for certain that that budget surplus will in fact be there.

There has been recent public opinion polling which seems to me illuminating on this subject. When people are asked whether or not they want to protect Social Security and Medicare and pay down the debt, or whether or not they think passing a tax cut is the better way to go, 75 percent believe protecting Social Security and paying down the debt is the most important priority we have right now. Only 23 percent favor passing tax cuts as an alternative. When asked the question of whether or not the trillion-dollar tax cut package that was passed last year, without a penny for Medicare, and whether or not the tax cuts that are being added this year to the same amount, still without a penny for Medicare, is the better way to go, 63 percent say no, 32 percent say yes.

So the public senses that with the surplus we have, the proportion we project, the best thing we can do to protect our economy and the best thing we can do with that projected surplus is in fact to pay down the debt, protect Medicare, and to target our efforts on some of the needs we have as a country, rather than to provide for the kind of tax cuts that we have seen the Republicans enact.

What I have said about the estate tax is also true relative to the marriage penalty bill. We have two alternatives—the one that passed, but we also have an alternative that did not pass, which provides targeted, comprehensive relief and is fiscally more responsible because it leaves more for debt reduction and, therefore, overall is a better value for the American taxpayer. The alternative completely eliminates the penalty in all of its forms, not just in a few, as the marriage tax penalty legislation we passed does. The Democratic alternative eliminates it for couples earning up to $100,000, which is 80 percent of all married couples, and it costs $29 billion per year when fully phased in.

The plan that was adopted, the Republican plan, confers 40 percent of its benefits on taxpayers who currently suffer a penalty. In other words, only 40 percent of the benefits of the Republican plan go to taxpayers who currently actually suffer a penalty. The rest of the people who get a benefit in the Republican plan either don't suffer a penalty—indeed they received a bonus when they got married—or are left untouched one way or another. And the Republican plan addresses only 3 of the 65 instances of the penalty in the Tax Code, whereas the Democratic alternative plan addresses every place in the Tax Code where the marriage penalty exists. And the Republican plan costs $40 billion when fully phased in as compared to $29 billion per year for the alternative Democratic plan.

So, again, it seems to me it is a pretty clear choice that we have: Do we want a plan that is targeted to people who earn under $100,000, that confers benefits on people who are truly penalized when they are married, in terms of the taxes they pay, and a plan that does so at a cost significantly less than in the Republican plan that was adopted? Or do we want to adopt the more costly plan, most of the benefits of which go to people who are in the upper income brackets, and then do not address totally the problem that exists for those people who do suffer a tax penalty upon marriage?

The same thing is true with the overall tax cut that has been proposed. We have basically two alternatives that have been set forth to the American people, not yet put in the legislative form, but which have been proposed by Governor Bush and Vice President GORE. According to the Citizens For Tax Justice, the distribution of benefits of the Bush plan basically provides that 10 percent of the taxpayers get 60 percent—the upper 10 percent, the top 10 percent of taxpayers, get 60 percent of the benefits; the bottom 60 percent of the taxpayers get 12 percent of the benefits. That is the tax plan that has been proposed by Governor Bush.

It would reduce revenues by $460 billion over the first 5 fiscal years, and by $1.3 trillion over 9 fiscal years, plus an additional $265 billion in associated interest costs. That is an extraordinarily expensive plan. We haven't seen that yet in legislative form, and I am not sure we will. Nonetheless, the American people are again going to be presented with very different approaches as to how we should use the surplus.

Some people say, ''Senator, that is our money you are talking about; what is wrong with the tax cut?'' My answer is that it is our money, your money. It is also our economy. It is also our Social Security program. It is also our Medicare program. It is also our education program. It is our health care program.

So the argument that this money belongs to the people of the United States is clearly true. I think it is undeniable. I can't imagine anybody suggesting that anything in the Treasury is anything but the property of the people of the United States. But the other half of that, which is too often left out, is that the economy, which is now healthy, belongs to the people of the United States. They have made it possible, through their work, for us to have a strong economy. Keeping that economy healthy is also the job of this Congress, as well as the job of the people of the United States.

The Social Security system, which has made such a difference for so many that the poverty rate among seniors is now 5 percent, compared to the poverty rate among children, which is 20 percent, mainly because of the existence of Social Security—that program belongs to the people of the United States. Protecting that program is also our responsibility. So to say that, yes, the surplus belongs to the people is true. But the Medicare program, Social Security program, health care program, education program also belong to the people of the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I come to the floor today to discuss moving to the Treasury-Postal appropriations bill.

I agree with the Majority Leader and others who have come to the floor this year to insist that we do the people's business, and that the people's business means completing all of the appropriations bills.

There are several very important amendments that will be proposed to this legislation, and we must give them the time and consideration they deserve. I may well vote against the

Treasury-Postal appropriations bill in the end, but I recognize the importance of taking it up, considering it, and getting it done.

We have got to take care of the unfinished business.

We have more appropriations bills to consider, and we have other business as well, as my colleagues are well aware.

I find it interesting to look at some of the other measures we have considered, and still might consider, this year.

I am talking about priorities—what we get done on this floor, and what gets ignored.

As I said, it is essential that we pass these appropriations bills—they are the core of the people's business, because they keep the government up and running.

But beyond bills like Treasury-Postal, what are we choosing to do?

Recently, we chose to consider a repeal of the estate tax. As I said during that debate, the estate tax affects only the wealthiest property-holders. In 1997, only 42,901 estates paid the tax. That's the wealthiest 1.9 percent. People are already exempt from the tax in 98 out of 100 cases. Let me repeat that: Already, under current law, 98 out of 100 do not pay any estate tax.

The Republican estate tax repeal would give the wealthiest 2,400 estates—the ones that pay now half the estate tax—an average tax cut of $3.4 million each. And remember, 98 out of 100 people would get zero, nothing, from this estate tax cut.

Now, this doesn't sound like something most Americans are clamoring for.

It is of no use to most Americans, in fact. But it is of use to a very small—but wealthy—group of people.

Those who are wealthy enough to be subject to estate taxes have great political power.

They can make unlimited political contributions, and they are represented in Washington by influential lobbyists that have pushed hard to get the estate tax bill to the floor.

The estate tax is one of those issues where political money seems to have an impact on the legislative outcome. That's why I recently Called the Bankroll on some of the interests behind that bill, to give my colleagues and the public a sense of the huge amount of money at stake—not taxes, but political contributions.

We considered that bill not because it affected the vast majority of Americans, but because it directly affected the pocketbooks of a wealthy few.

A similar point can be made about another piece of legislation, the H–1B bill.

We haven't considered it yet, but we may well yet, and so far a terrific effort has been made by both sides to see it taken up.

Why? Why, when we have more appropriations bills to consider, when we have the real people's business to do, are we pushing so hard to take up H–1B?

Because the high-tech industry wants this bill to get done.

In the case of H–1B, I'm not addressing the merits of the legislation— I am not necessarily opposed to raising the level of H–1B visas. Instead I want to point out what is on our agenda and why? Why is it that we have this set of legislation as part of our agenda?

The high tech industry wants to get this bill passed, and they have the political contributions to back it up.

American Business for Legal Immigration, a coalition which formed to fight for an increase in H–1B visas, offers a glimpse of the financial might behind proponents of H–1Bs. ABLI is chock full of big political donors, and not just from one industry, but from several different industries that have an interest in bringing more high-tech workers into the U.S.

Price Waterhouse Coopers, pharmaceutical company Eli Lilly, telecommunications giant and former Baby Bell BellSouth, and software company Oracle, to name just a few.

All have given hundreds of thousands of dollars in this election cycle alone, and they want us to pass H–1B.

We all know this.

This is standard procedure these days for wealthy interests —you have got to pay to play on the field of politics. You've got to pony up for quarter-million dollar soft money contributions and half-million dollar issue ad campaigns, and anyone who can't afford the price of admission is going to be left out in the cold.

I Call the Bankroll to point out what goes on behind the scenes on various bills—the millions in PAC and soft money that wealthy donors give, and what they expect to get in return.

And yet we don't do anything about it.

We took a small but important step toward better disclosure of the activity of wealthy donors earlier this summer when we passed the 527 disclosure bill.

But there is a great deal more to do.

We are going to keep pushing until we address the other gaping loopholes in the campaign finance law.

Right now, wealthy interests have the power to help set the political agenda.

Wealthy interests spend unlimited amounts of money to push for bills which serve the interests of the wealthy few at the expense of most Americans.

We have got to question why consider some bills on this floor while we ignore so many crucial issues the American people care about—like increasing the minimum wage and supporting working families.

But instead we are left with an agenda that looks like wealthy America's ''to do'' list.

How does it happen, Mr. President?—It's all about access, and access is all about money.

Both parties openly promise, and even advertise, that big donors get big access to party leaders.

Weekend retreats and other ''special events'' where wealthy individuals have the chance to talk about what they want done—whether that might be a repeal of the estate tax, or that their company wants to see the H–1B bill passed this year.

Needless to say, that is the kind of access most Americans can't even dream of.

And I have to wonder why we aren't doing anything about that.

I am all for the doing people's business, and right now the people's business should be the Treasury-Postal Appropriations bill, and that's why I support the motion to proceed, even though I may well vote against the underlying bill in the end.

But I don't think that an issue like the repeal of the estate tax is the people's business—not 98 out of every hundred people, anyway.

We need to get at the heart of what is wrong here.

Our priorities are warped by the undue influence of money in this chamber.

We have got to change our priorities, and do it now, by putting campaign finance reform back on the agenda.

Because the best way to loosen the grip of wealthy interests is to close the loophole that swallowed the law: soft money.

Soft money has exploded over the past few years.

Soft money is the culprit that brought us the scandals of 1996—the selling of access and influence in the White House and to the Congress. The auction of the Lincoln Bedroom, of Air Force One. The White House coffees. All of this came from soft money because without soft money, the parties would not have to come up with ever more enticing offers to get the big contributors to open their checkbooks.

Soft money also brings us, time and time again, questions about the integrity and the impartiality of the legislative process. Everything we do is under scrutiny and subject to question because major industries and labor organizations are giving our political parties such large amounts of money. Whether it is telecommunications legislation, the bankruptcy bill, defense spending, or health care, someone out there is telling the public, often with justification in my view, that the Congress cannot be trusted to do what is best for the public interest because the major affected industries are giving us money.

For more than a year now, I have highlighted the influence of money on the legislative process through the Calling of the Bankroll. And the really big money, that many believe has a really big influence here, is soft money. We have to clean our campaign finance house and the best place to start is by getting rid of soft money. Let's play by the rules again in this country. With soft money there are no rules, no limits. But we can restore some sanity to our campaign finance

system. When I came to the Senate, I will confess, I didn't even really know what soft money was. After a tough race against a very well financed opponent who spent twice as much as I did, I was mostly concerned with the difficulties that people who are not wealthy have in running for office. My interest in campaign finance reform derived from that experience. Soft money has exploded since I arrived here, with far reaching consequences for our elections and the functioning of the Congress. Now I truly believe that if we can do nothing else on campaign finance reform, we must stop this cancerous growth of soft money before it consumes us.

I will take a few minutes to describe to my colleagues the growth of soft money in recent years. It is a frightening story. Soft money first arrived on the scene of our national elections in the 1980 elections, after a 1978 FEC ruling opened the door for parties to accept contributions from corporations and unions, who are barred from contributing to federal elections. The best available estimate is that the parties raised under $20 million in soft money in that cycle. By the 1992 election, the year I was elected to this body, soft money fundraising by the two major parties had risen to $86 million. Eighty-six million dollars is clearly a lot of money; it was nearly as much as the $110 million that the two presidential candidates were given in 1992 in public financing from the U.S. Treasury. And there was real concern about how that money was spent. Despite the FEC's decision that soft money could be used for activities such as get out the vote and voter registration campaigns without violating the federal election law's prohibition on corporate and union contributions in connection with federal elections, the parties sent much of their soft money to be spent in states where the Presidential election between George Bush and Bill Clinton was close, or where there were key contested Senate races.

Still, even then, even with that tremendous increase in the use of soft money, soft money was far from the central issue in our debate over campaign finance reform in 1993 and 1994. In 1995, when Senator MCCAIN and I first introduced the McCain-Feingold bill, our bill included a ban on soft money, but it was not particularly controversial and no one paid that much attention to it at that time.

Then came the 1996 election, and the enormous explosion of soft money, fueled by the parties' decision to use the money on phony issue ads supporting their presidential candidates. Remember those ads that everyone thought were Clinton and Dole ads but were actually run by the parties? That was the public debut of soft money on the national scene. The total soft money fundraising skyrocketed as a result. Three times as much soft money was raised in 1996 as in 1992. Let me say that again—soft money tripled in one election cycle. The reason was the insatiable desire of the parties for money to run phony issue ads, and that desire has only increased since 1996. Both political parties are raising unprecedented amounts of soft money for ad campaigns that are already underway this year. Soft money is financing our presidential campaigns, and this Congress stands by doing nothing about it.

Fred Wertheimer, a long time advocate of campaign finance reform said it well in an op-ed in the Washington Post on Monday: He wrote,

Vice President Al Gore and Gov. George W. Bush and their presidential campaigns are living a lie. The lie is this: that the TV ads now being run in presidential battleground states across America are political party ''issue ads.'' In fact, everyone—and I mean everyone—knows that these ads are presidential campaign ads being run for the unequivocal purpose of directly influencing the presidential election.

Wertheimer goes on to say:

The ''issue ad'' campaigns now underway blatantly promote and feature Gore and Bush, are designed and controlled by the Gore and Bush presidential campaigns and are targeted to run in key battleground states. The political parties are merely conduits for the scheme and cover for the lie.

He continues:

What's the significance of all of this? Well, for starters we are living this lie in the election for the most important office in the world's oldest democracy. The lie will result in some $100 million or more in huge corrupting contributions being illegally used by Gore and Bush in the 2000 presidential election. (Many millions more will be illegally used in the 2000 congressional races.)

Mr. President, I ask unanimous consent that the full text of Mr. Wertheimer's article, ''Gore, Bush, and the Big Lie'' be printed in the RECORD.

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

[From the Washington Post, July 24, 2000]

GORE, BUSH, AND THE BIG LIE

(By Fred Wertheimer)

Vice President Al Gore and Gov. George W. Bush and their presidential campaigns are living a lie. The lie is this: that the TV ads now being run in presidential battleground states across America are political party ''issue ads.'' In fact, everyone—and I mean everyone—knows that these ads are presidential campaign ads being run for the unequivocal purpose of directly influencing the presidential election.

The presidential campaigns and political parties know it, the media know it and so do the viewers of the ads, which are indistinguishable from other presidential campaign ads being run.

As such, the ''issue ads'' are illegal, because, among other things, they are being financed with tens of millions of dollars of soft-money contributions that the law says cannot be used to influence a federal election. The ''issue ad'' campaigns now underway blatantly promote and feature Gore and Bush, are designed and controlled by the Gore and Bush presidential campaigns are targeted to run in key battleground states. The political parties are merely conduits for the scheme and cover for the lie.

What's the significance of all of this? Well, for starters we are living this lie in the election for the most important office in the world's oldest democracy. The lie will result in some $100 million or more in huge corrupting contributions being illegally used by Gore and Bush in the 2000 presidential election. (Many millions more will be illegally used in the 2000 congressional races.)

The lie makes a mockery of the commonsense intelligence of voters and the honesty of the presidential race. And, to date, no one in authority is prepared to do anything about it.

How did it happen that this lie came to rest at the core of our national elections? Well, in good part we have Presidential Clinton to thank. It was Clinton who, more than anyone else, developed and ''perfected'' the lie, and the legal fiction on which it is based.

Soft money had been a problem prior to 1995, but no presidential candidate had ever tried to use soft money to finance a TV ad campaign promoting his candidacy. That's not because politicians weren't clever enough to think of this, but because everyone understood it was illegal.

Then President Clinton and his staff invented a scam for the 1996 election: They would use the Democratic Party as a front for running a ''second'' presidential campaign. This $50 million second campaign would use soft money—funds that the law does not allow in a presidential campaign—to finance Clinton campaign ads that would be labeled Democratic Party ''issue ads.''

It didn't take long for the Republican presidential candidate, Bob Dole, to follow suit. Today, four years later, the ''issue ads'' lie is standard political practice in presidential and congressional races.

The lie is built on the legal fiction that under Supreme Court rulings, political party ads are not covered by federal campaign finance laws unless they contain such magic words as ''vote for'' or ''vote against'' a specific federal candidate. That's supposed to be true even if the party ads promote a specific federal candidate and even if the ads are coordinated with or controlled by the candidate.

But the reality is that neither the Supreme Court nor any other federal court has ever said anything of the kind regarding political party ads. When the Supreme Court established the ''magic words'' test in *Buckley v. Valeo*, it made explicit that it was for outside groups and non-candidates only and did not apply to communications by candidates or political parties. And in any case, the ''magic words'' test is not applicable when an ad campaign is conducted in coordination with a federal candidate, as a Washington federal district court confirmed last year.

The Justice Department, in its failure to pursue the 1996 Clinton soft-money ads, never found the ads to be legal. Instead, Attorney General Reno closed the case based on the Clinton campaign's reliance on its lawyers' advice, which she said was ''sufficient to negate any criminal intent on their part.''

The general counsel of the Federal Election Commission did find that the 1996 soft-money ads were illegal. The commission, however, by a 3 to 3 tie vote, refused to proceed with an enforcement action. Thus we are left today with enforcement authorities that refuse to act against these soft money ads and, at the same time, refuse to say they are legal. And the lie goes on.

Mr. FEINGOLD. Mr. President, the big lie led to the transformation of our two great political parties into soft money machines. And what was the effect of this explosion of soft money, other than the millions of dollars available for ads supporting presidential candidates who had agreed to

run their campaigns on equal and limited grants from the federal taxpayers? Soft money is raised primarily from corporate interests who have a legislative axe to grind. And so the explosion of soft money brought an explosion of influence and access in this Congress and in the Administration.

Here are some of the companies in this exclusive group. We know they have a big interest in what the Congress does—Philip Morris, Joseph Seagram & Sons, RJR Nabisco, Walt Disney, Atlantic Richfield, AT&T, Federal Express, MCI, the Association of Trial Lawyers, the NEA, Lazard Freres & Co., Anheuser Busch, Eli Lilly, Time Warner, Chevron Corp., Archer Daniel's Midland, NYNEX, Textron Inc., Northwest Airlines. It's a who's who of corporate America, Mr. President. They are investors in the United States Congress and no one can convince the American people that these companies get no return on their investment.

They have a say, much too big a say, in what we do. It's that simple, and it's that disturbing. That's why our priorities are so out of whack, Mr. President. We should be going to the Treasury-Postal appropriations bill, and that's why I support the motion to proceed, despite the fact that I may vote against it when all is said and done. I recognize we have to focus on what people want, not what wealthy interests want.

As I said when I first began Calling the Bankroll last year, we know, if we are honest with ourselves, that campaign contributions are involved in virtually everything that this body does. Campaign money is the 800-pound gorilla in this chamber every day that nobody talks about, but that cannot be ignored. All around us, and all across the country, people notice the gorilla. Studies come out on a weekly basis from a variety of research organizations and groups that lobby for campaign finance reform that show what we all know: The agenda of the Congress seems to be influenced by campaign money. But in our debates here, we are silent about that influence, and how it corrodes our system of government.

I have chosen not to remain silent, but I know there are those who wish that I would stop putting the spotlight on facts that reflect poorly on our system, and in turn on the Senate, and on both the major political parties.

I wish our campaign finance system wasn't such an embarrassment.

I wish wealthy interests with business before this body didn't have unlimited ability to give money to our political parties through the soft money loophole, but they do.

I wish these big donors weren't able to buy special access to our political leaders through meetings and weekend retreats set up by the parties, but they can.

I wish fundraising skills and personal wealth weren't some of the most sought-after qualities in a candidate for Congress today, but everyone knows that they are.

Most of all I wish that these facts didn't paint a picture of Government so corrupt and so awash in the influence of money that the American people, especially young people, have turned away from their government in disgust, but every one of us knows that they have.

It is our unwillingness to discuss it or even acknowledge the influence of this money in this body that makes it even worse.

It goes on and on, and it just gets worse.

Last year was another record-breaker in the annals of soft money fundraising—the national political party committees raised a record $107.2 million during the 1999 calendar year—81 percent more than they raised during the last comparable presidential election period in 1995, according to Common Cause.

An 81 percent increase is astounding, especially considering that the year it's compared with—1995, the last off-election year preceding a presidential election—which was itself a record-breaking year for soft money fundraising.

This year one of the most notable fundraising trends hits very close to home, or to the dome, as the case may be: Congressional campaign committees raised more than three times as much soft money during 1999 as they raised during 1995—$62 million compared to $19.4 million.

That is a huge increase, Mr. President.

Three times as much soft money—much of it raised by members of Congress.

Now the latest news reports show record-breaking soft money figures for the first quarter of this year as well.

How should the public view this?

What can we expect them to think as Members of Congress ask for these unlimited contributions from corporations, unions and wealthy individuals, and then turn around and vote on legislation that directly affects those donors that they just asked for all this money?

Frankly, it is all the more reason for Americans to question our integrity, whether those donations have an impact on our decisions or not.

They question our integrity, and we give them reason. Why aren't we getting their business done? I say let's get the business done—let's agree to move to Treasury-Postal, whether we'll support that bill in the end or not. And then let's move on to the other pressing issues before us—not tax cuts for the wealthy, but real priorities like campaign finance reform.

Let's put a stop to the soft money arms race that escalates every day, and involves more and more Members of Congress.

I do not know how many of my colleagues are actually picking up the phones across the street in our party committee headquarters to ask corporate CEOs for soft money contributions. But no one here can deny that our parties are asking us to do this. It is now part of the parties' expectations that a United States Senator will be a big solicitor of soft money.

Consider the soft money raised in recent off-year elections. In 1994, the parties raised a total of $101.7 million. Only about $18.5 million of that amount was raised by the congressional and senatorial campaign committees. In 1998, the most recent election, soft money fundraising more than doubled to $224.4 million. And $107 million of that total was raised by the congressional and senatorial campaign committees. That's nearly half of the total soft money raised by the parties.

Half the soft money that the parties raised in the last election went to the campaign committees for members of Congress, as opposed to the national party committees. And I and many of my colleagues know from painful experience that much of that money ended up being spent on phony issue ads in Senate races. The corporate money that has been banned in federal elections since 1907 is being raised by Senators and spent to try to influence the election of Senators. This has to stop.

The growth of soft money has made a mockery of our campaign finance laws. It has turned Senators into panhandlers for huge contributions from corporate patrons. And it has multiplied the number of corporate interests who have a claim on the attention of members and the work of this institution.

I truly believe that we must do much more than ban soft money to fix our campaign finance system. But if there is one thing more than any other that must be done now it is to ban soft money. Otherwise the soft money loophole will completely obliterate the Presidential public funding system, and lead to scandals that will make what we saw in 1996 seem quaint. Virtually no one in this body has stepped up to defend soft money. So let's get rid of it once and for all. Now is the time. Let's move to the Treasury-Postal Appropriations bill, vote yes or no, and then let's do what we have to get done.

When we define what we need to get done this year, let's get serious. It is not the estate tax, and it's not the H–1B bill. It's banning soft money.

Now there is more support for banning soft money than ever before.

I think it is important to talk on this floor about just who those Americans are who want to clean up this campaign finance system, because today calls for reform are coming from an incredible range of people in this country, including some very unlikely places.

One of the most interesting places you can find demands for reform is corporate America, where one group of corporate executives, tired of being shaken down for bigger and bigger contributions, has said enough is enough.

This organization, called the Committee for Economic Development, issued a report and proposal urging reform, including the elimination of soft money.

One might guess that this group of people, who are in the position to use the soft money system to their advantage, would not dream of calling for reform.

But the soft money system cuts both ways—it not only allows for legalized bribery of the political parties, it also allows legalized extortion of soft money donors, who are being asked to give more and more money every election cycle to fuel the parties' bottomless appetite for soft money.

But it isn't just weariness at being shaken down that led CED members to call for reform of our broken campaign finance system. Let me quote from the CED report, which stated their concern so well:

> Given the size and source of most soft money contributions, the public cannot help but believe that these donors enjoy special influence and receive special favors. The suspicion of corruption diminishes public confidence in government.

The bigger soft money contributions get—and the amounts are truly skyrocketing—the more damaging the effect on the public's perception of our democracy.

I applaud CED for its commitment to restoring the public's faith in government by calling for a soft money ban.

And CED is just one part of a growing movement to call on this body to clean up our campaign finance system.

One of the most inspiring leaders of the movement for reform is not any business leader, or political figure for that matter. She is a great grandmother from Dublin, New Hampshire named Doris Haddock. Doris, known affectionately as Granny D, walked clear across the United States at age 90 to insist that Congress pay attention to reform issues.

She walked across mountains and desert, in sweltering heat and freezing cold, to make her point. And along the way she inspired thousands of others to speak up about the corrupting influence of money in politics, and demand action from Congress. I was proud to have her support for the McCain-Feingold bill, and I am thrilled to have such a devoted ally on this issue.

The fight for reform is also gaining tremendous strength from religious organizations that are reaching out to educate and mobilize their congregations about the issue.

Support from religious organizations includes: The Episcopal Church, Church Women United, the Lutheran Office for Governmental Affairs, the Evangelical Lutheran Church of America, the Church of the Brethren's Washington Office, the Mennonite Central Committee's Washington Office, the National Council of the Churches of Christ in the USA, the Union of American Hebrew Congregations, the United Church of Christ's Office for Church in Society, the United Methodist Church's General Board of Church and Society, and NETWORK—a national Catholic social justice lobby.

Reform has the vital support of environmental groups like the Environmental Defense Fund, Friends of the Earth and The Sierra Club, and the backing of seniors groups like AARP and the Gray Panthers.

The support for reform in this country is strong, it is vocal, and is truly broad-based. We also have the support of consumer watchdogs like the Consumer Federation of America, health organizations like the American Heart Association, children's groups such as the Children's Defense Fund, and of course the support of groups like Common Cause and Public Citizen, which have been fighting a terrific fight against the undue influence of money in politics for decades.

And I could go on. We are talking about people from every walk of life, every income level and every political affiliation. But they all have one simple thing in common: They are demanding an end to the soft money system that has made a mockery of our campaign finance laws, has deepened public cynicism about this body, and darkened the public perception of our democracy.

The public is watching us right now. That is why I want us to move to the Treasury-Postal Appropriations bill, whether we support it or not—so that they can have faith that we are doing what we should be doing. Not serving wealthy interests, but doing their business, and doing it responsibly.

And being responsible means acting on campaign finance reform.

That is what people want—their voices can be heard loud and clear in polls on the campaign finance issue:

Two out of three Americans think money has an ''excessive influence'' on elections and government policy, according to Committee for Economic Development's March 1999 report on campaign finance reform.

Another CED poll question revealed that two-thirds of the public think ''their own representative in Congress would listen to the views of outsiders who made large political contributions before a constituent's views'';

74.5 percent of respondents believe the Government is pretty much run by a few big interests looking out for themselves, according to a poll from the Center for Policy Attitudes;

78 percent of respondents believe ''the current set of laws that control congressional campaign funding needs reform,'' in a Hotline poll.

These numbers are even more disturbing than the numbers of the soft money donations themselves.

These numbers tell us that it's a given today that people think the worst of us and the work we do—they believe that we are on the take, and who could possibly blame them?

What is it that they do not understand, that they are misinterpreting about this system and how it affects us? Nothing; the public has not missed a thing.

The public has got it exactly right. It is this body that has it wrong every time a minority of my colleagues block the majority of the Senate and will of the American people by trying to kill reform.

The public deserves a Congress that can respond to the concerns of all Americans, not a wealthy few.

The public deserves a responsible Congress that does its job by moving to the Treasury-Postal appropriations bill, whether we choose to vote yes or no, and the same goes for the other remaining approps bills that deserve our attention.

Most of all, the public deserves a Congress that can set priorities that represent the concerns of the American people, and not just soft money donors, not just those who can afford to attend weekend getaways with party leadership, and not just those who have estates of more than $100 million dollars.

That is our challenge. Let's address the people's real priorities. Let's do the people's business, and let's get started right now.

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

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

Is there further debate on the motion?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Under the rules, once a quorum is called off, if nobody seeks the floor, is it the requirement that the Chair put the question?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. Mr. President, do I have the floor?

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. BYRD. Mr. President, I simply cannot understand what is going on here. I wish someone would tell me. I think we had a unanimous vote a little earlier here on the motion to invoke cloture on the motion to proceed to the consideration of the Treasury-Postal Service appropriations bill.

Why don't we vote? Why don't we vote?

As the ranking member on the Appropriations Committee, I can say to my colleagues that Senator TED STEVENS and I—the chairman and I—and the various chairmen and ranking members of the subcommittees on Appropriations have worked hard—have worked hard—to bring these appropriations bills to the Senate floor. We need

to get on with acting on these appropriations bills so that we can send them to the President.

I can tell you what is going to happen. I have seen it happen all too often in recent years. We don't get the appropriations bills down to the President one by one, so that he can sign them or veto them, which he has a right to do. What we do is delay and delay and delay. As a result, when the time comes that the leaders and Senators have their backs to the wall, and there is a big rush on to finalize the work so Senators can go home and the Senate can adjourn sine die, then everything is crammed into one big bill, one omnibus bill.

I am telling you, you would be amazed at what happens in the conferences. You would be amazed to see what occurs in those conferences. Entire bills are sometimes put into the conference report—entire bills, bills that may or may not have passed either House. And the administration is there also. The executive branch has its representatives there. They are there for the purpose of getting administration measures or items that the executive branch wants put into those conference reports. The items may not have had a word of debate in either House. Neither House will have had an opportunity to offer amendments on bills or to debate measures, and yet those measures will be put, lock, stock, and barrel, into the conference reports.

Then the conference report comes back to the Senate, where Senators cannot vote on amendments to that conference report. So Senators, as a result, have no opportunity to debate these matters that are crammed into the conference reports in those conferences. They will have had no opportunity to debate them. They will have had no opportunity to amend them. They will have had no opportunity to vote on parts thereof. Yet Senators in this Chamber are confronted, then, with one package, and you take it or you leave it. You vote for it or you vote against it.

We have experienced that on a number of occasions. When we were considering the fiscal year 1997 appropriations, we had a conference report on the Defense Appropriations Bill and five additional appropriations bills were crammed into that conference report in conference, five appropriations bills. I believe two of them had never been taken up in the Senate. I believe two of them had had some debate, had been brought up, but had not been finally acted upon.

I intend at a future time to have all of this material researched so I can speak to it. Today, I recall there were five appropriations bills crammed into that conference report on the DOD Appropriations Bill. It was brought back to the Senate where Senators were unable to amend it and have votes on parts of it. And if Senators think that was bad, in fiscal year 1999, eight different appropriations bills were put into the final omnibus package. In addition thereto, a tax bill was put into that package in the conference. I believe that tax bill involved about $9.2 billion. That was put into the conference report. It had never had a day, an hour, or a minute of debate in this Senate. There were no amendments offered to it. Eight appropriations bills and a tax bill were all wrapped into one conference report in FY 1999, tied with a little ribbon, and Senators were confronted with having to vote for or against, that conference report—take it or leave it!

That was right at the end of the session when many Senators wanted to go home. They had town meetings scheduled; they wanted to go home. When that kind of circumstance arises, we are faced with a situation of having to vote on a bill that may contain thousands of pages which we have not had an opportunity to read. As I remember, there were 3,980 pages in that conference report. Imagine that. If the people back home knew what we were doing to them, they would run us all out of town on a rail. And we would be entitled to that honor, the way we do business here. All we do is carry on continual war in this body, continual war, each side trying to get the ups on the other side. It isn't the people's business we are concerned with. It is who can get the best of whom in the partisan battles that go on in this Chamber.

A lot of new Members come over from the House where they are accustomed, I suppose, to being told by their leaders what to do and how to do. Others come here fresh from the stump. I suppose they feel this is the way it has always been done. They don't know how it used to be done. They don't know that there was a day when we used to have conferences, and it was the rule that only items could be discussed in conference which had passed one or the other of the two bodies. Nothing could be put into a conference report that had not had action in one or the other of the two bodies. Otherwise, a point of order would lie against it.

I can assure you, those of you who are not on the Appropriations Committee, you ought to see what goes on in the conferences. Bills that have never passed either body, measures that have never passed either body, measures, in many instances, which are only wanted by the administration, are brought to that conference and are crammed into that conference report. The conference report comes back to the Senate. It is unamendable, and we have to take it or leave it. That is no way to do business.

I regret that it has come to this, and we are getting ready to do it again. I see the handwriting on the wall.

Those of you who have read the book of Daniel will remember Belshazzar having a feast with 1,000 of his lords. They drank out of the vessels that had been taken from the temple in Jerusalem and brought to Babylon. And as they were eating and drinking and having fun, Belshazzar saw a hand appear over on the wall near the candlestick. And he saw the handwriting: mene, mene, tekel, upharsin. So he sent for his wise men, his astrologers, and wanted them to tell him what this writing meant. They couldn't do it. But the Queen told Belshazzar that there was a young man in the kingdom who could indeed unravel this mystery. As a result, Daniel was sent for. He told the King what was meant by the handwriting on the wall: ''God hath numbered thy kingdom, and finished it. Thou art weighed in the balances, and art found wanting. Thy kingdom is divided, and given to the Medes and the Persians.'' And that night, Belshazzar was slain and the Medes and the Persians took the kingdom.

I see the handwriting on the wall: mene, mene, tekel, upharsin. I see the handwriting. We have voted unanimously in this body today to proceed to take up the appropriations bill making appropriations for the Department of Treasury-Postal Service and so forth, but we are not going to vote on that. I have asked questions around: When are we going to vote? There is no intention to vote on that today. We have another cloture vote coming up within a few minutes. If that cloture motion is approved, the Senate will then take on that subject, and the Treasury-Postal appropriations bill will go back to the calendar. We are not going to take it up. There is no intention of voting on that bill, no intention. It will go back on the calendar.

Then what will happen? I see the handwriting on the wall. We will go to conference one day when we get back from the August recess. We will go to conference one day on another appropriations bill, and everything will go on that appropriations bill. I wish Daniel were here today so he could tell me exactly what the handwriting on this wall really means, but I think I know what it means. It means this bill isn't going to see the light of day until after the recess, and probably not then. In all likelihood, the Treasury-Postal Service bill will be put on a conference report, maybe on the legislative appropriations bill. This bill will go on that. As time passes, more and more appropriations bills will likely go on that in conference.

So we will get another conference report back here that is loaded—loaded—with appropriations bills. We won't know what is in them. We Senators won't know what is in those bills. We didn't know what was in the 3,980-page conference report in fiscal year 1999. We voted for it or against it blindly. I voted against it. I didn't know what was in it. That is what we are confronted with.

The American people, I think, are going to write us off as being irrelevant. We don't mean anything. We just stay here and fight one another and try to get the partisan best of one another.

Democrats versus Republicans, Republicans versus Democrats. Who can get the ups on the other side. The people will say we can go to hell. That is the attitude here. Hell is not such a bad word. I have seen it in the Bible, so I perhaps will not be accused of using bad language here. But that is what we are in for. That is the handwriting on the wall. We are going to replay the same old record and have these monumental conference reports come back here, unamendable, and we take them hook, line, and sinker, one vote. No amendments. We won't know what is in the bill.

How is that for grown up men and women? We won't know what is in the bill because we are playing politics all the time. We are playing politics. That is why we are not getting our work done. I am not blaming that side or this side. I am just blaming both sides. We are all caught in this. I am sure the American people can't look at this body, or this Congress, and get much hope because we play politics all the time. I am sorry that things have come to this. But Congress doesn't work by the rules; the Senate doesn't operate under the rules it operated under when I came here and that existed up until a few years ago. This game has been going on and it is getting worse. It is getting worse.

Mr. President, I don't intend to hold the floor any longer. I will have more to say about this. If you want to know the truth, what is said is exactly the truth. We are absolutely working a fraud on the American people. They look to this body and expect us to legislate on the problems of the country, and we are just tied in knots. We only seem to think about partisanship. I am sick and tired of that. I am sure we have to have a little of that as we go along, but it has become all partisan politics. Who can win this? If they come up with something, we have to come up with an alternative.

I don't think the American people want that. I think they know more than we think they know, and I believe they are pretty aware of what is going on. We are just playing politics. That is exactly why we can't get this Treasury-Postal Service Appropriations Bill up and get it passed and send it to conference. Mark my words; we are going to play the same old game over and over again that we have played all too many times now, not passing appropriations bills, but having them all in conference put into one monumental, colossal conference report, and it is sent back here and we will vote on it and we won't know what is in the conference report. Shame! Shame on us!

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I rise today to discuss the current posture of the Treasury-Postal appropriations bill on the floor. It seems to me that we are in the doldrums. Our sails are unfurled, the crew is at their positions, but the ship is not moving. There are many reasons for that. But I suggest one of the principal reasons is that over the last several months—indeed, throughout this entire Congress—the leadership has taken it upon themselves to essentially try to nullify the President's constitutional authority to appoint judges to the Federal courts.

Article II, section 2 of the Constitution is quite clear that the President has the right to appoint Federal judges, subject to the advice and consent of the Senate. But what has happened with increasing enthusiasm is that these appointments arrive here and then languish month after month after month after month. At some point, this type of nullification, this avoidance of responsibility under the Constitution, subverts what I believe the Founding Fathers saw as a relatively routine aspect of Government: Presidential appointment and consideration within a reasonable time by the Senate of these appointments.

It has not been a reasonable time in so many cases. Repeatedly, appointments to the Federal bench have been made by the President. They have come to the Senate and have been virtually ignored month after month. At some point, we have to be responsible not only to the Constitution, but to the people of the country and act on these appointments. Now, that doesn't mean confirm every appointment. But it certainly, in my mind, means to have a reasonable deliberation, a hearing, and then bring it to a vote. It is far better, both constitutionally and in terms of the lives of individual Americans, to decide their fate, decide whether or not they will serve on the bench in a reasonable period of time than to let them twist slowly in the wind—some for upwards of a year or more. That is what has been happening. It is a reflection of a deeper paralysis within the system.

The Senate is not operating as it traditionally has, as a forum for vigorous debate, amendment, and discussion, and after a vigorous debate, a vote. We have seen a situation in which measures are brought to the floor only after concessions are made about the number of amendments, the scope of amendments, and the type of amendments. That is operational procedure that is frequently associated with the other body but which defies the tradition of this body, where we pride ourselves on our ability to debate and amend, to be a place in which serious discussions about public policy take place routinely and just as often decisions are made by the votes of this body. We haven't seen that.

We introduced on this floor for consideration—and it has been the pending business now since May—the Elementary and Secondary Education Act. Every 5 years, we reauthorize the education policy of the Federal Government—the education policy with respect to elementary and secondary schools throughout this country: the title I program, Professional Development Program, and the Eisenhower Program that assists professional development. Yet this major piece of legislation has come to this floor and then, like judges, has been languishing in the shadows for months now. Why? Well, some suggest it is because the majority doesn't want to consider amendments with respect to school safety and gun violence. Those amendments might cause difficult votes. But in any case, we are likely, this year, not to discharge our routine duty of every 5 years reauthorizing the Elementary and Secondary Education Act. We are going to—using a sports metaphor—punt.

All of these things together have caused us to stop and essentially ask why can't we refocus our operations, refocus our emphasis, and begin to renew the tradition in this body of debate, wide-open amendment leading to votes with respect to substantive legislation and with respect to appointments by the President to the judiciary and other appointments.

That is why I believe we are here in these doldrums. The lights are on. We are assembled, but we are not moving forward. I think we have to begin to look at what we are doing and why we are doing it. Perhaps that is the most useful aspect of this discussion this afternoon—because I hope that eventually we can emerge from these doldrums and begin to, once again, take up the people's business in a reasonable and timely fashion leading to votes after debate. Some may go the way we want. Some may not. But in the grand scheme of things, when we are debating and bringing the principles of the debate to conclusion by voting, we are discharging the responsibility that the American people entrusted to us when they elected us to the Senate.

There are many examples of what we could be doing if we adopted this approach. For example, I have an amendment which I would like to introduce with respect to this Treasury-Postal bill regarding the enforcement of our firearms laws in the United States.

We hear time and time again—particularly by the opponents of increased gun safety legislation—that all we have to do is enforce the laws. Yet in the past we have seen the erosion of funds going to the ATF for their enforcement policies. I must say that this year's Treasury-Postal appropriations bill has moved the bar upwards in terms of funding appropriate gun safety programs, and I commend the Chairman and Ranking Member for their effort. But there are two areas in which they have failed to respond. One is the youth crime gun interdiction initiative by the ATF.

I would request in my amendment an additional $6.4 million, which would bring it up to the funding requested by the President. This, to me, is an absolutely critical issue—not only in the sense of making sound public policy, but critical because in every community in this country we are astonished

by the ease of access to firearms by youngsters. We are horrified by the results of this access to firearms.

A few weeks ago in Providence, RI, we were absolutely devastated by the murder of two young people. They had been in Providence on Thursday evening at a night club. They left. One youngster was working and the other was a college student. They were chatting by their car, waiting to go to their homes that evening when they were carjacked by five or six young men. They were driven to a golf course on the outskirts of Providence. Then they were brutally killed with firearms.

Where did these accused murderers get these firearms? It is a confused story. But there was an adult, apparently, who had lots of weapons. Either they were stolen from this individual, or he lent the firearms to one of these young men. But, in any case, this is one of those searing examples of young people having firearms being desperate, being homicidal, and using those weapons to kill two innocent people.

The program, which is underfunded in this appropriations bill, would authorize the ATF to work with local police departments to develop tracing reports to determine the source of firearms in juvenile crimes.

There was some suggestion initially and anecdotally that most of these firearms were stolen, but then preliminary research suggested not; that, in fact, there is an illegal market for firearms and that too many weapons used by juveniles in these heinous crimes are obtained in this illegal firearms market.

This type of information is extremely useful in terms of designing strategies to interdict access to firearms by youth perpetrators. We need this kind of intelligence in the Nation, if we are going to construct appropriate programs that are going to deal with this problem.

This, again, is a reflection of what I sense happened in Providence. It is unclear precisely what happened. But here you have the possibility that the individual with the firearms either sold them or lent them, got them into the hands of young people who, in turn, used them to kill other young people.

It would be extremely useful if we knew collectively and not only individually how these weapons moved through our society, because without this knowledge it is very hard to create counterstrategies.

That is one important aspect—these trace reports—for appropriations that I will seek to move today with respect to appropriations.

Indeed, the Senate Appropriations Committee report emphasizes the importance of the partnerships that are underlying this initiative, and underlying also the ability to deal with the incidents of youth firearm crimes. In their words:

> The partnership between ATF and local law enforcement agencies in these communities—
>
> is invaluable to the mutual effort to reduce gun-related crimes. The tracing information provided by ATF not only allows local jurisdictions to target scarce resources to investigations likely to achieve results, but also gives ATF the raw data to be able to investigate and prosecute the illegal source of these crime guns. The Committee continues to believe that there are significant disruptions in these illegal firearms markets directly due to investigative leads arising from this regional initiative.

Frankly, the committee recognizes that this is a useful initiative. I would like to see it fully funded. That is something we could be talking about. Indeed, I hope we can move to incorporate that within the appropriations bill that is before us.

There is another important firearms enforcement measure that was not funded by the committee which I would like to see funded, and that is the national integrated ballistics information network. I would like to see that appropriation moved up by $11.68 million to meet the President's request. This would integrate two systems that try to identify bullets based upon their ballistic characteristics so they can be more useful in investigating crimes.

The ATF has an integrated ballistics identification system, which is called in shorthand IBIS. The FBI has what they call the ''drugfire'' ballistic system. I have seen demonstrations of these systems. They are remarkable. They recover a slug at a crime scene. They take it to a lab, which has the computer equipment that is designed to run this system. They are able to identify the characteristics of the particular slug that is being examined and then, through their data banks, match it up with a known group of slugs, make a positive identification, and the positive identification leads, in many cases, to the arrest, or certainly to the identification of the weapon that was used. It is very similar to fingerprinting, with which we are all familiar.

We have these two systems. They work very well independently. But they would work much better if their databases were combined; if the source was engineered to cooperate and work interdependently. That is what this appropriation would do.

We have seen success already. Both of these systems, working independently, have produced more than 8,000 matches and 16,000 cases. For the first time we can take a slug from a crime scene, match it up with known weapons, leading, hopefully, to arrests and ultimately conviction. In a way, it is not only like fingerprints, it is like DNA, like all the scientific breakthroughs we are able to use to more effectively enforce the laws and bring lawbreakers to justice.

I hope we can use this system more effectively by integrating the two programs, the ATF program and also the FBI program.

One of the reasons I am offering this amendment is to ensure we have the money this year. There is a 24-month proposed schedule for the deployment of this system. The work has been done, the plans have been done, but if we do not appropriate sufficient money in fiscal years 2001 and 2002, then we will fall short of this scheduled deployment. We will create a situation in which, again, when we ask why the American people get so frustrated with government, the situation in which we have been planning, we have been expending money, we are all ready to move forward on an initiative that will materially aid law enforcement authority, and then we stop short and go into a hiatus for a year, and maybe at the end of the year start again. But, more than likely, it will be more expensive, and we have lost months or years in terms of having effective tools for our law enforcement authorities. That is one of the frustrations. It is frustration based upon our inability to be able to move efficiently and promptly to do the people's business.

I hope we can deal with this issue of both the youth crime gun interdiction initiative and the national integrated ballistics information network. These are the types of appropriations measures we should not only be talking about, but we should be voting for. Again, we are in this predicament because there has been such a conscious, overt effort on the part of the leadership to deflect consideration, deliberation, and decision on so many important issues that are critical to the future of America. Lifetime tenure on Federal courts is being withheld because there is a hope, an expectation on one side, that these judges will go away, these nominees will go away, in 6 or 9 months.

I don't think that is what the American people want Congress to do. They want Congress to either approve or disapprove, but they want Congress to act.

Mr. BENNETT. Will the Senator yield?

Mr. REED. I am happy to yield to the Senator.

Mr. BENNETT. Mr. President, the Senator has talked about the present situation we are in. Is the Senator aware that the majority leader tried to move the Senate toward consideration of this bill as long ago as last Friday and it was objected to by the minority?

Mr. REED. I am aware of that. It is one of the situations where, after months and months of cooperating, of trying to accommodate, mutually, the desire and the recognition of getting things done, at some point when we see no movement with respect to our constitutional obligation to confirm judges, no real movement, when we see the elementary and secondary education bill that has been put out to languish and perhaps not to see the light of day for the rest of the year, when we see a process in which the price of bringing a bill to the floor is an agreement to surrender the rights of individual Senators to amend that legislation, to make that amendment

process subject to the approval of the majority leader, when we see all those things, what I think we have to do and what we must do is insist that we get back, away from that process of majority oppression. Perhaps that is too melodramatic. We have to get back to the rules of the Senate, the spirit of the Senate, which, I believe, is open debate, open amendment, and a vote.

Frankly, if that were the rule that was forthcoming from the majority leader, if the majority leader said, bring ESEA back, open up the amendment process, vote; when we finish the amendments, if the debate goes too long, in my prerogative, after long debate, I will enter a cloture motion—that is the way the Senate should operate. I suggest that is not the way this Senate is operating. That is why we are here today.

There is responsibility for every individual Senator for what happens on the floor of the Senate. Certainly the management of the Senate is within the grasp and the control immediately of the majority leader and the majority. That control has been deliberately, I think, to thwart the nomination and the confirmation of judges and deliberately to frustrate legislation important to the American people because there might be amendments that are uncomfortable for consideration by some in this body.

Mr. BENNETT. Will the Senator yield?

Mr. REED. I am happy to yield to the Senator.

Mr. BENNETT. Is the Senator aware the majority leader has an agreement with the minority leader whereby a number of judges would, in fact, be confirmed and that the agreement was accepted by both sides, only to have the minority leader come forward and say that he wanted to identify the specific judges, and the numbers were not acceptable? The minority leader wanted to pick specific people, in contradiction of the normal pattern of the Judiciary Committee.

Is the Senator aware of the fact the minority leader has taken that stand?

Mr. REED. Reclaiming my time, essentially what the Senator is arguing, by implication, is that the majority leader has the sole responsibility and sole prerogative to pick who will come to this floor for consideration as a judge.

I am amazed at this whole process. Look at judges who have been pending for almost a year and their names are not coming to the surface. That is something more at work than the breaks of the game. That is a deliberate attempt by the majority to suppress the nomination of individual judges.

Frankly, an offer to bring some judges to the floor is, in my view, insufficient unless that offer was transparent, saying we will begin to work down the judges who have been pending longest, with perhaps other criteria, such as districts or circuits that need judges.

But that is not how it is working. These magnanimous offers of bringing up a couple of judges—I believe I saw yesterday where three judges from Arizona were just nominated by the President, and they already have hearings scheduled. We have other judges who were nominated over a year ago, and they have not even had a hearing, a year later. Some magnanimous gestures by the majority leader are self-serving and ultimately had to be rejected by the minority.

I respect the Senator, but I will continue my discussion on some other points.

Mr. BENNETT. I will respond at a later time.

Mr. REED. The youth crime gun interdiction initiative and the national integrative ballistics information network are important issues. Those are the issues we are talking about. They are a subset of what I argue is the larger issue.

The larger issue: Is the Senate going to be the Senate? Or is it some type of smaller House of Representatives where the leadership dictates what is coming to the floor, what judge's name might come up, what bill might come up, what amendment might come up, when it all comes about? That, I think, is the key point.

Let me take up another key point in terms of the demonstration of why we are not doing our duty. We have before the Senate a very difficult vote on extending permanent normal trade relations to China. It is a very difficult vote. We know that. It is a vote that bedeviled the House of Representatives. It was controversial. It was difficult. But after intense pressure and vigorous debate, the House of Representatives brought it to a conclusion and voted.

Now that measure is before the Senate. It is controversial. It is, like so many other things, languishing. It could have been accomplished weeks ago. The business community would argue vociferously it should have been accomplished weeks ago. It has been couched in many terms, but one term I think is most compelling is that it is a critical national security vote. It is a critical national security vote. Yes, it is about trade. Yes, it is about economic impacts within the United States and around the world. But it is also about whether or not we will continue to maintain a relationship of engagement with China, or if we reject it, or if we delay it indefinitely and open up the distinct possibility of confrontation and competition with China.

Yet this critical national security vote, this critical vote which is probably the No. 1 objective of the business community in this country, again languishes.

Some would say there are reasons. We want to talk about Senator THOMPSON's and Senator TORRICELLI's amendment about proliferation. But, again, it is symptomatic of a situation in which the Senate is not responding as it should to its constitutional and to its public responsibilities because of the political calculus.

Our side is not immune to political calculation. But the leadership of this body has created a situation in which avoidance of difficult issues, nullification of constitutional responsibilities and obligations to confirm judges, and deferment of critical national security issues for short-run advantages, is the standard of performance. I believe that is not the role the Senate should play and that is the heart of this discussion today.

Let me suggest one other point with respect to the business of the body. We confront a range of issues that deal with those world-shaking, momentous issues like China trade policy; issues with respect to domestic tranquility; the safety of our streets; the funding of the appropriations bills for law enforcement when it comes to firearms.

Then there are issues that are not important to the vast number of Americans in the sense it doesn't affect them directly but are critically important to many Americans. One is a measure I have been trying to find the opportunity to bring to the floor, and that is to somehow help the Liberian community in this country who came here in 1990, in the midst of their violent civil war, and who for the last decade have been in the United States. They have been residing here. They have been contributing to our communities. Many of them have children who are American citizens. Yet they are in a position where they face deportation October 1. The clock is ticking.

This is not an issue that is going to galvanize parades through every Main Street in America. But for these roughly 10,000 people who are caught up in this twilight zone while they are here, they want to remain here with their children, many of whom, as I said, are Americans, but they face a prospect of being deported back to a country that is still tumultuous, still dangerous, still threatening to them and many others.

This is legislation that has been supported by Senator CHAFEE, my colleague from Rhode Island, Senator HAGEL, Senator WELLSTONE, Senator KENNEDY, Senator LANDRIEU, Senator KERRY, and Senator DURBIN, legislation that will materially assist these individuals. But, once again, we are not moving with the kind of rapidity that allows for the easy accommodation of this type of legislation on the floor. I hope it does come up soon, but I think it represents the cost of this overcontrol and this inflexibility, perhaps, that we are seeing as the management leadership style here today.

Let me just briefly set the stage about the need for this legislation. Liberia is a country that has the closest ties of any African nation to the United States—it was founded by freed slaves in the middle 1800s. Its capital is Monrovia, named after President Monroe. It is a country that did its utmost

throughout its existence in the 1800s and the 1900s, to emulate American Government structure, at least. But it erupted into tremendous violence in 1989 and 1990. Over the next several years, 150,000 people fled to surrounding countries. Many of them came to the United States—many being about 14,000. In March 1991, the Attorney General recognized that these individuals needed to be sheltered, so he granted temporary protected status, or TPS.

Under TPS, the nationals of a country may stay in the United States without fear of deportation because of the armed conflict or extraordinary conditions in their homeland. People who register for TPS receive work authorizations, they are required to pay taxes—and this is precisely what the Liberian community has done in the United States. They went to work. They paid taxes. However, they do not qualify for benefits such as welfare and food stamps. Not a single day spent in TPS counts towards the residence requirement for permanent residency. So they are in this gray area, this twilight zone. They have stayed there now for 10 years because the situation did not materially change for many years.

Each year, the Attorney General must conduct a review. The Attorney General did conduct such a review and continued to grant TPS until a few years ago, until the fall of 1999, when the determination was made that the situation in Liberia had stabilized enough that TPS was no longer forthcoming.

At that, many of us leaped to the fore and said the situation has changed. The situation has changed in Liberia, but it has also changed with respect to these individuals here in the United States. They have established themselves in the community. They have become part of the community. Their expectations of a speedy return to Liberia long ago evaporated and they started to accommodate themselves—indeed many of them enthusiastically—to joining the greater American community.

The situation changed in Liberia. The change there was more procedural than substantive. What happened was the situation in which there was an election, which was monitored by outsiders, which elected a President, the former warlord, Charles Taylor.

Based upon this procedural process change, the State Department and others ruled, essentially, that the situation was now ripe for the return of Liberians from the United States and surrounding countries to Liberia. But at the heart, the chaos, the economic disruption, the violence within Liberia did not subside substantially. As a result, Liberians here in the United States have genuine concerns about their return to Liberia. What has happened most recently, because this is an evolving situation, is that Charles Taylor, the President, again, duly elected President, has not renounced all of his prior behaviors because it is strongly suggested that he has been one of the key forces who is creating the havoc in the adjoining nation of Sierra Leone.

All of us have seen horrific photographs of the violence there, of children whose arms and hands have been cut off by warring factions in Sierra Leone. The Revolutionary United Front is one of the key combatants in that country. Part of this is an unholy alliance between Taylor and the Revolutionary United Front for the purpose of creating, not only mischief, but also for exploiting diamond resources within Sierra Leone for the benefit of Taylor and the benefit of others. But all of this, this turmoil, once again, suggests that Liberia is not a place that is a stable working democracy where someone, after 10 years of living in the United States, could return easily and gracefully and immediately.

Last year at this time, after being approached by myself and others, the Attorney General determined that she could not grant TPS again under the law. But she did grant Deferred Enforced Departure, or DED, to Liberians, which meant the Liberians could remain in the United States for another year but essentially they are being deported. It is just stayed, delayed for a while. They have been living in this further uncertainty for the last year.

My legislation would allow them to begin to adjust to a permanent residency status here in the United States, and hopefully, ultimately, after passing all of the hurdles, to become citizens of this country.

They arrived here, as I said, about 10 years ago. They came here with the expectation that they would have a short stay and would be home, back in their communities, back in Liberia, but that expectation was frustrated, not by them but by the violence that continued to break out throughout Liberia.

Now they have established themselves here. They are part and parcel of the community, and they are extremely good neighbors in my State of Rhode Island, as well as in other parts of this country. I believe equity, fairness, and justice require that we offer these individuals the opportunity to become permanent resident aliens and ultimately, as I said, I hope they will take the opportunity to become citizens of this country.

Our immigration policy is an interesting one, idiosyncratic in many cases, but it is important to point out there are several other countries around the globe that have already dealt with a problem like this: Norway, Denmark, the Netherlands, Spain, and Great Britain. After a certain length of time, even if you are there temporarily—certainly 10 years is a sufficient time—you can, in fact, adjust your status to something akin to permanent resident of the United States and pursue citizenship.

We have done this before. We have made these types of adjustments for other national groups that have been here and for many of the same reasons: Simple justice, length of stay, connections to the community of America, continued turmoil in their own countries. For example, in 1988 we passed a law to allow the Attorney General to adjust to permanent status 4,996 Polish individuals who had been here for 4 years, 387 Ugandans who had been here for 10 years, 565 Afghanis who had been here for 8 years, and 1,180 Ethiopians who had been here for 11 years.

The 102nd Congress passed a law which allowed Chinese nationals who had been granted deferred enforced departure after Tiananmen Square to adjust to permanent residency. Over the next 4 years, 52,968 Chinese changed their status.

In the last Congress, we passed legislation known as NACARA. Under this law, 150,000 Nicaraguans, 5,000 Cubans, 200,000 El Salvadorans, and 50,000 Guatemalans who had been living in the United States since the eighties were eligible to adjust to permanent residency status. A separate law allows Haitians who were granted DED to adjust to permanent residency.

As one can see, we are not setting a precedent. We are doing what we have done before in response to similar motivations: fairness, length of stay here, turmoil in the homeland to which we propose to deport these individuals.

Another important point is why we believe we have a special obligation to Liberia. As my colleagues know—and I have mentioned before—this is a country that shares so much with the United States.

In 1822, a group of freed slaves in the United States began to settle the coast of western Africa with the assistance of private American philanthropic groups and at the behest of the U.S. Government. In 1847, these settlers established the Republic of Liberia, the first independent country in Africa. Five percent of the population of Liberia traces their ancestry to former American slaves. They modeled their constitution after ours. And they used the dollar as their currency.

Before the 1990 civil war, the United States was Liberia's leading trading partner and major donor of assistance. When Liberia was torn apart by civil war, they turned to the United States for help. We recognized that special relationship, and we offered aid to Liberia. We offered it, as I said, to assist those who were fleeing destruction and devastation. We should continue to do that. We have had a special relationship with Liberia over history, and we have formed a special relationship throughout this country with those communities of Liberians who have been here for a decade and who seek to stay.

Again, this is some of the legislation we could be considering, some of the legislation with which we could be dealing if we had a process that allowed that free flow of legislation to the floor.

Mr. President, I ask unanimous consent that two letters be printed in the

RECORD: A letter from Bill Gray, President of the College Fund, and a letter from the Lutheran Immigration and Refugee Service.

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

THE COLLEGE FUND,
Fairfax, VA, April 19, 2000.

Hon. JACK REED,
U.S. Senator, Senate Hart Office Building, Washington, DC.

DEAR SENATOR REED: I write to let you know of the great importance I attach to the passage of legislation that would allow Liberian nationals already in the U.S. for almost ten years to become permanent residents. Your legislation, S. 656, the Liberian Immigration Fairness Act, would accomplish this important goal.

The United States has always shared a special relationship with Liberia, a country created in 1822 by private American philanthropic organizations for freed American slaves. In December 1989, civil war erupted in Liberia and continued to rage for seven years. USAID estimates that of Liberia's 2.1 million inhabitants, 150,000 were killed, 700,000 were internally displaced and 480,000 became refugees. To date, very little of the destroyed infrastructure has been rebuilt and sporadic violence continues.

When the civil war began in 1989, thousands of Liberians fled to the United States. In 1991, the Attorney General granted Temporary Protected Status (TPS) to these Liberians, providing temporary relief from deportation since ongoing armed conflict prevented their safe return home. For the next seven years, the Attorney General annually renewed this TPS status. Last summer, Attorney General Reno announced that this TPS designation would end on September 28, 1999. Throughout 1999, Liberians faced the prospect that they would be uprooted and forced to return to a country still ravaged by violence and repression. However, on September 27, 1999, President Clinton granted non-citizen Liberians living in the United States a reprieve, allowing them to remain in the country and work for one additional year.

The Department of Justice estimates that approximately 10,000 Liberians are living in the United States under protection of our immigration laws. There are significant Liberian populations in Illinois, Ohio, Michigan, Maryland, Pennsylvania, New Jersey, New York, Georgia, Minnesota, Rhode Island, and North Carolina. For the past decade, while ineligible for government benefits, Liberians have been authorized to work and are required to pay taxes. They married, bought homes, and placed their children, many of whom were born in this country, in school. Despite their positive contributions to our communities, their immigration status does not offer Liberians the opportunity to share fully in our society by becoming citizens.

When they first arrived, these nationals of Liberia hoped that their stay in this country would indeed be temporary. But ten years have passed and they have moved on with their lives. Liberians have lived in this immigration limbo longer than any other group in the United States. More importantly, other immigrant groups who were given temporary haven in the United States for much shorter periods have been allowed to adjust to permanent residency: Afghans, Ethiopians, Poles and Ugandans after five yeas and 53,000 Chinese after just three years. It is time to end the uncertainty that Liberians have lived with for so long. It is time to allow them the opportunity to adjust to permanent residency as our nation has allowed others before them.

Following our Nation's tradition of fairness and decency, I am pleased to add my personal support to S. 656 in order to offer Liberians the protection they deserve.

Sincerely,

WILLIAM H. GRAY III.

LUTHERAN IMMIGRATION AND
REFUGEE SERVICE,
Washington, DC, March 7, 2000.

Hon. JACK REED,
U.S. Senate, Washington, DC.

DEAR SENATOR REED: On behalf of the undersigned organizations, we urge your support of the Liberian Refugee Immigration Fairness Act of 1999 (S. 656). This Act would provide relief and protection for some 15,000 Liberian civil war refugees and their families now residing in the United States.

Since March of 1991, over 10,000 Liberian civil war refugees have resided in the United States. Recently, they were granted an extension of their temporary exclusion from deportation when President Clinton ordered the Attorney General to defer their enforced departure. Granted for one year, the order is set to expire in September of this year. Against this general background, legislation has been introduced by Senator Jack Reed (D–RI) to adjust the status of certain Liberian nationals to that of lawful permanent residence. We strongly support Senator Reed's proposed legislation, S. 656. We view this bill as being vital to the basic protection of and fairness towards Liberian civil war refugees.

JUSTIFICATIONS

The Liberian Refugee Immigration Fairness Act of 1999 would protect Liberian refugees and their families from being forcibly returned to a nation where their life and freedom may still be threatened. Even the Human Rights reports from the U.S. Department of State and Amnesty International have called attention to the continuing pattern of abuses against citizens by the Liberian government. Additionally, the legislation would protect against the dissolution of families as Liberian parents are forced to choose between leaving their American born children in the U.S. or taking them back to Liberia if they are deported. Further, after nearly a decade of living in the U.S., Liberians have established real ties in their local communities and as such, forced deportation would simply be wrong. Finally, it is imperative that Liberian civil war refugees be accorded the same favorable treatment as other refugee groups seeking relief in the United States.

We remain appreciative to Congress for its continued attention paid to the general issue of immigration relief for those in need, and we trust the same will be devoted to the Liberians. We appreciate your consideration of these comments.

Sincerely,

RALSTON H. DEFFENBAUGH,
President.

On behalf of:

Nancy Schestack, Director, Catholic Charities Immigration Legal Services Program.

Douglas A. Johnson, Executive Director, Center for Victims of Torture.

Richard Parkins, Director, Episcopal Migration Ministries.

Tsehaye Teferra, Director, Ethiopian Community Development Council.

Eric Cohen, Staff Attorney, Immigrant Legal Resource Center.

Curtis Ramsey-Lucas, Director of Legislative Advocacy, National Ministries, American Baptist Churches USA.

Jeanne Butterfield, Director, American Immigration Lawyers.

William Sage, Interim Director, Church World Service Immigration and Refugee Program.

John T. Clawson, Director, Office of Public Policy and Advocacy, Lutheran Social Service of Minnesota.

Muriel Heiberger, Executive Director, Massachusetts Immigrant and Refugee Advocacy (MIRA) Coalition.

Oscar Chacon, Director, Northern California Coalition for Immigrant Rights.

Skip Roberts, Legislative Director, Service Employees International Union.

David Saperstein, Director of the Religious Action Center of Reformed Judaism, Union of American Hebrew Congregations.

Ruth Compton, Immigrant and Latin America Consultant, United Methodist Church, General Board of Church and Society.

Katherine Fennelly, Professor, Humphrey Institute of Public Affairs, University of Minnesota.

Asylum and Refugee Rights Law Project of the Washington Lawyers' Committee for Civil Rights and Urban Affairs.

Don Hammond, Senior Vice President, World Relief.

Morton Sklar, Director, World Organization Against Torture, USA.

Mr. REED. These two letters are strong statements on behalf of the legislation, the Liberian Refugee Immigration Fairness Act, which I have spoken about and which I ardently desire to see acted upon in this session in the next few weeks.

Bill Gray, as many know, is a former distinguished Congressman from Philadelphia, PA. He is now President of the College Fund, which was formerly known as the United Negro College Fund.

He points out in his letter the long association between the United States and Liberia and urges that we act quickly and decisively to pass this legislation.

The letter from the Lutheran Immigration and Refugee Service also makes that same plea for prompt and sympathetic action on this legislation. It is signed also on behalf of numerous organizations: the Catholic Charities Immigration Legal Services Program; the Episcopal Migration Ministries; the National Ministries of American Baptist Churches USA; the Lutheran Social Services of Minnesota; the Union of American Hebrew Congregations; the United Methodist Church, General Board of Church and Society; and it goes on and on.

Again, this is the heartfelt plea by the church community and the religious community in general of this country for a favorable and immediate response to the plight of these Liberians who are here with us.

VISIT TO THE SENATE BY THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES

RECESS

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate stand in recess for 6 minutes while Senators and others have an opportunity to meet a distinguished guest, the President of the Philippines, the Honorable Joseph Estrada.

There being no objection, the Senate, at 3:57 p.m., recessed until 4:03 p.m.;

whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SESSIONS).

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

Mr. REED. Mr. President, I extend my welcome to President Estrada of the Philippines. The Philippines and the United States are allies. We have a special relationship with them, as we have a special relationship with the country I have been speaking about; that is, the country of Liberia.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT OF 2001—MOTION TO PROCEED—Continued

Mr. REED. Mr. President, let me conclude my overall remarks by saying, as I began, that we are in the doldrums. We are here but we are not moving. I do not think it is sufficient to simply, on a day-by-day basis, make a little concession here and a little concession there.

I think to get this Senate under full sail again, moving forward, proudly, purposefully, is to once again summon up the spirit which I always thought was inherent in this body, the spirit of vigorous and free and open debate, of vigorous and wide-ranging amendment, unfettered by the individual proclivities of the leader, whoever the leader may be, and then, ultimately, doing our job, which is to vote.

This afternoon, I have tried to suggest several areas where we have neglected that obligation. With respect to Federal judges, it seems to me that there has been an attitude adopted here that our advice and consent is sort of an optional thing. If we do not choose to do it, then no judges will be confirmed. In a way, it is very subversive to the Constitution.

Frankly, I don't think anyone would object if judges were brought to this floor and voted down. That is a political judgment, a policy judgment, a judgment based upon their jurisprudence, their character, a host of issues. But what is so objectionable is this notion of stymying the Constitution by simple nonaction, by pushing it off into the shadows, allowing individual nominees to languish, hoping that no one pays attention to it, and that at the end of the day these judges will go away and more favorable judges will be appointed. I do not think that is the way to operate this Senate.

We have legislation, such as the ESEA, which has been permanently—or apparently permanently—shelved, not because there is something inherently wrong with the bill as it has been presented—we can debate the merits of that—but because to bring it back to the floor would invite amendments that might be uncomfortable. I think that is also wrong.

Then I think we have a measure which everyone claims is critical to our economy, critical to our future national security, critical to our relationships with Asia and China, particularly, over the next several decades. That, too, has been shunted aside, not because of substance, but because of political calculation. Once again, I think that is wrong.

In return, what has been suggested, is: Why don't you take a little of this and a little of that, and we will give you an amendment here, and we just might bring up two judges, but we don't know who they are. That, in comparison, is not an appropriate response to the basic question of: Will the Senate be the Senate?

I would hope that we would return to that spirit, that spirit which I think drew us all here initially, with the hope and the expectation that we would debate and we would vote—we would win some; we would lose some—but ultimately, by debating and by voting, and by shouldering our responsibilities—not avoiding them—the American people would ultimately be the great victors in this Democratic process.

I hope we return to that spirit.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I appreciate the comments from the Senator from Rhode Island. I will have some responses to them in a moment.

MEASURE PLACED ON THE CALENDAR—S. 2912

Mr. BENNETT. Mr. President, I understand there is a bill at the desk due for its second reading.

The PRESIDING OFFICER. The clerk will read the bill for the second time.

The legislative clerk read as follows:

A bill (S. 2912) to amend the Immigration and Nationality Act to remove certain limitations on the eligibility of aliens residing in the United States to obtain lawful permanent residency status.

Mr. BENNETT. Mr. President, I object to further proceedings on this bill at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

The Senator from Utah has the floor.

PROVIDING FOR NEGOTIATIONS FOR THE CREATION OF A TRUST FUND TO COMBAT THE AIDS EPIDEMIC

Mr. BENNETT. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of H.R. 3519, 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 (H.R. 3519) to provide for negotiations for the creation of a trust fund to be administered by the International Bank for Reconstruction and Development of the International Development Association to combat the AIDS epidemic.

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

AMENDMENT NO. 4018

(Purpose: To authorize additional assistance to countries with large populations having HIV/AIDS, to provide for the establishment of the World Bank AIDS Trust Fund, to authorize assistance for tuberculosis prevention, treatment, control, and elimination, and for other purposes)

Mr. BENNETT. Senator HELMS, for himself and others, has a substitute amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT] for Mr. HELMS, for himself, Mr. BIDEN, Mr. FRIST, Mr. KERRY, Mr. SMITH of Oregon, Mrs. BOXER, and Mr. FEINGOLD proposes an amendment numbered 4018.

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

Mr. BENNETT. Mr. President, I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 4018) was agreed to.

Mr. HELMS. Mr. President, passage of the Global AIDS and Tuberculosis Relief Act is a priority for this Administration, but that is not why I support it. I am aware of the calamity inflicted by HIV/AIDS on many Third World countries, particularly in Africa.

Children are the hardest hit and they, Mr. President, are the innocent victims of this sexually transmitted disease. In fact, the official estimate of 28 million children orphaned in Africa alone could easily prove to be a low estimate. This is among the reasons why Senator BILL FRIST wrote the pending amendment, which is based on S. 2845, with solid advice from and by Franklin Graham, president of Samaritan's Purse and son of Billy and Ruth. That is why I support it.

Several items in the pending bill should be carefully noted. First, authorization for appropriations for the World Bank Trust Fund is scaled back from the House proposal of five years to two years. There is no obligation for the U.S. Government to support the trust fund beyond two years.

If the trust fund performs as expected, Congress may decide at that time to make additional funds available. However, if the Trust Fund is not transparent, if there is not strict accountability—and if money is squandered on second rate or politicized projects—I intend to do everything in my power to ensure that Congress does not provide another farthing.

The pending bill requires that twenty percent of U.S. bilateral funding for HIV/AIDS programs be spent to support orphans in Africa. That could be as much as $60 million. This is one of the provisions on which I insisted, and I wish it could have been an even higher percentage.

I suggest that A.I.D. get together with Nyumbani Orphanage in Nairobi, Kenya, Samaritan's Purse, and the other groups working in the field to develop a plan to address the crisis.

Finally, I insisted that the lions share of bilateral funding, specifically, 65 percent—or as much as $195 million, be available to faith-based groups and I am gratified that my colleagues have consented to this. At last, it has dawned on Senators that HIV/AIDS legislation and programs designed to address the spread of AIDS are worthless unless they recognize and address seriously the moral and behavioral factors associated with the transmission of the disease.

There is only one 100 percent effective way to stop the spread of AIDS, and that, of course, is abstinence and faithfulness to one's spouse. And it is through churches that this message will be effectively promoted and accepted, not through government bureaucracies. It is no exaggeration to say that policymakers refusing to face up to this obvious fact will be culpable in the deaths of millions.

Mr. President, approval of this bill will be an important accomplishment, and if its provisions are properly implemented it will save lives. The Foreign Relations Committee will work diligently over the next two years to ensure that the intent of Congress is understood and carried out.

Mr. BIDEN. Mr. President, I cannot tell you how pleased I am that the Senate will finally pass the Global AIDS and Tuberculosis Relief Act. HIV/AIDS has been acknowledged as the 21st century's bubonic plague. It is having a devastating impact in Sub-Saharan Africa, destroying the very fabric of African societies. And while Africa is the present day epicenter, there is no guarantee that the disease will not spread throughout the world in a manner that is just as devastating. No corner of the globe is immune.

HIV/AIDS is the only health related issue that has ever been the subject of a meeting of the United Nations Security Council, and the only one that has been the subject of a Security Council Resolution. Why? Because it poses a severe risk to every nation in the international community, but most especially to developing nations which do not have the means to either treat those living with the disease, or to educate those at risk of contracting the disease about how to avoid infection.

I believe that it is past time for the United States to step forward and lead the way in efforts aimed at stopping the spread of the HIV/AIDS. This bill does just that. The funding levels this bill authorizes significantly increase the level of U.S. assistance to combat HIV/AIDS. One of the key elements of this legislation is an authorization for the Secretary of the Treasury to enter into negotiations with the World Bank to create a Trust Fund, the purpose of which is the eradication and prevention of the spread of the virus.

The Trust Fund will allow donations and contributions from governments—the bill authorizes $150 million as the U.S. contribution—as well as the private sector, so that all sectors in society are working together at an international level to address this crisis. It is truly the best way to do so. The statistics are grim. According to UNAIDS, in 1999 alone 5.4 million people were infected with HIV/AIDS, bringing the total to 34.4 million infections world wide. 2.8 million people died of the disease last year. This does not have to be. We know how to prevent the spread of the disease. We have the means to treat the virus and the opportunistic diseases that kill those infected with HIV/AIDS. Millions of lives can be saved through both treatment and prevention. Through cooperation we can be successful. We must challenge other donors to dedicate the necessary resources to achieve our aim.

The bill also authorizes $300 million in bilateral assistance to stop the spread of the disease, and to treat it. While I strongly believe that a multilateral approach must be developed to respond to the HIV/AIDS epidemic, I also believe that the United States should do all it can right now to deliver targeted assistance to specific regions and specific treatment programs. The problem of HIV/AIDS is urgent. Bilateral assistance programs can be funded and programs carried out right away, and they should be.

Assistance is desperately needed, for example, in Africa. The countries in the sub-Saharan region cannot wait for the negotiation of a Would Bank Trust Fund; they must have help now. The news which came out of the International AIDS Conference in Durban was grim. Gross Domestic Product could be cut by as much as 20% due to the impact of HIV/AIDS in some African countries, according to a study released at the conference. African countries are among the poorest in the world. They cannot afford to have their incomes diminished to such a degree. According to the World Bank,

> AIDS is now the fourth leading cause of death worldwide and the leading cause of death in Sub-Saharan Africa. At all levels, the impact of AIDS in Africa is staggering: At the regional level, more than 13 million Africans have already died, and another 23 million are now living with HIV/AIDS. That is two-thirds of all cases on earth. At the national level, the 21 countries with the highest HIV prevalence in the world are in Africa. In Botswana and Zimbabwe, one in four adults is infected. In at least 10 other African countries, adult prevalence rates exceed 10 percent. At the individual level, a child born in Zambia or Zimbabwe today is more likely than not to die of AIDS at some point in her lifetime. In many other African countries, the lifetime risk of dying of AIDS is greater than one in three. The HIV/AIDS epidemic is not only an unparalleled public health problem affecting large parts of Sub-Saharan Africa, it is an unprecedented threat to the region's development. In many countries, the disease is reversing decades of hard-won development progress.

We cannot ignore these facts. The time to act is now. The sooner we address this crisis in Africa as well as the rest of the developing world, the better. The directives in this bill represent the best of the current proposals to do so. The World Bank and the Export-Import Bank of the United States both recently announced that they would make funds available for loans to African countries to help them purchase drugs to treat HIV/AIDS. While I welcome any efforts to procure drugs for this purpose, I do not believe that extending more loans to nations currently facing crippling debt burdens will, in the long run, prove to be the most useful strategy. Grants and no strings attached assistance, the aid provided in this bill, are what is needed.

I want to make it clear that this bill represents only the beginning of the United States' commitment to fighting HIV/AIDS. Sustained dedication of resources will be needed to continue the fight, and we in the Senate must ensure that such resources continue to be channeled towards eliminating the threat of HIV/AIDS. This bill is a good first step in our efforts.

Mr. FRIST. Mr. President, a bipartisan group of members of the Senate Foreign Relations Committee have today sent to the Senate for consideration a landmark legislative initiative to combat one of the great human tragedies of our time, the HIV/AIDS epidemic. The Global AIDS and Tuberculosis Relief Act of 2000 reflects the combination of many initiatives proposed by members of the Foreign Relations Committee. All initiatives share a common purpose of arresting the progress of the disaster and caring for the victims so far.

The initiative cannot come too soon. The cost in human life and productivity, as well as the potential societal and economic disruptions AID has and will cause assure us of one distinct possibility: All goals of the United States in Africa and the developing world—goals we share with them—will be seriously compromised, if not completely undermined, by AIDS. Growing trade, better education and health, stronger democracies, efforts toward peace—all will be undermined by a disease that is positioned to sap the life from the most promising and productive generations.

Two characteristics of this pandemic that distinguish it from the other great killers have impressed me the most and shaped the Senate's recent initiative to support the efforts to combat HIV/AIDS worldwide.

The first is the fact that AIDS affects the younger members of a community in their most productive years. It thus contorts and eventually turns on its head the already strained economic equation by effectively reversing the proposition of dependants to productive members of a family. In short, it has struck at the heart of the extended families, changing the breadwinners from a source of needed food or income to a burden. That is to say nothing of the grief, personal loss and often shame associated with death from AIDS.

The second is that the estimated number of orphans from AIDS in Africa, for example, already exceeds 10 million, and is expected to approach 40 million in coming years. Many of those children will themselves be HIV-positive. The prospect of 40 million children without hope, health and often without any support whatsoever is as dangerous as it is tragic. These children are susceptible to substance abuse, prostitution, banditry or, as we have seen so often on the continent, child soldiery. It will be an economic strain on weakening or completely broken economies, and an extremely volatile element in strained societies.

The human cost of AIDS is already alarmingly high, and the trends are increasingly terrifying—even apocalyptic.

Sub-Saharan Africa has been far more severely affected by AIDS than any other part of the world. It is our greatest challenge. I have seen the effects of its ravages on the people of that continent firsthand. The potential is clearly written in the appalling statistics of the disease today.

According to December 1999 United Nations data, some 23.3 million adults and children are infected with the HIV virus in the region, which has about 10 percent of the world's population but nearly 70 percent of the worldwide total of infected people. In Botswana, Namibia, Zambia, and Zimbabwean estimated 20 percent to 26 percent of adults are infected with HIV, and 13 percent of adults in South Africa were infected as the end of 1997.

An estimated 13.7 million Africans have lost their lives to AIDS, including 2.2 million who died in 1998. The overall rate of infection among adults in sub-Saharan Africa is about 8 percent compared with a 1.1 percent infection rate worldwide.

AIDS has surpassed malaria as the leading cause of death in sub-Saharan Africa, and it kills many times more people than Africa's armed conflicts.

Sub-Saharan Africa is the only region in which women are infected with HIV at a higher rate than men. According to UNAIDS, women make up an estimated 55 percent of the HIV-positive adult population in sub-Saharan Africa, as compared with 35 percent in the Caribbean, the next highest-ranking region, and 20 percent in North America. Young women are particularly at risk. A U.N. study found girls aged 15–19 to be infected at a rate of 15 percent to 23 percent, while infection rates among boys of the same age were 3 percent to 4 percent.

The African AIDS epidemic is having a much greater impact on children than is the case in other parts of the world. An estimated 600,000 African infants become infected with HIV each year through mother to child transmission, either at birth or through breast-feeding.

At least 7.8 million African children have lost either their mother or both parents to AIDS, and thus are regarded by UNAIDS as ''AIDS orphans.'' South Africa is expected to have one million AIDS orphans by 2004. An estimated 10 million or more African children will have lost either their mother or both parents to AIDS by the end of the year 2000. In some urban areas of Africa, orphans comprise up to 15 percent of all children. Many of these children are themselves infected with HIV/AIDS and often face rejection from their extended families and from their communities.

In its January 17, 2000 issue. Newsweek projected that there will be 10.4 million African AIDS orphans by the end of 2000. UNAIDS reports that AIDS orphans, suspected of carrying the disease, generally run a greater risk of being malnourished and of being denied an education.

At current infection and growth rates for HIV/AIDS, the National Intelligence Council estimates that the number of AIDS orphans worldwide will increase dramatically, potentially increasing three-fold or more in the next ten years, contributing to economic decay, social fragmentation, and political destabilization in already volatile and strained societies. Children without care or hope are often drawn into prostitution, crime, substance abuse or child soldiery.

The majority of governments in areas of sub-Saharan Africa facing the greatest burden of AIDS orphans are largely ill-prepared to adequately address the rapid growth in the number of children who have no means of support, no education nor access to other opportunities.

Donors must focus on adequate preparations for the explosion in the number of orphans and the burden they will place on families, communities, economies, and governments. Support structures and incentives for families, communities and institutions which will provide care for children orphaned by HIV/AIDS, or for the children who are themselves infected by HIV/AIDS, will become increasingly important as the number of AIDS orphans increases dramatically.

By providing a knowledge, skills, and hope orphaned children might not otherwise have, education is an especially critical part of a long term strategy. Education is the key to providing opportunity and fighting poverty, and education is essential to winning the battle against the HIV/AIDS epidemic.

The legislation does not focus solely on Africa, but reflects the fact that the grip of the disease is tightening around the developing world. Some of the mechanisms are new and yet untested. But in their design, their potential for being the most effective tools at our disposal is clear.

We need to be mindful that the United States can be a great force for good in the world. Certainly, Americans are very charitable and compassionate people, and the political will exists to take a more aggressive posture toward combating AIDS.

However, our job is to determine how best to use our limited resources to maximize their potential for good on the African continent. These are life and death decisions which cannot be addressed simply by allocating more funds, confident that we have thus done our part. How we direct or allocate those resources has the potential to significantly affect the situation.

Questions and issues involved in life and death decisions are not easy. They are decisions based on the understanding that you cannot help or save all in need in a situation, but must make decisions based on the best information and understanding of your strengths and limitations.

Over the next two years, the legislation authorizes $300 million per year for ongoing HIV/AIDS programs worldwide. That represents a significant increase in our commitment and is well above the President's request. The United States has been a leader in AIDS prevention programs and in AIDS treatment and programs to mitigate the devastating societal and economic effects of the epidemic. We should continue that leadership and even strengthen it.

Additionally, the legislation authorizes $100 million to the Global Alliance for Vaccines Initiative, know by its acronym, GAVI, which receives both public and private funding to provide existing vaccines to children worldwide, and to provide incentives for the development of new vaccines. Often, companies determine that it is not possible to commit the capital to research and development toward developing vaccines for diseases such as malaria. While the potential number of recipients is great, the potential number of purchasers is very small. By providing a clear purchaser for the future, GAVI addresses much of the questions involving the risks of investing in such research.

The legislation goes beyond incentives alone. Over two years, it commits $20 million to the International AIDS Vaccine Initiative, or IAVI, a group which is committed to developing the ultimate weapon against the continued spread of HIV: a vaccine.

The legislation does not seek to act unilaterally, but has two critical elements which will help use our leadership position to leverage greater cooperation to combat the epidemic.

First, it seeks to establish a global trust for programs to combat the transmission of HIV and to respond to the devastation of AIDS. Under the legislation, the United States can contribute up to $150 million per year for two years to capitalize the fund. Of that, $50 million annually is specifically targeted to address the great human tragedy and most daunting challenge of AIDS orphans. Undoubtedly, the initial generous contribution of the United States will spur many more commitments from other nations.

The legislation does not leave the question of orphans to the trust fund alone. It also directs the United States

to begin coordinating a global strategy to address the orphans crisis, especially in caring for them and educating them. This is in addition to the specific focus on education and care of orphans in Africa mandated in the initial authorization of ongoing programs and in the trust fund. Only education can provide the tools for these children to escape the poverty, violence and exploitation that they will often face. The strong emphasis on this explosive and frightening problem is one of the most forward looking approaches to international health yet considered by Congress. I cannot overemphasize the importance of these provisions.

The legislation also addresses the increasing threat of tuberculosis worldwide. The diseases' resurgence is a clear and direct threat to the United States' public health. Astonishingly, the World Health Organization estimates that one third of the world's population is infected with tuberculosis. With the increasingly drug resistant strains of the disease emerging yearly, the urgency of the initiative is critical. The legislation authorizes $60 million each year for two years for programs to combat the disease. That figure represents a substantial increase in our efforts to ensure our own safety and health and to combat the scourge worldwide.

Overall, this legislation represents a clear recognition of the importance to our own health and security to combating infectious disease worldwide. More significantly, though, it is a monumental new commitment by the United States to combat the death and suffering of our fellow humans. It is a great demonstration of America's generosity and our hope to improve the lives and potential of all people.

Mr. KERRY. I am pleased to join the distinguished chairman of the Foreign Relations Committee, Mr. HELMS, and the Chairman of the Africa Subcommittee, Dr. FRIST, in bringing this very important bill to the Senate.

Mr. President, the human toll of the AIDS crisis in Africa is stupefying. More than 30 million people now live with AIDS and annual AIDS-related fatalities hit a record 2.6 million last year. Ninety-five percent of all cases are found in the developing world. AIDS is now the leading cause of death in Africa and the fourth leading cause of death in the world. In at least 5 Africans countries, more than 20 percent of adults are HIV-positive.

The AIDS epidemic is more devastating than wars: in 1998 in Africa, 200,000 people died from armed conflict; 2.2 million died from AIDS—more than 5,000 Africans died every day from the disease.

This week, the U.S. Census Bureau announced new demographic findings for Africa. Because of AIDS, Botswana, Zimbabwe and South Africa will experience negative population growth in the next five years. Without AIDS, these countries would have experienced a 2–3 percent increase in population. Children born within the past 5 years in Namibia, Swaziland and Zimbabwe can expect to die before the age of 35. Without AIDS, their life expectancy would have been 70. In addition, a new and very troubling statistic was announced this week: UNAIDS reported that 55 percent of all HIV-infections were in women. So AIDS is not only robbing societies of young women but also of the child they might have had.

It is not hyperbole to say that this is Africa's worst social catastrophe since slavery, and the world's worst health crisis since the bubonic plague.

Other parts of the world are going down the same path as Africa. Infection rates in Asia are climbing rapidly, with several countries, especially India, on the brink of large-scale expansion of the epidemic. When I was in India in December, epidemiologist from our government as well as Indian officials admitted that the number of cases in Asia could surpass those of Africa by the year 2010.

In addition, countries of the former Soviet Union and Eastern Europe are especially vulnerable, as Russia is experiencing one of the highest increases in infection rates of any single country in the world last year. Is this the kind of world we want for the 21st century? In this age of remarkable biotechnical and biomedical breakthroughs, when we have cures of impotence and treatments for depression, do we want to ignore a public health crisis of biblical proportions? When we're talking about the democratization of the developing world, when we're talking about the triumph of capitalism and open markets, when we're talking about the benefits of globalization, we cannot remain silent—as rich as we are in talent, technology and money—about the threat AIDS poses to our national security.

Mr. President, last week, the 13th annual International Conference on AIDS was taking place in Durban, South Africa. It was the first time this international conference is being held in a country in the epicenter of the AIDS pandemic in the developing world.

A number of important breakthroughs have been announced from the Conference and the Senate should be aware of them:

Pharmaceutical companies have announced that they are prepared to offer their life-extending therapies to the developing world at no cost or at a very discounted rate. Merck will provide Botswana with $100 million in medicine over the next five years. Abbott Laboratories confirmed that it will initiate a charitable program in Tanzania, Burkina Faso, Romania and India. Boehringer Ingelheim will give away one of the most important drugs in preventing the transmission of HIV from mother to child—Viramune—to developing countries over the next 5 years. Similarly, Pfizer recently promised to give South Africa its effective product—Diflucan—which is used for treating a deadly brain infection associated with AIDS.

These are all important developments. Access to these pharmaceutical products has historically been prevented by high price, and these companies should continue to work with governments and philanthropies like the Bill & Melinda Gates Foundation—which today is announcing another $90 million in grants to combat AIDS in the developing world. The contribution made by Bill and Melinda Gates to fighting infectious diseases cannot be overstated. Through their philanthropy, they have given countries which are being ravaged by disease a fighting chance.

Fighting and winning the war against AIDS is more than just giving away medicine. We must continue to bolster the research into a cure. To this end, a number of significant biomedical breakthroughs have come out of Durban. The most significant is the announcement by the International AIDS Vaccine Initiative of human trials of a new vaccine candidate against AIDS. Development of an effective AIDS vaccine is critical especially in Africa where preventive measures—such as encouraging change in high-risk behaviors and debunking deadly myths—will do little to slow the spread of HIV in countries which have a 20 or 25 percent infection rate. It is clear that the only hope for these countries is a cure: that means, developing an effective vaccine and assuring its affordable distribution.

And, we have a responsibility to act in this increasingly intertwined world because, together with all the benefits associated with globalization, we also now are facing a range of new threats that know no borders and move without prejudice—international crime, cyber-terrorism, drug-trafficking and infectious diseases.

We are seeing a rise in the number of previously unknown lethal and potent disease agents identified since 1973—the ebola virus, hepatitis C, drug-resistant tuberculosis, West Nile virus and HIV. These diseases affect all of us, including American citizens. New Yorkers know the scare associated with these heretofore unknown diseases—last summer New York City was held captive by an encephalitis scare and new outbreaks this year have already been spotted in pigeons. There was a shock in the scientific community when it was discovered that outbreak of the mosquito-borne disease in New York was not, as scientists had believed, St Louis encephalitis: instead, it was a deadly variant of West Nile virus, a disease hitherto found only in Africa, the Middle East and parts of West Asia. United States health officials now fear that the disease may now become prevalent in the Americans. Similarly, it is foolhardly and dangerous to believe that any infectious disease can be adequately contained in one region. We are all at-risk.

Militaries are not immune; in fact, they are in some cases even more susceptible to upheaval and instability

from infectious diseases, especially AIDS. Some militaries in Africa have HIV-infection rates which top 40 percent. These military forces could be part of the solution for democratization in Africa in terms of peacekeeping and conflict prevention; instead, African armed services are losing their military effectiveness and adding to the social instability.

It is projected that Africa will be home to 40 million children, orphaned by AIDS, by the year 2010. Zambia is a country of 11 million people—half a million of them will be AIDS orphans. We know from other regions of the world—like Cambodia and Burma—that exploited children are common targets by rogue militias and narco- and other criminal organizations. It is clearly in our interest to stem this activity.

Likewise, economies are not immune. In fact, development of the last 20 years is being reversed in the countries hardest-hit by AIDS. AIDS cost Namibia almost 8 percent of its GDP in 1996. Tanzania will experience a 15 to 25 percent drop in its GDP because of AIDS over the next decade. Over the next few years, Kenya's GDP will be 14.5 percent less than it would have been absent AIDS. AIDS consumes more than 50 percent of already meager health budgets. In many African countries, the total annual per capita health-care budget is $10. 80 percent of the urban hospital beds in Malawi are filled with AIDS patients—all is a direct threat on evolving democratic development and free-market transition. Mozambique and Botswana have two of the world's fastest growing economies but this economic growth cannot be maintained when those countries' workforces are being decimated with the daily deaths of hundreds of people in their most productive years. In the Cote d'Ivoire, a teacher dies of complications associated with AIDS every school day. In South Africa, businesses owners often hire and train two employees for one job, knowing that one will probably die from AIDS.

As we celebrated the passage this year of the Africa Trade bill, how can we seriously think that a vibrant market for products or investment can be formed on a continent which will lose up to 20 percent of its population in the next decade? To lure investors, the continent has already had to battle underdevelopment and racism, but now, some people in the developed world will see Africa as only as a place of disease. This is wrong and it is a direct threat to our national economic interests.

Governments are not immune. This epidemic is causing leadership crises in some African countries. President Benjamin Mkapa of Tanzania reported last week that ''some ministries lose about 20 employees each month to AIDS.''

African governments are grappling with the devastation wrought by HIV on their economies and their societies. It is difficult to fathom the challenges they face with this public health crisis, and some of the actions sometimes baffle western observers. Some critics have recently pointed to the questions raised by President Thabo Mbeki of South Africa as to the origins of AIDS and as to the proper course of treatment. When it comes to dealing with AIDS, there are moral questions, there are budgetary constraints, there are political decisions. But there are also some biomedical truths. Senator FRIST and I have discussed these issues with the distinguished ambassador from South Africa and followed up with President Mbeki when he came to Washington on a state visit. Leadership is necessary from both the United States and from Africa—this issue cannot be solved by one nation alone. But no one country can ignore it either. President Mbeki has focused his attention on fighting the AIDS epidemic by fighting poverty. In his remarks in Durban, he missed an opportunity by refusing to state unequivocally that HIV causes AIDS. And, I fear, his questions will allow those who engaged in risky and unsafe practices to continue. Only bashing pharmaceutical companies is not helpful in the fight against AIDS, and the participants at the International Conference on AIDS rightly passed a resolution in support of the tested science of AIDS.

One can argue—and I do not at all subscribe to that argument—that Africa does not matter to the security interests of the United States. Some even mock the suggestion. I believe that this is not an issue of which any decent rational human being can be dismissive. One humanitarian terms, on political terms, on cultural terms, on economic terms, on historical terms, no one should dare be dismissive. We are linked to everything that is happening in Africa, starting back to our nation's and civilization's earliest history, and we are now tied by the new forces of globalization and technology. And I hope that we will always be tied by who we are and what we are as nation. This really tests the fiber of our country, in a sense, and questions whether we are prepared to deal with this threat.

But even if you subscribe to the view that the AIDS disaster in Africa is not a threat to our national security, you have to at least recognize that unfettered spread of this horrendous virus to other regions of the world—including North America—is certainly a threat. As goes Africa, so goes India and China—and no one in this Senate can make the argument that an India or a China, destabilized by a public health catastrophe, can be ignored in terms of our national security interests.

The window of opportunity is now open to making a real difference in Africa and improving global health, and that is why I am so pleased that the Senate is acting with all dispatch to make a significant contribution to fighting the epidemic in Africa. This bill builds upon the work of many of our most thoughtful and distinguished colleagues. It includes initiatives that Congresswoman NANCY PELOSI, Senator FRIST and I began many months ago to speed vaccine development, to deal with AIDS orphans and to alleviate the suffering of those infected with HIV on the African continent. It also incorporates the plan Senator FRIST, Congressman LEACH and I have devised to inaugurate AIDS prevention grants from the World Bank. Senator DURBIN and I proposed a plan to assist AIDS orphans, and the spirit of that legislation is found throughout this bill. Senator BOXER and Senator GORDON SMITH have called for funding increases to AIDS prevention programs in Africa; Senator MOYNIHAN and Senator FEINGOLD have a proposal to target money to prevent further infection among infants. Their contributions can be seen in this bill.

The work of the appropriators has been and will continue to be vital in funding programs to assist Africa. I commend Senator LEAHY and Senator MCCONNELL for increasing funding for the existing appropriations accounts on global health in the Foreign Operations bill and I am very grateful that they have agreed to fund the Global Alliance for Vaccines and Immunizations (GAVI) which I have been urging for a year now.

I would also like to acknowledge the significant contribution of the distinguished Senator from North Carolina, Mr. HELMS. I commend the Chairman and our ranking member, Senator BIDEN, for their leadership. They have ensured that this session will not close until we have passed the largest single response by our Nation to the global AIDS epidemic.

It is my hope that the other body will move to pass these vital proposals with all necessary speed. It is clearly in our national interests—security, economic, political, health and moral—to do all we can to solve this crisis. Let me be clear on this, Mr. President, my commitment to this issue is not transitory. I will not rest on this legislative victory. I will be back next year and every year after that until this public health disaster is over.

Mr. FEINGOLD. Mr. President, I rise in support of the Global AIDS and Tuberculosis Relief Act of 2000. This bill recognizes the awesome and terrible scope of the HIV/AIDS epidemic, and responds with what is truly required to address it—a program far more comprehensive and substantial than what is entailed in the status quo.

The numbers one must use to describe the crisis are numbing. More than 70 percent of all people living with AIDS live in sub-Saharan Africa, and as the ranking member of the Senate Subcommittee on Africa, I have seen firsthand the devastating toll that the disease has taken in the region. In Africa alone, 15,900,000 people have died because of AIDS, and the World Bank has identified the disease as the fastest-growing threat to development in the region. Life expectancies are dropping dramatically, and the social fall-

out from this horrific upheaval has forced us to confront the disease not just as an epidemiological threat, but as a security threat as well. Nearly 4,500,000 children have HIV and more are being infected at the rate of one child every minute. According to UNAIDS, by the end of 1999, AIDS had left 13,200,000 orphaned children in its wake.

This bill is a serious effort to confront this monstrous crisis. It will provide hundreds of millions of dollars in assistance to strengthen prevention efforts, to combat mother-to-child transmission, to improve access to testing, counseling, and care, and to assist the orphans left in the wake of the disease. Through a new AIDS trust fund, it will leverage U.S. assistance with a multilateral approach and through innovative partnerships with the private sector. The bill provides support to the Global Alliance for Vaccines and Immunizations and to the International AIDS Vaccine Initiative, so that even as we address the urgent needs of the present, we work toward a solution in the future. The bill insists that AIDS education be provided to troops trained under the auspices of the African Crisis Response Initiative. It recognizes the inextricable link between HIV/AIDS and the resurgence of tuberculosis. It goes beyond the President's request and beyond anything that this Congress has contemplated since the epidemic began.

The bill is not perfect, of course. The needs are great and the problem multifaceted. I would still like to see this Congress address the important issue of access to pharmaceuticals, and to put strong language into statute that would prohibit the executive branch from pressuring countries in crisis to revoke or change laws aimed at increasing access to HIV/AIDS drugs, so long as the laws in question adhere to existing international regulations governing trade. This bill does not absolve this Senate of a continued responsibility to address the global AIDS crisis. But it is remarkable, all the same.

This bill has the unanimous support of the Senate Foreign Relations Committee. Senators HELMS, BOXER, FRIST, KERRY, and BIDEN have worked on it tirelessly. It includes provisions originally drafted in the Mother-to-Child HIV Prevention Act, a bill authored by Senator MOYNIHAN of which I was proud to be an original co-sponsor. It reflects the admirable work of the House and in particular of Congresswoman BARBARA LEE and Congressman LEACH, and it should reach the President's desk quite quickly. Rarely does such a substantive, ground-breaking bill enjoy this degree of bipartisan consensus. It is a tribute to my colleagues and a testimony to the undeniable magnitude and urgency of the crisis that the Senate stands ready to pass this legislation today.

Just days ago, U.S. Ambassador to the United Nations Richard Holbrooke testified before the Senate Foreign Relations Committee. When he was speaking about the AIDS crisis, he spoke of its impact and of the place the epidemic has already taken in history, and said, ''All of us will have to ask ourselves, when our careers are done, did we address this problem?'' This bill is an important part of the answer to that question.

Mrs. BOXER. Mr. President, today the Senate is taking a big step forward in the fight against international AIDS and Tuberculosis. Today's passage of H.R. 3519, the Global AIDS and Tuberculosis Relief Act of 2000, will help those throughout the world who are suffering from these deadly infectious diseases.

I am particularly pleased that this legislation includes two bills that I introduced earlier in the 106th Congress. In February, I introduced the Global AIDS Prevention Act (S. 2026). This legislation authorizes $300 million in bilateral aid for those nations most severely affected by HIV and AIDS. It calls on the United States Agency for International Development to make HIV and AIDS a priority in its foreign assistance program and undertake a comprehensive, coordinated effort to combat HIV and AIDS. This assistance will include primary prevention and education, voluntary testing and counseling, medications to prevent the transmission of HIV and AIDS from mother to child, and care for those living with HIV or AIDS.

H.R. 3519 also includes legislation I introduced last year, the International Tuberculosis Control Act (S. 1497). This bill authorizes $60 million in aid to fight the growing international problem of tuberculosis. With this legislation, the United States Agency for International Development will coordinate with the World Health Organization, the Centers for Disease Control, the National Institutes of Health, and other organizations toward the development and implementation of a comprehensive tuberculosis control program. This bill also sets as a goal the detection of at least 70 percent of the cases of infectious tuberculosis and the cure of at least 85 percent of the cases detected by 2010.

H.R. 3519 has other important provisions as well. The bill includes a $10 million contribution to the International AIDS Vaccine Initiative and a $50 million contribution to the Global Alliance for Vaccines and Immunizations. It also contains provisions calling for the establishment of a World Bank AIDS Trust Fund with the Secretary of the Treasury authorized to provide $150 million for payment to the fund.

I want to thank all of the members of the Senate Foreign Relations Committee for their work on this legislation. I am particularly grateful for the efforts of Chairman HELMS in pushing this bill forward.

This is an important step in the fight against AIDS and TB. I have no doubt that greater resources will be needed in future years to continue this effort. I am hopeful that the Senate will continue to treat the issue of infectious diseases with the seriousness it deserves.

There are 34 million people today living with HIV/AIDS, and one-third of the world's population is infected with tuberculosis. Much more needs to be done, and I am proud of the Senate for taking this action today.

Mr. BENNETT. Mr. President, I ask unanimous consent that the bill be read a third time and passed, as amended, 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. 3519), as amended, was read the third time and passed.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT OF 2001—MOTION TO PROCEED—Continued

Mr. BENNETT. Mr. President, I will now turn to the subject that has been raised today and yesterday and last week and repeatedly in the last few weeks. That is the subject of why the Senate is not proceeding on the pace and with the vigor we all think it should. We have heard from the Senator from Rhode Island and others today about how the majority leader has somehow dictatorially brought everything to a terrible halt and wouldn't it be wonderful if we went back to the great spirit of cooperation and comity that allows us to get things done. I agree absolutely that it would be wonderful to return to the spirit of cooperation and comity that would allow things to be done, but I think it is pointing the finger in the wrong place to attack the majority leader.

Let me share with you my experience this last week. Monday of this week was July 24, which in my home State is the biggest day of the year. July 24 happens to be the day that Brigham Young and the first group of Mormon pioneers entered Salt Lake Valley and put down roots that have now become not only Salt Lake Valley but the State of Utah. Every year we celebrate that historic event with a major parade. It is one of the requirements for a politician to be in that parade. Senator HATCH and I always confer about whether or not we will be able to make the parade because we don't want to miss votes. There have been times when we have had to miss the parade to be here to do our appropriate duty.

On Friday of last week, I went to the staff of the leadership and said: What is going to happen on Monday? I was told: We will be on energy and water. There will be amendments and there will be votes.

I then went to the subcommittee chairman of the Appropriations Committee and said to him—this being Senator DOMENICI—how important will the votes be and how many will there be?

Senator DOMENICI said: Well, there will be several votes, but I think they will be relatively unimportant ones. They will not be close.

I said: Well, Senator, I think under those circumstances, I will go to Utah and ride in the July 24 parade. If you can assure me that it will not create an undue hardship for you with respect to passing important amendments that my vote would not be absolutely essential, I think I will go to Utah.

He told me: Senator, you can go to Utah. I will see to it that the amendments that we vote on on Monday will not be so close that your vote would have made that much of a difference.

So I went to Utah. When I got back, I said to my staff: How many votes did I miss and how important were they? I found out I didn't miss any votes. The Senate didn't vote. Why? The Senate didn't take up the bill. Why? Because the minority objected to the motion to proceed, and the majority leader was required to file a cloture motion on the motion to proceed to consider the bill.

I have made the statement in this Chamber before that based on my experience, I can remember a time when no one ever objected to a motion to proceed. A filibuster on the issue of the motion to proceed was something that was unheard of from either side. We have been told this afternoon ''couldn't we go back to the time when people got along with each other'' from the same side of the aisle that has said: We will filibuster the motion to proceed.

So the majority leader had to file a cloture petition. He filed the cloture petition. We voted on it. When we voted on it, it was passed overwhelmingly, if not unanimously. That raises the question: Why did we go through this exercise? Why couldn't we have been on the bill at the time we were scheduled to be on the bill? Why are we in this situation now when we are under a cloture situation running off 30 hours on the clock so we can then finally get around to voting on the bill, knowing that as soon as we get through with this one, there will be another one where there will be objection to the motion to proceed, the requirement that a cloture petition be filed, and the running off the clock again?

There are various ways to defeat legislation. One of them is to delay it. I said once before, I worry this Chamber has started to move from being the world's greatest deliberative body to being the world's greatest campaign forum. I am distressed by reports in the popular press that say that the Vice President and his party intend to run against a do-nothing Congress. We are doing everything we can to make this a do-something Congress, but there are forces at work to try to create the prophecy of a do-nothing Congress into a self-fulfilling prophecy.

It can be done in such a way that the public at large doesn't understand what is going on. The public at large doesn't know what cloture means. I go home to my constituents and I try to explain what is going on. They don't understand what the motion to proceed is. They don't understand the rules of the Senate. You talk to them about unanimous consent agreements that are not being agreed to, agreements that are made between the two leaders that then get set aside and cloture petitions, their eyes glaze over when you start talking like that. They come back to you—these are my constituents—and they say: Why aren't you getting your work done?

When you have to make these kinds of explanations, the public gets impatient, which plays into the hands of those whose electoral strategy is run against a do-nothing Congress. I have started to use that language, as I explain to my constituents why we are not getting the people's work done. I say to them very deliberately—and it pains me because I do not want to cast clouds over this institution, but I believe I have to say it anyway—there are those who want to run against a do-nothing Congress who are determined to create a do-nothing Congress. And in the Senate, the rules are such that you can do that. The rules are such that even if you are in the minority, if you want to bring this place to its knees and bring it to a halt, you can do that.

I have been in the minority. I have heard some of my fellow party members in the minority say: We have to bring this place to a halt; we have to shut it down. I am glad I didn't participate in the attempts on the part of the minority to shut this place down when George Mitchell was the majority leader; when George Mitchell did many of the things that TRENT LOTT is now being accused of doing; when George Mitchell said: We have to do the people's business, even if it means, as majority leader, I exercise something of an iron fist to make sure we do the people's business; I will do it and we will get the people's business done. Those on this side of the aisle who said in my hearing, ''let's shut this place down,'' did not prevail.

I did not participate with them, and I am proud of that fact, that we did not attempt to shut this place down. Were we frustrated? Absolutely. Were we upset? Absolutely. Did we engage in filibusters, yes, straight up. My assigned time was from 1 to 2 o'clock in the morning in a filibuster, when George Mitchell said: If the Republicans are going to filibuster us, let's go around the clock. I was very up front about it. I believed the bill that we were talking about was sufficiently bad that I was willing to take my turn from 1 to 2 o'clock in the morning to see to it that the bill didn't pass.

That is part of the game around here. That is the way the rules are structured. I have no problem with that. But objecting to the rule to proceed, which is the kind of thing the public doesn't understand, but that all of us understand, is a stealth filibuster. It is an attempt to slip under the public awareness, shut this place down, and create a situation where you can then run against a do-nothing Congress.

I remember the first person to run against a do-nothing Congress—Harry Truman. I remember what Harry Truman did. It was very different from what is being done here. Let's get a little history here.

Harry Truman was President of the United States by virtue of Franklin Roosevelt's death. He had not run for President, he had not been elected, and he was not very popular in the country. The Republicans controlled both Houses of Congress as a result of Harry Truman's lack of popularity, and they were absolutely sure they were going to win the 1948 election. So they were determined they were not going to pass any legislation that Harry Truman could veto. They were going to wait until Thomas Dewey became President of the United States, and then they were going to pass their legislation for a President who would sign it.

They held the Republican National Convention, and in the convention they outlined all of the things they were going to do, once they were in power, in both the Congress and the executive branch. Well, Harry Truman called their bluff. Harry Truman said: If that's what the Republicans really will do when they are in charge, let them do it now. He called the Congress back into session after the Republican convention and said to them: Here is your opportunity. Here is your platform. Pass your platform.

Well, Robert Taft, who was the dominant Republican—the man whose picture graces the outer lobby here as one of the five greatest Senators who ever lived—made what I think was a miscalculation. He thought Harry Truman was so unpopular in the country at large that the Congress could thumb its nose at the President of the United States, and he said: We are not going to do anything in this special session that the President has called us into. We are not going to play his game.

So the Republican Congress adjourned after that special session without having done anything—deliberately, without having done anything. Harry Truman then went out and ran against the do-nothing 80th Congress and got himself elected in his own right as President of the United States. It was one of the great political moves of this century.

That is not what we are dealing with here. We are not dealing with a Republican Party that doesn't want to act. We are not dealing with a Republican Party that doesn't want to solve the people's problems. We are dealing with a Republican Party that is trying desperately to perform the one absolutely required constitutional function that the Congress has, which is to fund the Government. We are trying to pass appropriations bills to fund the Government, so that there will not be a Government shutdown, there will not be a continuing resolution, there will not be a crisis at the end of the fiscal year.

When we try to move to the bills that will fund the Government, we run into procedural roadblocks on the part of those who are then talking about running against a do-nothing Congress. That is what is going on here.

If we have to say it again and again and again, so that our constituents finally begin to understand it, I am willing to say it again and again and again. We have discovered that one of the strategies being played out in this great campaign forum is to take an amendment that is seen as a tough political vote, bring it up, see it defeated, and then the next week bring it up again, and then complain when the Republicans say we have already voted on that; we don't need to vote on it again. Oh, yes, you do, says the leadership on the other side; let's vote on it again.

If we vote on it again and defeat it, thinking, OK, we have had a debate and we have taken our tough political votes and we have made it clear where we stand on this issue, let's move forward, no, we are told somehow when you want to move forward without bringing up this amendment again: You are thwarting the will of the Senate; you are turning the Senate into another version of the House of Representatives if you won't let us vote on this controversial amendment a third time.

If it gets voted on a third time, then it comes up a fourth time. If it gets voted on a fourth time, it comes up a fifth time. Every time the majority leader says: We have done that, we have debated that, we have voted on that, he is told: No, if you take a position that prevents us from voting on it again, you are destroying the sanctity of this institution.

Well, now we are being told we are interfering with the President's constitutional right to appoint judges. I find that very interesting because this Congress has confirmed more judges in an election year than previous Congresses. Quoting from my colleague, the chairman of the Judiciary Committee, and therefore in a position to have the statistics, there are fewer vacancies in the Federal judiciary now than when the Democrats controlled the Congress and the Republicans controlled the White House in an election year. If I may quote from Senator HATCH:

> Democrats contend that things were much better when they controlled the Senate. Much better for them, perhaps. It was certainly not better for many of the nominees of Presidents Reagan and Bush. At the end of the Bush administration, for example, the vacancy rate stood at nearly 12 percent. By contrast, as the Clinton administration draws to a close, the vacancy rate stands at just 7 percent.

Well, turning it around, the vacancy rate we are facing now is roughly half that which a Democratic Senate gave to President Bush as he was facing reelection. Oh, but we are being told: No, there are judges who have languished for a long time; therefore, we should have a vote on the judges whose names have been before us the longest before we have a vote on the judges who may have been nominated more recently, and it is terrible to hold a judge or any nominee for a long period of time. We need to give him or her a vote. We need to bring the names to the floor of the Senate, and the minority leader should decide which name is brought to the floor of the Senate.

I remember when I first came to this body, I was assigned to the Banking Committee. There was a nominee sent forward by President Clinton whom the chairman of the Banking Committee didn't like. The chairman of the Banking Committee at the time was, of course, a member of President Clinton's own party. But his objection, as I understood it—and I may be wrong—was that this particular nominee had too much Republican background on his resume, that this particular nominee had not been ideologically pure enough for the chairman of the Banking Committee.

As I say, that is my memory, and I could be wrong. But that was the very strong position on the part of the chairman of the Banking Committee. That nominee didn't come up for a hearing before the Banking Committee for the entire 2 years that the Democrats controlled the Banking Committee and that man was the chairman. Any attempt on the part of anybody else to get that particular nomination moving was thwarted by the chairman.

Now, what if the then-minority leader, Senator Dole, had come to the floor and said we will not allow anything to go forward until this nominee comes to the floor for a vote?

How would people have reacted to that kind of action on the part of the minority leader if the entire minority had gathered around him, and said: We will stand with you, we will filibuster the motion to proceed, and we will do everything we can to bring the Senate to a complete halt until this nominee that has languished in the Banking Committee for almost 2 years is brought forward? I am pretty sure I know what George Mitchell would have told Bob Dole. I am pretty sure I know what the majority leader would have said under those circumstances. It probably would not be as mild as the comments TRENT LOTT is currently making about the present demands that are being made with respect to specific judges by name—not the agreement that the minority leader and the majority leader made where the majority leader said: All right, we will move forward on judges; we will bring a determined number of judges forward—but to say, no, we are now changing, and we are demanding a specific name be brought forward or we will shut the whole place down, and then come to the floor and say somehow the work of the people is not getting done.

I am willing to take the tough votes that are being referred to on the floor. I have taken the votes on guns. I have taken the votes on abortion. I have taken the votes on minimum wage. I have taken the votes on Patients' Bill of Rights. I have taken the votes on prescription drugs for seniors. I have a record now that I will have to stand and defend before my constituents. Those votes have been taken because the minority has had the right to bring up every one of those issues and demand a rollcall vote.

I don't apologize for the fact that I backed the majority leader in his position that we don't need to take those votes again. While we are in the process of trying to fund the Government and discharge our constitutional responsibility, we don't need to sidetrack that business to go over old ground. If there is an election that has come up so that there are new people here and the electoral balance has shifted, it obviously makes sense to take those votes against. But to have the same people in the same Chamber in the same Congress in the same session repeat the votes again and again and again doesn't make any sense when the process of debating each one of those votes again and again and again delays the whole legislative process to the point that we get to what I sadly have come to the conclusion is the goal here, which is to create a do-nothing Congress so that some people can run against a do-nothing Congress.

If it means the majority leader has to get as tough as George Mitchell, if it means the majority leader has to be as firm as his predecessors, who were Democrats who were firm in order to move the people's business, I support the majority leader. It does not disgrace this body. It does not take this body away from its traditions. It is in the tradition of the body to move legislation forward and get the people's business done.

I applaud Senator LOTT for his courage and his leadership in moving us in that direction.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. BENNETT. Mr. President, will the Senator yield for a leadership motion?

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. SMITH of Oregon. I yield to the Senator to make a request.

UNANIMOUS CONSENT AGREEMENT

Mr. BENNETT. Mr. President, I ask unanimous consent that at the hour of 5 p.m. the Senate proceed to adopt the motion to proceed to the Treasury/Postal appropriations bill; that immediately after that the Senate vote on cloture on the motion to proceed to the intelligence authorization bill; that immediately after that vote, regardless of the outcome, the Senate proceed to a period for morning business until the Senate completes its business today, and that the preceding all occur without any intervening action or debate.

I announce that the cloture vote regarding the motion to proceed to the

intelligence authorization bill which will occur at 5 p.m. this evening will be the last vote today. We would then go into a period for morning business and conclude the session for the day with the exception of any conference reports or wrap-up items that may be cleared for action.

I further ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:30 a.m. tomorrow; that the call of the calendar be waived and the morning hour be deemed to have expired; that there then be a period for eulogies for our former colleague Senator Coverdell as previously ordered; that following the swearing in of our new colleague, ZELL MILLER, at 11 a.m. and his eulogy of Senator Coverdell, the Senate adopt the motion to proceed to the intelligence authorization bill, if its pending, and then vote on the cloture vote on the motion to proceed to the energy/water appropriations bill, and that the preceding all occur without any intervening action or debate.

The PRESIDING OFFICER. Is their objection?

Mr. REID. Reserving the right to object, Mr. President, I want to say to my friend from Utah, for whom I have the highest regard, he is a great Senator. I have personal feelings toward him that he understands. But I want to just say a couple of things before we settle this little bit here.

I served under George Mitchell. Never did Senator Mitchell prevent the minority from offering amendments. That is our biggest complaint in this body—that the majority will not allow the minority to offer amendments. We believe the Senate should be treated as it has for over 200 years. If that were the case, we wouldn't be in the situation we are in now.

I also say to my friend that the percentage on the judges doesn't work because we are dealing with a larger number. Of course, if you have a larger number of judges, which has occurred since President Reagan was President, you could have a smaller percentage. That means a lot more judges. As we know, you can prove anything with numbers.

I also say that one of the problems we have with judges is my friend from Michigan has one judge who has waited 1,300 days. That is much shorter than the 2 years my friend talked about in regards to the Banking Committee. In fact, I think the majority is protesting too much.

I withdraw my objection.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BENNETT. Mr. President, in light of this agreement, a rollcall vote will occur at 5 p.m. today on the motion to proceed to the intelligence authorization bill. Another rollcall vote will occur at approximately 11:30 a.m. on Thursday on the motion to proceed to the energy and water appropriations bill.

I thank the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. HARKIN. Mr. President, will the Senator yield for a unanimous consent request?

Mr. SMITH of Oregon. I would be happy to yield for a unanimous consent request.

Mr. HARKIN. Mr. President, I ask unanimous consent that when the Senator from Oregon finishes his remarks, the Senator from Iowa be recognized to make some remarks.

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

The Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, I thank you for the time. I am here today at the request of my leader. I am here today to talk to the people of Oregon and to the American people.

I am often asked in townhall meetings why it is that we don't seem to be getting much done. Every time people turn on C-SPAN they see Republicans and Democrats bickering. I have said to them: I know it is frustrating. I know you do not like it. I know it sometimes isn't pleasant. But, frankly, rather than criticize it, we ought to celebrate it because this is the way we go about the business of government of a free people—of exchanging ideas, and using words as our weapons and not actually bullets.

This contest between Republicans and Democrats is not an unhealthy thing. But I must admit to the American people and to the people of Oregon that what I see happening on the Senate floor right now is nothing to be celebrated.

I came to the Senate looking for solutions—not looking for a fight. I don't mind a good debate. I don't mind differences of opinion. I don't mind taking tough votes. Frankly, I have learned that the tough votes are sometimes the most memorable because they are difficult. They set you apart. They make you come to a choice. Like Senator BENNETT said, I have taken all of these tough votes that my Democratic friends have wanted me to take, and they have taken some that we wanted them to take. However, I have to say that now is not a moment to be celebrated because of what I have been hearing since I came back from this last weekend.

I have heard from colleagues on both sides of the aisle that this session of Congress is essentially over, that right now politics is going to prevail over policy, and that there will be gridlock until the election so that the greatest political advantage can be made out of the Congress.

I am disappointed in that. I didn't come here for that. I didn't fight as hard as I did to win a seat in this body to just play that kind of a game.

I find on the Democratic side people of honor and good will. I hope they find that in Republicans. Frankly, I think we are allowing the worst of our natures to take over right now. I am disappointed. I am very disappointed.

I understand that the White House is now telling our leaders that unless we accede to every one of the President's demands, that we will be blamed for shutting the Government down because he won't sign any tax cut, he won't sign any appropriations bill. We are just going to be made the victims of this. I say to my friends in the White House, this is an overreach. This goes too far.

The American people will judge this for what it is. I think we owe the American people something better than that. I think we owe them the truth. I think we owe them our best efforts. I think the politics shouldn't be so blatantly transparent that it brings shame upon the Senate.

I am here with a heavy heart because I want to get something done. I have sat in the chair many times and begun to see this filibuster mentality build up among the minority that rails against these tax cuts that we have passed, to eliminate estate taxes, to eliminate the marriage penalty. They don't have to like it, they voted against it.

I will say why I voted for them. There is an overarching reason why I vote for tax cuts. I believe in times of surplus and prosperity there is a point when we can say we are taking too much and we believe it can do more good in the general economy and we will put some back. Tax cuts go to taxpayers. When it comes to specific taxes, for example, the estate tax, I will state why I voted to change the nature of that tax, to eliminate the incidence of debt as the tax, and to shift it over to the sale of an asset as the incidence of taxation. I don't believe it is any of the Government's business how my heirs receive my estate. I think that is about freedom. I think that is about people saying: I am going to work hard and I will accumulate what I can, and I want to determine how my sons and my daughters receive my estate. Then if my heirs are unwise, the marketplace will redistribute that income because of poor choices.

I don't think it is the Government's business to say we are going to determine how this money is redistributed. It is a difference of who you trust. Do you trust Government? Or do you trust freedom? Do you trust people? Or do you trust central planning? That is why I am on this side of the aisle— not because I think there are bad people over there; I know otherwise. There are good people there. But we have a difference of belief in how the public is best served. I think they want more equality. I think we want more liberty. That is the context of the debate here.

I want the American people to know I will defend my vote to my own grave to eliminate the estate tax. I believe the way we have shifted it to a capital gains as the incidence of taxation is far more consistent with notions of freedom than reaching into somebody's grave and saying we are going to distribute it a new way, a Government way. That is not the America that I believe in.

When it comes to the marriage penalty tax cut, they are complaining again that too few people will benefit. You say it affects people disproportionately. But many married people will benefit. Again, it is hard to give tax cuts to those who don't pay taxes. I am not ashamed of voting to cut taxes for married people. Some people say that is unfair. However, I think we ought to incentivize marriage. It is a cornerstone of our society. Take religion out of it. Sociologists and psychologists will say for a child to have the best chance in life they need a mom, they need a dad. Those are the kinds of things we ought to be incentivizing—not penalizing.

Without any embarrassment, I am proud to have voted to end the marriage tax penalty and the death tax penalty. These are bad tax policies. We have voted to end them. If they don't like the distribution of them, fine. But we have cast these votes. They voted one way; we voted another. We have taken their tough votes. As Senator BENNETT said, we have taken the gun votes. We have taken the votes on abortion. We have taken a whole range of votes. We have taken a vote against their prescription drug plan.

Let me go to prescription drugs for a minute. I am a member of the Budget Committee. I have sensed in the people of Oregon a real desire for a prescription drug benefit. I want to deliver for that. Because of that, I went into the Budget Committee when we created this template in the U.S. budget, determined to stand with my colleague, RON WYDEN, to accede the President's request for a prescription drug benefit. The President requested $39 billion. RON, OLYMPIA SNOWE, and I decided together we have a majority if the Democrats will vote with us. We felt strongly that we should deliver on this promise and this need.

We got the Budget Committee to exceed the President's request of $39 billion. We went to $40 billion. However, I was a little bit discouraged—even felt somewhat betrayed—when a few months later the President says, just kidding, we need $80 billion. Double? From where did the original $39 billion come? Why all of a sudden, $80 billion? Don't the American people want Congress to be responsible for this? I put everyone on notice, I am being told in the Budget Committee that $80 billion won't even begin to cover this. Now what we are looking at under the President's program, is a one size fits all plan. A Government bureaucrat will be in your medicine cabinet and making choices for your health. A plan, by the way, that doesn't even take effect when we pass it—3 years hence. How is that keeping faith with the American people? They cannot even begin to tell you what it costs.

This is not the way we should make these fundamental decisions about the health of the American people and the health of our Government's budgets. I hope everybody understands that. I am being told that come October 6, when we are supposed to sine die, if we haven't passed the President's version we are going to be put in a position that we are made to look as if we are shutting the Government down.

People of America, you do not want Congress making these fundamental irreversible decisions on such a basis. These are important issues. We should not be giving in to this kind of political pressure for expediency, for an election. We should do it carefully. We should do it right. When it comes to prescription drugs, I will spend what I have to make sure you have a choice, that it is voluntary, and that it is affordable.

Under the President's plan, I bet there is better than half of the American people who would be eligible for it, who would not pay less for prescription drugs, yet would be forced to pay more. Is that what we want? That is not voluntary. That is about Government central planning. That is about a bureaucrat in your medicine cabinet. That is a plan for which I will not vote.

I believe in the marketplace. I believe in freedom. I believe Government has a role. I believe we ought to have a safety net. But I don't believe we ought to be going to a system that says the Government knows best and a bureaucrat can tell you what pill you need to take.

I have talked about taxes. I have talked about the budget. I have talked about prescription drugs.

Let me end by talking a little bit about this other great frustration I hear from the people of Oregon and that is the cost of gas, the cost of energy.

There is plenty of blame to go around, I am sure. I am not defending big oil. I am not defending the Government, either. But what I am telling you is our country has an enormous trade deficit because we are spending over $100 billion per year on foreign oil. When President Carter was the President, we had gas lines and we had shortages. I remember waiting over an hour every time I went to get gasoline. When that occurred, our country was 36-percent dependent on foreign oil. We are 56-percent dependent now. Do you know why? Because in the life of this administration we have had over 30 oil refineries close; we have had leases canceled; we have had no development; and we have had an increasing dependence—not less—on foreign oil. I tell the American people, that is why you are paying too much. That is why you are paying more than you need to, because we are being held hostage to a cartel of foreign nations—many that wish us ill, many that would like to put us over an oil barrel and push us over.

I am saying I don't like drilling for oil. Every one of us drives a car and for a lot of us, the oil that drives that car is refined in Texas. Everyone of us likes the freedom of an automobile. Frankly, I would rather say to the American people: Let your sons and daughters drill for oil so they do not have to die for oil. We are setting them up to die for oil if we do not figure out some better balance between production and conservation.

Conservation is important. I vote for conservation initiatives. But it is not the whole answer. You have to produce something. A third of our trade deficit is due to foreign oil. If you want an independent country, if you want an independent foreign policy, you cannot be totally dependent, as we are becoming, on foreign oil. But there you have it. That has been the policy of this administration.

Finally, our Vice President said he wants to outlaw or get rid of the internal combustion engine. In my neck of the woods, we have the incredible benefit of hydroelectric power. We have low energy rates because of hydroelectric power. But, guess what, they are talking about tearing them down. They want to tear out the most clean, most renewable, most affordable energy supply that we have. Guess what happens when you do that. You lose—the recreation is gone, but, more importantly, you lose the irrigation for farmers, you lose the transportation of goods from the interior all the way from Montana, Idaho, Washington, Oregon to the Port of Portland and around the Pacific rim. You lose the ability to use this system of locks to move vast quantities of agricultural and other commodities.

I don't think we want to do that. I think it is very unwise. If you want to get rid of the internal combustion engine —let's examine this briefly. Right now, to move about a half a million bushels of grain, you need four barges that move through these locks. Four barges use very little energy. It just floats and makes its way to the Port of Portland. Get rid of the locks or dams, guess what, you have to truck them or rail them. How many railcars does it take to replace the four barges? It takes 140 jumbo railcars to move the same volume.

The tracks, the infrastructure is not there to do all the railing. So then you go to trucks, internal combustion engines. Guess how many trucks it takes: Four barges versus 539 large ''semi'' trucks. Guess what creates pollution. Guess what creates damage to your roads. That will do it.

I want to be fair about this. When we are becoming so dependent on foreign oil, so dependent upon foreign energy, so dependent as a superpower on others, I think it is very imprudent to begin tearing out our energy infrastructure.

So I will close, and I say again with a heavy heart, I think right now politics is prevailing over good policy. I think that is too bad. But let me tell you, the real losers will be the American people if the Republican majority caves in to the kind of tactics that say if you don't take everything we want we are going to make you look like you shut the Government down.

There are a lot of us who are earnestly striving to do our duty, as is incumbent upon the majority, to move the business of the people while at the same time being fair to the minority. But how many times do we have to cast the same votes? Please, help us here. I plead with the President. Let's get something done. Let's deal in good faith. We don't have to let politics prevail. Because if we do, the legacy of this President and this Congress will be the words ''it might have been.''

It ought to be better than that. But I, for one, believe in our Republic. I believe in our separation of powers. I will be very disappointed in my leaders if we cave in to a King. We cannot do that. We are not going to cave in to a King. We need to stand up for our institution. Moreover, we need to pay attention to the details of our policy. Because if we work it out with civility, we will work it out right for the American people.

I yield the floor.

Mr. REID. 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. REID. 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. REID. I thank the Chair.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2001—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to calendar No. 654, S. 2507, the Intelligence Authorization Act for fiscal year 2001:

Trent Lott, Richard Shelby, Connie Mack, Ben Nighthorse Campbell, Michael D. Crapo, Rick Santorum, Wayne Allard, Judd Gregg, Christopher Bond, Conrad Burns, Craig Thomas, Larry E. Craig, Robert F. Bennett, Orrin Hatch, Pat Roberts, and Fred Thompson.

The PRESIDING OFFICER (Mr. VOINOVICH). By unanimous consent, the mandatory quorum call rule has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of S. 2507, a bill to authorize appropriations for the fiscal year 2001 for intelligence and intelligence-related activities of the U.S. Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, shall be brought to a close? The yeas and nays are required under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Wyoming (Mr. THOMAS) is necessarily absent.

Mr. REID. I announce that the Senator from Minnesota (Mr. WELLSTONE) is necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. WELLSTONE), would vote ''aye.''

The yeas and nays resulted—yeas 96, nays 1, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—96

Abraham	Enzi	Lott
Akaka	Feingold	Lugar
Allard	Feinstein	Mack
Ashcroft	Fitzgerald	McCain
Baucus	Frist	McConnell
Bayh	Graham	Mikulski
Bennett	Gramm	Moynihan
Biden	Grams	Murkowski
Bingaman	Grassley	Murray
Bond	Gregg	Nickles
Boxer	Hagel	Reed
Breaux	Harkin	Reid
Brownback	Hatch	Robb
Bryan	Helms	Roberts
Bunning	Hollings	Rockefeller
Burns	Hutchinson	Roth
Byrd	Hutchison	Santorum
Campbell	Inhofe	Sarbanes
Chafee, L.	Inouye	Schumer
Cleland	Jeffords	Sessions
Cochran	Johnson	Shelby
Collins	Kennedy	Smith (NH)
Conrad	Kerrey	Smith (OR)
Craig	Kerry	Snowe
Crapo	Kohl	Specter
Daschle	Kyl	Stevens
DeWine	Landrieu	Thompson
Dodd	Lautenberg	Thurmond
Domenici	Leahy	Torricelli
Dorgan	Levin	Voinovich
Durbin	Lieberman	Warner
Edwards	Lincoln	Wyden

NAYS—1

Gorton

NOT VOTING—2

Thomas Wellstone

The PRESIDING OFFICER. On this vote, the yeas are 96, the nays are 1. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

MORNING BUSINESS

Mr. BAUCUS. Mr. President, what is the pending business?

The PRESIDING OFFICER. Under the previous order, the Senate is now in morning business.

EMBARGO ON CUBA

Mr. BAUCUS. Mr. President, this morning we voted on cloture on the motion to proceed to the Treasury-Postal appropriations bill. I rise to address an issue that will certainly arise in the debate. The issue is the U.S. embargo on Cuba as it relates to food and medicine.

Earlier this month, I traveled to Havana along with Senators ROBERTS and AKAKA. It was a brief trip, but it gave us an opportunity to meet with a wide range of people. We met with Cuban Cabinet Ministers and dissidents, with the head of the largest NGO in Cuba, and also with a good number of foreign ambassadors, and with President Fidel Castro himself. I might say that was a marathon 10-hour session, about half of it dining.

I left those meetings more convinced than ever that it is time to end our cold war policy towards Cuba. We should have normal trade relations with Cuba. Let me explain why.

First, this is a unilateral sanction. Nobody else in the world supports it. Not even our closest allies. Unilateral economic sanctions, don't make sense unless our national security is at stake. Forty years ago Cuba threatened our national security. The Soviet Union planted nuclear missiles in Cuba and aimed them at the United States. Twenty years ago, Cuba was still acting as a force to destabilize Central America.

Those days are gone. The missiles are gone. The Soviet Union is gone. Cuban military and guerilla forces are gone from Central America. The security threat is gone. But the embargo remains.

My reason for my opposing unilateral sanctions is entirely pragmatic. They don't work. They never worked in the past and they will not work in the future. Whenever we stop our farmers and business people from exporting, our Japanese, European, and Canadian competitors rush in to fill the gap. Unilateral sanctions are a hopelessly ineffective tool.

The second reason for ending the embargo is that the US embargo actually helps Castro.

How does it help Castro? I saw it for myself in Havana. The Cuban economy is in shambles. The people's rights are repressed. Fidel Castro blames it all on the embargo. He uses the embargo as the scapegoat for Cuba's misery. Without the embargo, he would have no one to blame.

For the past ten years I have worked towards normalizing our trade with China. My operating guideline has been ''Engagement Without Illusions.'' Trade rules don't automatically and instantly yield trade results. We have to push hard every day to see that countries follow the rules. That's certainly the case with China.

I have the same attitude towards Cuba. Yes, we should lift the embargo. We should do it without preconditions and without demanding any quid pro quo from Cuba. We should engage them economically. But we should do so without illusions. Once we lift the embargo, Cuba will not become a major buyer of our farm goods or manufactured products overnight.

We need to be realistic. With Cuba's failed economy and low income, ending the embargo won't cause a huge surge of U.S. products to Cuba. Instead, it will start sales of some goods, such as food, medicine, some manufactures, and some telecom and Internet services.

In addition, ending the embargo will increase Cuban exposure to the United States. It will bring Cubans into contact with our tourists, business people, students, and scholars. It will bring Americans into contact with those who will be part of the post-Castro Cuba. It will spur more investment in Cuba's tourist infrastructure, helping, even if only a little, to further develop a private sector in the economy.

In May of this year, I introduced bipartisan legislation that would repeal all of the Cuba- specific statutes that create the embargo. That includes the 1992 Cuban Democracy Act and the 1996 Helms–Burton Act. I look forward to the day when that legislation will pass and we have a normal economic relationship with Cuba.

Until that day, I support measures such as this amendment which dismantle the embargo brick by brick. The sanctions on sales of food and medicine to Cuba are especially offensive.

Last year, legislation to end unilateral sanctions on food and medicine passed the Senate by a vote of 70 to 28. That legislation was hijacked by the House in conference. This year we passed similar legislation again as part of the Agriculture appropriations bill. I hope our conferees stand firm and ensure its passage this year, with one correction.

This year the sanctions provisions of the Agriculture appropriations bill contain a new requirement. The bill requires farmers who want to sell food to foreign governments of concern to get a specific license. That is needless red tape which will make it harder to export. Last year the bill we passed had no such licensing requirement. We should strike that provision in the Agriculture appropriations conference this year.

When we begin debate on the bill, one of my colleagues will offer an amendment to address unilateral sanctions on food and medicine from a different angle. The amendment will cut off funding to enforce and administer them. The House passed a similar measure by a substantial majority. We should do the same in the Senate.

Mr. President, I hope that all of my colleagues will vote in favor of this amendment and will support the ultimate lifting of the entire Cuba trade embargo.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DOMENICI. Will the Senator yield for a unanimous-consent request?

Mr. MCCAIN. Yes.

Mr. DOMENICI. Mr. President, I ask unanimous consent when Senator MCCAIN and Senator GORTON are finished, I might be recognized thereafter. Senator WYDEN is here and he has no objection. He is joining me.

The PRESIDING OFFICER. Is the consent request that after Senator MCCAIN and Senator GORTON speak——

Mr. DOMENICI. I be recognized to introduce a bill, and then that Senator WYDEN follow me.

The PRESIDING OFFICER. And Senator VOINOVICH after that?

Mr. DOMENICI. Yes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Arizona is recognized.

(The remarks of Mr. MCCAIN and Mr. GORTON pertaining to the introduction of S. Res. 344 are located in today's RECORD under ''Submission of concurrent and Senate Resolutions.'')

The PRESIDING OFFICER. The Senator from New Mexico.

(The remarks of Mr. DOMENICI and Mr. WYDEN pertaining to the introduction of S. 2937 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

UNANIMOUS-CONSENT AGREEMENT

Mr. DOMENICI. Mr. President, I now ask unanimous consent that notwithstanding rule XXII, following the 11:30 cloture vote the Senate proceed to consideration of the conference report to accompany H.R. 4576, the Defense appropriations bill. Further, I ask consent that there be up to 60 minutes for debate under the control of Senator MCCAIN and up to 15 minutes under the control of Senator GRAMM, with an additional 6 minutes equally divided between Senators STEVENS and INOUYE, and 20 minutes for Senator BYRD, and following that debate the conference report be laid aside.

I further ask consent that the vote on the conference report occur at 3:15 p.m. on Thursday, without any intervening action or debate, notwithstanding rule XXII, the motion to reconsider be laid upon the table, and any statements relating to the conference report be printed in the RECORD.

The PRESIDING OFFICER (Mr. SMITH of Oregon). Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that Senator DEWINE be recognized to speak in morning business immediately following the remarks of Senator HARKIN.

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

THE BALKANS MATTER

Mr. VOINOVICH. Mr. President, the Balkans, with Gavrilo Princip's assassination of Austrian Archduke Francis Ferdinand in Sarajevo, Bosnia in 1914, started the devastation of World War I. World War II had deep ties to the region as well. The Truman doctrine, the basis of American policy throughout the cold war, began with President Truman's decision to support anti-Communist forces in Greece and Turkey, again, in the Balkans. To deal with the historic threat to peace, security and prosperity the Balkans poses, the United States and Europe made a commitment in the aftermath of the Kosovo crisis to integrate the region into the broader European community. This commitment is consistent with the pillar that has bound the United States and Europe since the end of World War II—a belief in the peaceful influence of stable democracies based on the rule of law, respect for human rights and support for a market economy in Europe.

However, the Balkans continue to be unstable. Slobodan Milosevic constantly stirs trouble in Kosovo and Montenegro. The minority communities of Kosovo are suffering under a systematic effort by extremist ethnic Albanians to force them out. Moderate Albanians in Kosovo are threatened for simply selling bread to a member of the Serb community. As long as this instability remains, the shared European and American goal of a whole and free Europe will not become a reality.

Inclusion of the Balkans in the European community of democracies would promote our Nation's strategic interests. By providing a series of friendly nations south from Hungary to Greece and east from Italy to the Black Sea, we would be in a much better position to deter regional crises and respond to them should they occur. The link to the Black Sea would also provide a link into central Asia in the event that the protection of our national security interests were ever threatened in this area.

The U.S. and the EU account for more than 30 percent of world trade. The EU receives nearly 25 percent of our total exports and is our largest export market for agricultural products. The nations of the Balkans, due to their proximity to the EU's common market, have tremendous potential for American investors and businesses to expand these trading ties. Additionally, many in the Balkans have excellent educational backgrounds and work experience that would be invaluable to an American investor. Many nations currently being considered for EU membership began their transition from command economies in a much worse position than the nations of southeastern Europe. If these nations can make enough progress to be considered for EU membership in the short-term, surely Croatia, Macedonia, Romania, and Bulgaria can as well.

While we have done much as a country to respond to human suffering around the world in recent years, these efforts are made after the fact. This is a mistake that reflects the Clinton administration's lack of foresight. In Kosovo, for example, our lack of preparation for the refugees created by Milosevic's aggression was inexcusable. To prevent this type of tragedy in the Balkans again—the refugees, the homelessness, the starvation—we must remain involved in the region.

I believe that the following steps should be taken to advance our goal of an integrated, whole, and free Europe:

NATO and EU membership—The nations of southeastern Europe must be

involved in these institutions to ensure their long-term peace, security, and prosperity. However, invitations for membership should only be offered once the nations have met the established membership criteria;

Implementation of the Stability Pact—The Pact, initiated by the Europeans to encourage democracy, security, and economic development in the region, must be fully implemented. There has been much talk and promises made about the Pact. Now is the time for action. The Europeans must begin to build the infrastructure projects they have promised in the region.

Open European markets—The Europeans have made a commitment to integrate the region into the broader European community. Lowering tariffs on the import of goods from the region would do much to encourage needed foreign investment. Investment, in turn, would speed development which would lead to the integration for which the Europeans have called.

To make these initiatives work, the Clinton administration must show more leadership than they have since the Kosovo crisis began. With the debacle of Bosnia in its background, coupled with the failed policies for the region over the last 18 months, our record in the region has been dismal. Implementing the above plan will begin to better this record.

THE SITUATION IN THE BALKANS

Mr. President, over the Fourth of July recess, I traveled with a delegation of my House and Senate colleagues to Southeast Europe where I attended the annual Parliamentary assembly Meeting of the Organization for Security and Cooperation in Europe in Bucharest, Romania.

In addition, while I was in Southeast Europe, I joined several of my House colleagues on a trip to Kosovo and Croatia to get an update on the situation there. I met with UN officials, Serb and Albanian leaders, KFOR commanders, and our American troops, and particularly soldiers from Ohio who are stationed in Kosovo.

I have traveled to the Balkans region three times this year to assess the situation in the region from a political, military and humanitarian point of view.

Besides my most recent trip, I traveled to Croatia, Macedonia, Kosovo and Brussels, Belgium in February and in May, I attended the annual meeting of the NATO Parliament Conference in Budapest, Hungary, and visited Slovenia as well. Based on the observations that I made, I would like to bring the Senate up to date on the current situation in southeastern Europe, particularly in Croatia and Kosovo.

While I was in Croatia this past February, I had the privilege to be the first Member of the United States Congress to personally congratulate Mr. Stipe Mesic on his being elected President of Croatia. During my trip earlier this month, I had a chance to spend time with President Mesic, along with my colleagues from the House of Representatives, and, again, hear his vision for the future of Croatia.

We also had an opportunity to meet with Prime Minister Racan, who along with President Mesic, is committed to providing to the Croatian people, a government that abides by the rule of law; respects human rights—particularly minority rights; adheres to the goals of a market economy; seeks the ultimate entrance into the European Union and NATO; and pledges to return minority refugees that were ethnically cleansed out of Croatia. This commitment was supported by members of the Croatian Parliament and acknowledged by members of the Serb minority, who are anxious to see the commitment carried out.

I am optimistic about the future of Croatia with its new leadership. Following the December, 1999 death of Croatia's ultra-nationalist President, Franjo Tudjman, Croatia's future was uncertain as far as the West was concerned.

However, the changes that have occurred since the establishment of a new government less than six months ago are stunning. I believe that the new government of President Mesic and Prime Minister Racan will ultimately be successful in guiding Croatia to EU and NATO membership. However, the legancy of Tudjman and his ruling elite—who we are just now learning were a bunch of thieves—poses some serious challenges for the ''new'' Croatia.

Tudjman drove Croatia deep into debt to a variety of international financial institutions while he and his henchmen ''cleaned-out'' the national treasury for their own personal gain. Because of Tudjman's mismanagement, President Mesic and Prime Minister Racan are facing a situation where their nation's economy is struggling, and they have little help available from outside creditors because of Tudjman's action.

These economic problems have an impact on another major challenge the new government is facing—the return of refugees. As my colleagues may remember, the Balkan wars of the 1990s created hundreds of thousands of refugees.

These refugees left their homes, abandoned nearly all of their possessions and took to the roads to avoid the bloodshed of ethnic hatred. In order for these people to go back and reclaim their homes and get on with their lives, there must be something to go back to—jobs, especially. There are few areas of Croatia today where jobs are plentiful enough to absorb thousands of returning refugees, which underscores the importance of reinvigorating the Croatian economy.

Despite these problems, I am very optimistic about the future of Croatia if President Mesic and Prime Minister Racan continue to lead their nation towards European integration. I am pleased that the United States is supporting the new Croatian leadership with financial, diplomatic and military assistance. I am also pleased that NATO has invited Croatia to become a member of the ''Partnership for Peace'' program.

Mr. President, as I think back to last year, to the time when this nation was engaged in an air war over Kosovo, the President, the Secretary of State, world leaders and the international media all brought to our attention the ethnic cleansing that was being perpetrated by Slododan Milosevic's Serbian military and paramilitary forces against the Albanian people in Kosovo.

During the height of the air war, President Clinton, in the Times of London, was quoted as saying ''we are in Kosovo because Europe's worst demagogue has once again moved from angry words to unspeakable violence.'' Further, the President stated, ''the region cannot be secure with a belligerent tyrant in its midst.''

Secretary of State Madeleine Albright, before the Senate Foreign Relations Committee claimed ''there is a butcher in NATO's backyard, and we have committed ourselves to stopping him. History will judge us harshly if we fail.''

Words such as these were meant to back-up our actions in Kosovo and explain to the American people the moral imperative of engaging in a U.S.-led NATO air war over Kosovo.

In this effort to protect the innocent civilian Kosovo Albanian community from the devastation of Slobodan Milosevic and his Serb forces, few realized at the time that the United States had stumbled across a civil war in progress. A minority of Kosovo Albanians, under the leadership and flag of the Kosovo Liberation Army, the KLA, were pursuing their dream of an ethnically pure Kosovo, dominated by Albanians and independent from Serbia. These extremists were willing to resort to violence to achieve this dream.

On the other hand, Serbia and Slobodan Milosevic did not want to let this province break away, because Kosovo is very important to their history, culture, and religion.

Let me be clear on this. None of these circumstances in any way excuses the devastation the Serb forces brought to the ethnic Albanian community of Kosovo. The systematic plan, hatched by Milosevic, his wife and their inner circle of thugs, to instill fear through rape, torture, and murder was designed to drive the ethnic Albanian community out of Kosovo. Their plan was evil in its inception and execution.

The United States and our NATO allies vowed to put an end to this tragedy. Through our combined military strength, we were able to force Milosevic to withdraw his troops from Kosovo, making it safe for Kosovar Albanians to return to their homes.

And now that the air war in the Balkans has been over for a little more than a year, most Americans assume that the situation in Yugoslavia is now

under control and that Serbs and Albanians in Kosovo have put aside their differences, declared peace and are working towards establishing a cooperative society.

How I wish that was true.

In fact, the reason I have come to the floor today is to make my colleagues and this nation aware what many in the European community already know, and that is, ethnic cleansing is being carried out in Kosovo today.

In the wake of the air war, a backlash of violence is now being perpetrated against minority groups in Kosovo, including Serbs, Romas, and moderate Albanians who are now trying to rebuild Kosovo. They have been attacked and killed by more radical, revenge-driven elements in the Albanian community, their homes and businesses have been burned and Serbian Orthodox churches and monasteries—some hundreds of years old—have been desecrated and destroyed.

I ask unanimous consent to print in the RECORD a document which summarizes the incidents of arson and murder that have occurred in recent months in Kosovo. These numbers were prepared by the OSCE, which is known for its independence.

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

A report released on June 9, 2000 provides recent numbers associated with violent crime that continues to threaten peace and reconciliation efforts in Kosovo. The report, UNHCR/OSCE Update on the Situation of Ethnic Minorities in Kosovo, provides details on the three most prevalent crimes affecting minorities in Kosovo since January 2000. They are as follows:

ARSON, AGAINST

Serbs, 105 cases
Roma, 20
Muslim Slavs, 5
Albanians, 73
Persons of unknown ethnicity, 40

AGGRAVATED ASSAULT, AGAINST

Serbs, 49 cases
Roma, 2
Muslim Slavs, 2
Albanians, 90
Persons of unknown ethnicity, 9

MURDER, AGAINST

Serbs, 26 cases
Roma, 7
Muslim Slavs, 2
Albanians, 52
persons of unknown ethnicity, 8

According to the report, lack of security and freedom of movement remain the fundamental problems affecting minority communities in Kosovo. Though the Serbian population has been the minority group most affected by criminal activity, the ethnic Albanian community continues to be subject to serious violent attacks on a regular basis.

Mr. VOINOVICH. Mr. President, in addition, Bishop Kyr Artemije, a leader of the Kosovar Serbs, presented similar statistics documenting the violence and bloodshed that has been carried out in Kosovo since the end of the war in testimony he gave before the Helsinki Commission this past February. His statistics were updated and verified at a recent meeting that I and several of my House colleagues had with the Bishop over the Fourth of July recess in Kosovo.

I ask unanimous consent that Bishop Artemije's February testimony be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. VOINOVICH. Mr. President, in addition, a July 3 article written by Steven Erlanger for the New York Times, discusses the observations Dennis McNamara, the U.N. special envoy for humanitarian affairs in Kosovo, had regarding the status of the situation in Kosovo today, particularly how minorities have been treated since the end of the air war and how minorities are being pushed out of Kosovo in a continuous and organized manner.

McNamara is quoted as saying that:

(this) violence against the minorities has been too prolonged and too widespread not to be systematic.

McNamara goes on to say;

We can't easily say who's behind it, but we can say we have not seen any organized effort to stop it or any effort to back up the rhetoric of tolerance from Albanian leaders with any meaningful action.

The genocide that was inflicted upon thousands of Albanians is absolutely inexcusable and totally reprehensible. Crimes that are perpetrated against innocent civilians must always be condemned and those who carry out such acts must be prosecuted. That is why I do not understand why the President, the Secretary of State, and others in this administration have not been as vocal about the ethnic cleansing that is now being perpetrated as they were last year.

In fact, the condemnation for the ethnic cleansing that is now occurring in Kosovo is virtually nonexistent on the part of this administration. I am deeply troubled by their silence.

Because I have been following this matter so closely since the conclusion of the air campaign, I have had the opportunity to have a number of off-the-record, informal conversations with people both inside and outside of our Government. While I am reluctant to share this with my colleagues, I feel that I must. There is a feeling by many who are following the ongoing ethnic cleansing in Kosovo that there are some in our Administration who believe that the Serb community in Kosovo is simply getting what they are due.

In other words, the murders, arson, harassment and intimidation that extremist members of the Kosovo Albanian community are committing against the Kosovo Serb community should be expected and accepted given what the Serbs did to the Albanians.

A July 17 article written by Steven Erlanger of the New York Times makes this point as well. It describes how U.N. director of Kosovo administration, Bernard Kouchner, has been working to foster peace and stability among Albanians and Serbs in Kosovo. He points out that no one is paying much attention now that the tables have turned.

Kouchner says:

I'm angry that world opinion has changed so quickly. They were aware before of the beatings and the killings of Albanians, but now they say, ''There is ethnic cleansing of the Serbs.'' But it is not the same—it's revenge.

And McNamara makes the same point. He says:

There was from the start an environment of tolerance for intolerance and revenge. There was no real effort or interest in trying to deter or stop it. There was an implicit endorsement of it by everybody—by the silence of the Albanian political leadership and by the lack of active discouragement of it by the West.

Mr. President, I ask unanimous consent that these two New York Times articles be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. VOINOVICH. The United States must not now—nor ever—condone this revenge approach in Kosovo in either thought, word or deed. We must maintain and promote our values as a nation—a respect for human rights, freedom of religion, freedom from harassment, intimidation or violence.

If this administration, and the next, does not acknowledge and seriously address the plight of Kosovo Serbs and other minorities in Kosovo, then I think that within a year's time there will not be any minorities still in Kosovo. To prevent this, I believe we should be more aggressive towards protecting minority rights in Kosovo immediately.

If we do not, I am concerned that the extremist members of the Kosovo Albanian community will continue to push out all minority groups until they have achieved their dream of an Albanian-only Kosovo. In other words, if we do nothing, there will be many who will argue that the ethnic cleansing of Kosovo was tacitly endorsed by the lack of leadership in the international community.

It is important to note that the problem does not rest with our KFOR troops, for they have been restricted in what they can and cannot do. These men and women are doing a terrific job under difficult circumstances. I know what they're going through because, last February, I walked through the village of Gnjilane with some of our soldiers, and saw first-hand the restrictions they were under.

While I was in Kosovo over the 4th of July recess, I had the opportunity to visit our troops at Camp Bondsteel. Every soldier that I spoke with talked of their commitment to their mission and ensuring the safety of the citizens of Kosovo. I fully believe that it is because of these troops that there is not further violence.

I do have hope that we can bring an end to the bloodshed in Southeastern

Europe, and I believe that there are some within the Kosovo Albanian community who can prevail upon the better instincts of their fellow man in a commitment towards peace.

Earlier this year, at the headquarters of the United Nations Mission in Kosovo, UNMIK, in Pristina, Kosovo, I had the opportunity to sit down and meet with several key leaders of the Kosovo Albanian community and representatives on the Interim Administrative Council—Dr. Ibrahim Rugova, Mr. Hashim Thaci, and Dr. Rexhep Qosja.

All three leaders made a very clear promise to me that they were committed to a multi-ethnic, democratic Kosovo, one that would respect the rights of all ethnic minorities. I was heartened to hear these comments. This commitment could serve as the basis for long-term peace and stability in Kosovo.

I said that they could go down in history as truly great men were they to make this commitment a reality. I explained that the historic cycle of violence in Kosovo must end and minority rights must be respected—including the sanctity of churches and monasteries.

I also point out to them that ''revenge begets revenge'' and unless Albanians and Serbs learned to live in peace with one another, violence would continue to plague their children, their grandchildren and generations yet unborn.

It is my hope that they will realize that they and their actions will be keys to the future of Kosovo.

We all want peace to prevail in the Balkans, but we have a long way to go for that to happen. I believe we should listen to the words of His Holiness, Patriarch Pavle, the head of the Serbian Orthodox church, who states, ''in Kosovo and Metohija there will be no victory of humanity and justice while revenge and disorder prevail. No one has a moral right to celebrate victory complacently for as long as one kind of evil replaces another, and the freedom of one people rests upon the slavery of another.''

The Patriarch's call for leadership in protecting all citizens in Kosovo is one that this nation should heed if peace and stability in Kosovo is our goal.

At the OSCE meeting in Bucharest, I introduced a resolution on Southeastern Europe that had the support of several of my legislative colleagues from the U.S. The main point of the resolution that I offered was to call to the attention of the OSCE's Parliamentary Assembly the current situation in Kosovo and Serbia, and made clear the importance of removing Slobodan Milosevic from power.

Mr. President, I ask unanimous consent that the entire text of the resolution, as passed by the OSCE Parliamentary Assembly, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 3.)

Mr. VOINOVICH. My resolution put the OSCE, as a body, on record as condemning the Milosevic regime and insisting on the restoration of human rights, the rule of law, free press and respect for ethnic minorities in Serbia. I was pleased that the resolution passed—despite strong opposition by the delegation from the Russian Federation—and I am hopeful that it will help re-focus the attention of the international community on the situation in the Balkans.

In conclusion, Mr. President, I believe that we are approaching a crossroads in Kosovo with two very different directions that we can choose.

The first direction—the wrong direction—involves more of the same of what we have seen in recent months. More bloodshed, more grenade attacks on elderly minorities as they sit on their porch. More land-mines on roads traveled by parents taking their children to school. More intimidation, threats and harassment of minorities walking the streets in mixed villages and towns. All this would lead to the continued fleeing of minorities from Kosovo and the establishment of an Albanian-only Kosovo. Again, ethnic cleansing carried-out under the nose of NATO and the U.N.

The second direction—the right direction—involves the international community, led by the United States, protecting the human rights of the minority communities of Kosovo. With this protection, the minority groups would feel safe in their homes and be comfortable enough to be involved in UNMIK municipal elections this fall, a key priority for UNMIK. Places of historical significance, especially Serbian Orthodox monasteries, would be safe from destruction from extremists.

Minorities would be safe to travel to the market in their own communities without needing KFOR protection, something that does not happen today. Kosovo Albanians who sell goods to minorities would not be threatened, harmed or killed, again, something that does not happen today. In short, bloodshed would stop under the watch of the international community.

And there is encouraging news.

Just this last weekend, at Airlie House in Virginia, leaders of Kosovo's Serb and Albania communities met under the auspices of the United States Institute for Peace.

Among other provisions, the representatives agreed to launch a new initiative—a Campaign Against Violence—whereby the representatives of both communities agreed to a Pact Against Violence to promote tolerance, condemn violence, prevent negative exploitation of ethnic issues, and enable physical integration and political participation by all. In addition, the communities agreed on two key provisions to help reduce the power of extremist elements by calling on KFOR and UNMIK to guard and control more effectively all entry into Kosovo, and requesting that UNMIK move immediately to start-up a functioning court and prison system.

Also, the Serb and Albanian representatives agreed on several items regarding the return of displaced persons and refugees to their homes, including the recognition that the return of such individuals is a fundamental right and essential to the future of Kosovo. In order to facilitate such returns, the parties insist that UNMIK and KFOR pursue fresh efforts to provide greater security for individuals to return to their homes, and to expand aid for reconstruction and economic revitalization in those communities.

They further agreed that a new model of security and law enforcement is needed, and that the international community must overcome its differences to that UNMIK and KFOR can take much stronger measures to carry out their security and law enforcement responsibilities.

Last but not least, the representatives recognize that the international community will not support a Kosovo cleansed of some of its ethnic communities. Rather, all these communities must work together to build a multi-ethnic Kosovo respecting the rights of all its citizens.

I say ''Amen and Hallelujah'' to the fact that these two communities can come together and develop such an outline for peace.

There should be a loud voice coming out from this administraiton—the same loud voice that we heard last year—to the United Nations, to the UNMIK, and to our NATO Allies that we cannot allow ethnic cleansing of any kind to continue.

And I just want the administration to know that I am holding them responsible to make the same commitment to Kosovo now that they made during the war, specifically, to go in and make sure that NATO, UNMIK, and KFOR give the same priority to protecting minority rights today.

It is up to the United States to provide the leadership to make sure that the items that the representatives at Airlie House identified as important are actually carried out by the UNMIK and by KFOR in cooperation with the Serb and Albanian communities in Kosovo.

Individually, none of these entities can guarantee peace and stability in Kosovo. It is only by working together that peace will occur, and it is the primary reason that the U.S. needs to recommit itself to Kosovo.

We, the United States, with our strength and commitment to the protection of human rights, can largely determine which direction is taken in Kosovo. It is in our hands to live up to that potential.

It is in our national security interest. It is in our economic interest in Europe. It is in the interest of peace in the world that we make that commitment.

I yield the floor.

EXHIBIT 1

STATEMENT OF BISHOP ARTEMIJE, HELSINKI COMMISSION, HEARING, FEBRUARY 28, 2000, WASHINGTON, DC

Mr. Chairman, respected members of Congress, ladies and gentlemen. It is my distinct pleasure and privilege to be here with you today and speak about the latest developments in Kosovo. The last time I spoke here was in February 1998, just before the war in Kosovo began and on that occasion I strongly condemned both Milosevic's regime and Albanian extremists for leading the country into the war. Unfortunately the war came and so many innocent Albanians and Serbs suffered in it. Many times we have strongly condemned the crimes of Milosevic's regime in Kosovo while our Church in Kosovo supported suffering Albanian civilians and saved some of them from the hands of Milosevic's paramilitaries.

After the end of Kosovo war and return of Albanian refugees the repression of Milosevic's undemocratic regime was supplanted by the repression of extremist Kosovo Albanians against Serbs and other non-Albanian communities in full view of international troops. Freedom in Kosovo has not come for all equally. Therefore Kosovo remains a troubled region even after 8 months of international peace.

Kosovo Serbs and other non-Albanian groups in Kosovo live in ghettos, without security; deprived of basic human rights—the rights of life, free movement and work. Their private property is being usurped; their homes burned and looted even 8 months after the deployment of KFOR. Although Kosovo remained more or less multiethnic during the ten years of Milosevic's repressive rule, today there is hardly any multiethnicity at all—in fact the reverse is true. Ethnic segregation is greater now than almost at any other time in Kosovo's turbulent history. Not only are Serbs being driven out from the Province but also the Romas, Slav Moslems, Croats, Serb speaking Jews and Turks. More than 80 Orthodox churches have been either completely destroyed or severely damaged since the end of the war. The ancient churches, many of which had survived 500 years of Ottoman Moslem rule, could not survive 8 months of the internationally guaranteed peace. Regretfully, all this happens in the presence of KFOR and UN. Kosovo more and more becomes ethnically clean while organized crime and discrimination against the non-Albanians is epidemic.

Two thirds of the pre-war Serb population (200,000 people) fled the province under Albanian pressure. In addition more than 50,000 Romas, Slav Moslems, Croat Catholics and others have also been cleansed from Kosovo. More than 400 Serbs have been killed and nearly 600 abducted by Albanian extremists during this same period of peace. Tragically, this suffering of Serbs and other non-Albanians proportionally (with respect to population) represents more extensive suffering in peacetime than the Albanian suffering during the war. This is a tragic record for any post war peace mission, especially for this mission in which the Western Governments and NATO have invested so much of their credibility and authority.

Despite the sympathy for all of the suffering of Kosovo Albanians during the war, retaliation against innocent civilians cannot be justified in any way. It is becoming more and more a well-orchestrated nationalist ideology directed towards achieving the complete ethnic cleansing of the Province. The extremists believe that without Serbs and their holy sites in Kosovo independence would then become a fait accompli. The present repression against non-Albanians is carried out with the full knowledge of the Albanian leaders. Sometimes these leaders formally condemn repressive actions but in reality have not done anything to stop the ongoing ethnic violence and discrimination. Even more, some of them are instigating rage against Serbs developing the idea of collective Serb guilt and branding all remaining Serb civilians as criminals. There is much evidence that the KLA leaders bear direct responsibility for the most of the post-war crimes and acts of violence committed in Kosovo. As soon as KFOR entered the Province KLA gunmen took over the power in majority of cities and towns and immediately organized illegal detention centers for Serbs, Romas and Albanian ''collaborators.'' They began killing people listed as alleged criminals and seized a large amount of property previously owned by Serbs and other non-Albanians. KLA groups and their leaders are directly linked with Albanian mafia clans and have developed a very sophisticated network of organized crime, drug smuggling, prostitution, white slavery, and weapons trading. According to the international press Kosovo has become Colombia of Europe and a main heroin gateway for Western Europe. The strategy behind the KLA purge of Serbs was very simple—quarter by quarter of a city would be cleansed of Serbs and their property would be either burned or sold for a high price to Albanian refugees (including Albanians from Albania and Macedonia who flowed into the province through unprotected borders along with the hundreds of thousands of Kosovo refugees). The KLA, although officially disbanded is still active and their secret police are continuing their intimidation and executions. Now more and more of their victims are disobedient Kosovo Albanians who refuse to pay their ''taxes'' and ''protection money'' to extremists. The Albanization of Kosovo is proceeding in a way many ordinary Albanians did not want. The gangsters have stepped into the vacuum left by the slowness of the West to adequately instill full control over the Province. Kosovo is becoming more like Albania: corrupt, anarchic, and ruled by the gun and the gang.

Serbs and many non-Albanians still do not have access to hospitals, the University and public services, simply because they cannot even freely walk in the street. They are unemployed and confined to life in poverty of their rural enclaves out of which they can move only under the KFOR military escort. The Serbian language is completely banished from the public life. All Serb inscriptions, road signs and advertisements have been systematically removed and the usage of Serbian language in Albanian dominated areas is reason enough for anyone to be shot right on the spot. Thousands of Serb books in public libraries have been systematically burned while all unguarded Serb cultural monuments and statues have been torn down and destroyed.

The Serbs who remain in major cities are in the worst situation of all. Out of 40,000 pre-war Serb population in Pristina today there remain only 300 elderly people who live in a kind of house arrest. They cannot go into the street without military protection and only thanks to KFOR soldiers and humanitarian organizations do they receive food and medicines, which they are not allowed to buy in Albanian shops. Almost all Serb shops are now in Albanian hands. In other areas Albanians are greatly pressuring Serbs to sell their property under threats and extortion. Those who refuse usually have their houses torched or are killed as an example to other Serbs. Grenade attacks on Serb houses; on few remaining Serb shops and restaurants force more and more Serbs to leave Kosovo. If this repression and persecution is continued unabated it is likely that soon most of the remaining Serbs will also be forced to flee Kosovo.

On one hand, KFOR's presence in Kosovo has given Albanian extremists free hands to do what that want because one of KFOR priorities has been so far to avoid direct confrontation with the extremists in order to escape possible casualties. On the other hand we cannot but say that if KFOR had not been in Kosovo during this rampage of hatred, not a single Serb or Serb church would have survived. We sincerely appreciate the efforts of many men and women from all over the world who are trying to bring peace to Kosovo even with in a rather narrow political framework in which KFOR must act.

An especially volatile situation is in Kosovska Mitrovica the only major city where a substantial number of Serbs remain. During the most intensive wave of ethnic cleansing in June and July many Serb internally displaced persons from the south found refuge in the north of the province in the Mitrovica area. In order to survive they organized a kind of self-protection network and prevented the KLA and mafia to enter the northern fifth of the city together with civilian Albanian returnees. KFOR, aware that the free access of Albanian extremist groups of Mitrovica would cause a Serb exodus, blocked the bridge connecting the southern and northern part of the city. Albanian extremists have since then made many attempts to make their way into the northern part of Mitrovica saying that they wanted undivided and free city. Serbs on the other hand state that they are ready for a united city only if Serbs would be allowed to go back to their homes in the south and elsewhere in Kosovo. Serbs also hold that only Kosovo residents be allowed to return to their homes. A few weeks ago, after two terrorist attacks against a UNHCR bus and a Serb café, in which a number of Serbs were killed and injured, radicalized Serbs began retaliatory actions against Albanians in the northern part of the city causing the death of several Albanian innocent citizens and served to broaden the crisis.

The Mitrovica crisis is not playing out in a void by itself and must be approached only in the context of the overall Kosovo situation. The fact remains that after the war extremists Albanians have not been fully disarmed and have continued their repression and ethnic cleansing of Serbs and other non-Albanians wherever and whenever they have had opportunity to do so. Unfortunately, such a situation as we have now in Kosovo has opened a door for the Belgrade regime, which is ow trying to profit from this situation and consolidate the division of Mitrovica for their own reasons. Each Serb victim in Kosovo strengthens Milosevic's position in Serbia. Albanian extremists on the other hand want to disrupt the only remaining Serb stronghold in the city in order to drive the Serbs completely out of Kosovo. Regretfully, the international community seems not to be fully aware of the complexity of the Mitrovica problem and has despite all Albanian crimes and terror in the last 8 months one-sidedly condemned Serbs for this violence.

This skewed view of the problem will only serve to encourage Albanian extremism, confirm Milosevic's theory of anti-Serb conspiracies that he uses to solidify his hold on power and will eventually lead to final exodus of the Serb community in Kosovo. Milosevic obviously remains at the core of the problem but he is not the greatest cause of the current round of violence and purges—the international community must find ways for controlling Albanian extremists.

We maintain our belief that the present tragedy in Kosovo is not what Americans wanted when they supported the policy of

the Administration to intervene on behalf of suffering Albanians. In fact international community now faces a serious failure in Kosovo because it has not managed to marginalize extremist Albanians while at the same time Milosevic has been politically strengthened by the bombing and sanctions (which ordinary Serbs understand as being directed against innocent civilians). Therefore we expect now from the international community and primarily from United States to show more determination in protecting and supporting Kosovo Serbs and other ethnic groups who suffer under ethnic Albanian extremists. A way must be found to fully implement UNSC Resolution 1244 in its whole.

We have a few practical proposals for improving the situation in Kosovo:

1. KFOR should be more robust in suppressing violence, organized crime and should more effectively protect the non-Albanian population from extremists. This is required by the UNSC Resolution.

2. More International Police should be deployed in Kosovo. Borders with Macedonia and Albania must be better secured, and UNMIK should establish local administration with Serbs in areas where they live as compact population. Judicial system must become operational as soon as possible. International judges must be recruited at this stage when Kosovo judges cannot act impartially due to political pressures.

3. International community must build a strategy to return displaced Kosovo Serbs and others to their homes soon while providing better security for them and their religious and cultural shrines. Post war ethnic cleansing must not be legalized nor accepted—private and Church property has to be restored to rightful owners. Law and order must be established and fully enforced. Without at least an initial repatriation of Serbs, Romas, Slav Moslems and others Kosovo elections would be unfair and unacceptable.

4. The International Community, especially, US, should make clear to Kosovo Albanian leaders that they cannot continue with the ethnic cleansing under the protectorate of Western democratic governments. Investment policy and political support must be conditioned to full compliance by ethnic Albanian leaders with the UNSC Resolution 1244. KLA militants must be fully disarmed. The ICTY should launch impartial investigations on all criminal acts committed both by Serbs and Albanians.

5. The international community should also support moderate Serbs in regaining their leading role in the Kosovo Serb community and thus provide for the conditions for their participation in the Interim Administrative Kosovo Structure. Since the cooperation of moderate Serb leaders with KFOR and UNMIK has not brought visible improvement to the lives of Serbs in their remaining enclaves, Milosevic's supporters are gaining more confidence among besieged and frightened Serbs, which can seriously obstruct the peace process. Moderate Serbs gathered around Serb National Council need their own independent media; better communication between enclaves and other forms of support to make their voice better heard and understood within their own community. International humanitarian aid distribution in Serb inhabited areas currently being distributed more or less through Milosevic's people who have used this to impose themselves as local leaders, has to be channeled through the Church and the Serb National Council humanitarian network.

6. The last but not least, the issue of status must remain frozen until there is genuine and stable progress in eliminating violence and introducing democratization not only in Kosovo but also in Serbia proper and the Federal Republic of Yugoslavia. It is our firm belief that the question of the future status of Kosovo must not be discussed between Kosovo's Albanians and Serbs only, but also with the participation of the international community and the future democratic governments of Serbia and FRY and in accordance with international law and the Helsinki Final Act.

We believe in God and in His providence but we hope that US Congress and Administration will support our suffering people, which want to remain where we have been living for centuries, in the land of our ancestors.

EXHIBIT 2

U.N. OFFICIAL WARNS OF LOSING THE PEACE IN KOSOVO

(By Steven Erlanger)

As the humane ''pillar'' of the United Nations administration in Kosovo prepares to shut down, its job of emergency relief deemed to be over, its director has some advice for the next great international mission to rebuild a country: be prepared to invest as much money and effort in winning the peace as in fighting the war.

Dennis McNamara, the United Nations special envoy for humanitarian affairs, regional director for the United Nations high commissioner for refugees and a deputy to the United Nations chief administrator in Kosovo, Bernard Kouchner, leaves Kosovo proud of the way the international community saved lives here after the war, which ended a year ago.

Mr. McNamara helped to coordinate nearly 300 private and government organizations to provide emergency shelter, food, health care and transport to nearly one million Kosovo Albanian refugees who have returned.

Despite delays in aid and reconstruction, including severe shortages of electricity and running water, no one is known to have died here last winter from exposure or hunger. Up to half of the population—900,000 people a day—was fed by international agencies last winter and spring, and a program to clear land mines and unexploded NATO ordnance is proceeding apace.

But Mr. McNamara, 54, a New Zealander who began his United Nations refugee work in 1975 with the exodus of the Vietnamese boat people, is caustic about the continuing and worsening violence against non-Albanian minorities in Kosovo, especially the remaining Serbs and Roma, or Gypsies. He says the United Nations, Western governments and NATO have been too slow and timid in their response.

''There was from the start an environment of tolerance for intolerance and revenge,'' he said. ''There was no real effort or interest in trying to deter or stop it. There was an implicit endorsement of it by everybody—by the silence of the Albanian political leadership and by the lack of active discouragement of it by the West.''

Action was needed, he said, in the first days and weeks, when the old images of Albanians forced out of Kosovo on their tractors were replaced by Serbs fleeing Kosovo on their tractors, and as it became clear that the effort to push minorities out of Kosovo was continuing and organized.

''This is not why we fought the war,'' Mr. McNamara said. He noted that in recent weeks there had been a new spate of comments by Western leaders, including President Clinton, Secretary of State Madeleine K. Albright and the NATO secretary general, Lord Robertson, warning the Albanians that the West would not continue its support for Kosovo if violence against minorities continued at such a pace and in organized fashion.

But previous warnings and admonitions have not been followed by any action, Mr. McNamara noted. In general, he and others suggested, there is simply a tendency to put an optimistic gloss on events here and to avoid confrontation with former guerrillas who fought for independence for Kosovo or with increasingly active gangs of organized criminals.

''This violence against the minorities has been too prolonged and too widespread not to be systematic,'' Mr. McNamara said, giving voice to views that he has made known throughout his time here. ''We can't easily say who's behind it, but we can say we have not seen any organized effort to stop it or any effort to back up the rhetoric of tolerance from Albanian leaders with any meaningful action.''

In the year since NATO took over complete control of Kosovo and Serbian troops and policemen left the province, there have been some 500 killings, a disproportionate number of them committed against Serbs and other minorities.

But there has not been a single conviction. The judicial system is still not functioning, and local and international officials here say that witnesses are intimidated or killed and are afraid to come forward, pressure has been put on some judges to quit and many of those arrested for murder and other serious crimes have been released, either because of lack of prison space or the inability to bring them to trial.

Only recently has the United Nations decided to bring in international prosecutors and judges, but finding them and persuading them to come to Kosovo has not been easy. And foreign governments have been very slow to send the police officers they promised to patrol the streets.

Now, some 3,100 of a promised 4,800 have arrived, although Mr. Kouchner wanted 6,000. The big problem, Mr. McNamara said, is the generally poor quality of the police officers who have come, some of whom have had to be sent home because they could neither drive nor handle their weapons. And coordination between the police and the military has been haphazard and slow.

''The West should have started to build up institutions of a civil society from Day 1,'' Mr. McNamara said. ''And there should have been a wide use of emergency powers by the military at the beginning to prevent the growth of this culture of impunity, where no one is punished. I'm a human rights lawyer, but I'd break the rules to establish order and security at the start, to get the word out that it's not for free.''

Similarly, the NATO troops that form the backbone of the United Nations peacekeeping force here were too cautious about breaking down the artificial barrier created by the Serbs in the northern Kosovo town of Mitrovica, Mr. McNamara said.

Northern Mitrovica is now inhabited almost entirely by Serbs, marking an informal partition of Kosovo that extends up to the province's border with the rest of Serbia, creating a zone where the Yugoslav government of President Slobodan Milosevic exercises significant control, infuriating Kosovo's Albanian majority.

''Having allowed Mitrovica to slip away in the first days and weeks, it's very hard to regain it now,'' Mr. McNamara said. ''Why wasn't there strong action to take control of Mitrovica from the outset? We're living with the consequences of that now.''

In the last two months, as attacks on Serbs have increased again in Kosovo, Serbs in northern Mitrovica have attacked United Nations aid workers, equipment of offices, causing Mr. McNamara to pull aid workers temporarily out of the town. After promises from the effective leader of the northern Mitrovica Serbs, Oliver Ivanovic, those workers returned.

Another significant problem has been the lack of a ''unified command'' of the peacekeeping troops, Mr. McNamara said. Their overall commander, currently a Spanish general, cannot order around the troops of constituent countries. Washington controls the American troops, Paris the French ones and so on.

And there are no common rules of engagement or behavior in the various countries' military sectors of Kosovo.

''The disparities in the sectors are real,'' Mr. McNamara said. And after American troops were stoned as they tried to aid French troops in Mitrovica last spring, the Pentagon ordered the American commander here not to send his troops out of the American sector of Kosovo.

While the Pentagon denies a blanket ban, officers in the Kosovo peacekeeping operation support Mr. McNamara's assertion. They say no commanders here want to risk their troops in the kind of significant confrontation required to break down the ethnic barriers of Mitrovica.

The United Nations has had difficulties of organization and financing, Mr. McNamara readily acknowledges. ''but governments must bear the main responsibility,'' he said, ''Governments decide what the United Nations will be, and what resources governments commit to the conflict they won't commit to the peace.''

Governments want to dump problems like Kosovo onto the United Nations to avoid responsibility, he said. The United Nations should develop ''a serious checklist'' of requirements and commitments from governments before it agrees to another Kosovo, Mr. McNamara said, ''and the U.N. should be able to say no.''

U.N. CHIEF IN KOSOVO TAKES STOCK OF TOUGH YEAR

(By Steven Erlanger)

Bernard Kouchner, the emotional chief of the United Nations administration in Kosovo, has made it through a tumultuous year.

Last November, when the province's water and power were almost nonexistent, the West was not providing the money or personnel it promised and the cold was as profound and bitter as the ethnic hatred, Mr. Kouchner was in a depression so deep that his staff thought he might quit.

He spoke darkly then of ''how hard it is to change the human soul,'' of the quick fatigue of Western leaders who prosecuted the war with Serbia over Kosovo and had no interest in hearing about its problematic aftermath, of the impenetrability of the local Serbs and Albanians, with their tribal, feudal passions.

''I've never heard an Albanian joke,'' he said sadly, looking around his dreary office, the former seat of the Serbian power here. ''Do they have a sense of humor?''

Now, in a blistering summer, Mr. Kouchner's mood has improved. A French physician who founded Doctors Without Borders because he became fed up with international bureaucracy, he is not an international bureaucrat, sometimes uneasy in his skin. He still goes up and down with the vagaries of this broken province, with its ramshackle infrastructure, chaotic traffic and lack of real law or justice. And without question, he admits, some of those problems can be laid at his door.

''Of course I'm not the perfect model of a bureaucrat and an administrator,'' he said. ''But we have succeeded in the main thing'': stopping the oppression of Kosovo's Albanians by Belgrade, bringing them home and letting them restart their lives in freedom.

And yet, he said, ''I have not succeeded in human terms'' with a traumatized population. ''They still hate one another deeply.''

He paused, and added: ''Here I discovered hatred deeper than anywhere in the world, more than in Cambodia or Vietnam or Bosnia. Usually someone, a doctor or a journalist, will say, 'I know someone on the other side.' But here, no. They had no real relationship with the other community.''

The hatred, he suggested, can be daunting and has plunged him and his colleagues into despair. ''Sometimes we got tired and exhausted, and we didn't want a reward, not like that, but just a little smile,'' he said wanly. ''I'm looking for moments of real happiness, but you know just now I'm a bit dry.'' But he is proud that everyone has persisted nonetheless.

As for himself, he said, ''my only real success is to set up this administration,'' persuading Albanian and some Serbian leaders to cooperate with foreign officials and begin to share some executive responsibility.

When the head of the local Serbian Orthodox Church, Bishop Kyr Artemije, and the leaders of perhaps half of Kosovo's Serbs decided to join as observers, ''we were very happy then,'' he said. ''We were jumping in the air. We believed then that we were reaching the point of no return.

But even those Serbs left the executive council set up by Mr. Kouchner, only to return after securing written promises for better security that have prompted the Albanian Hashim Thaci, former leader of the separatist Kosovo Liberation Army, to suspend his own participation.

Bishop Artemije's chief aide, the Rev. Sava Janjic, said carefully: ''Kouchner has not been serious in his promises, and the efforts to demilitarize the Kosovo Liberation Army are very inefficient. But he is sincere, and this written document is important on its own.''

A senior Albanian politician said Mr. Kouchner was ''the wrong man for the job,'' which he said required more forcefulness and less empathy. ''After a year, you still can't talk of the rule of law.'' Still, the politician said, ''Kouchner's instincts are good—he knew he had to co-opt the Albanians, that the U.N. couldn't run the place alone.''

Less successful, most officials and analysts interviewed here said, is Mr. Kouchner's sometimes flighty, sometimes secretive management of the clumsy international bureaucracy itself in the year since Secretary General Kofi Annan sent him here to run the United Nations administration in Kosovo.

Alongside the bureaucrats are the 45,000 troops of the NATO-led Kosovo Force, known as KFOR, responsible to their home governments, not to Mr. Kouchner or even to the force's commander. And while Mr. Kouchner was able to persuade the former commander, Gen. Klause Reinhardt of Germany, to do more to help the civilian side, they were both less successful with Washington, Paris, Bonn, Rome and London.

The affliction known here as ''Bosnian disease''—with well-armed troops unwilling to take risks that might cause them harm—has settled into Kosovo, say Mr. Kouchner's aids and even some senior officers of the United Nations force.

Consequently, some serious problems—like the division of the northern town of Mitrovica into Serbian and Albanian halves that also marks the informal partition of Kosovo—appear likely not to be solved but simply ''managed,'' no matter how much they embolden Belgrade or undermine the confidence of Kosovo Albanians in the good will be of their saviors. It was on the bridge dividing Mitrovica—not in Paris—that Mr. Kouchner chose to spend his New Year's Eve, making a hopeful toast, so far in vain, to reconciliation.

Nor will the peacekeeping troops do much to stop organized crime or confront, in a serious fashion, organized, Albanian efforts to drive the remaining Serbs out of Kosovo and prevent the return of those who fled, the officials say.

The discovery last month of some 70 tons of arms, hidden away by the former Kosovo Liberation Army and not handed over as promised to the peacekeepers, took no one here by surprise.

''It was a success,'' Mr. Kouchner said, ''not a surprise.''

In fact, senior United Nations and NATO officials say, the existence of the arms cache was known and the timing of the discovery was a message to the former rebels, who had recently used some of the weapons, to stop their organized attacks on Serbs and moderate Albanian politicians.

But few here expect the arrest of former rebel commanders who are widely suspected of involvement in corruption or political violence. The reaction may be volatile, officials say: troops could be attacked and the shaky political cooperation with the Albanians undermined.

Is the United Nations peacekeeping force too timid? Mr. Kouchner paused and shrugged. ''Of course,'' he finally said. ''But what can we do? Everything in the international community works by compromise.''

Foreign policemen are also too timid and take too long with investigations that never seem to be finished, Mr. Kouchner says. But at least now, more than 3,100 of the 4,800 international police officers he has been promised—even if not the 6,000 he wanted—are here, and a Kosovo police academy is turning out graduates.

One of Mr. Kouchner's biggest regrets is the slow arrival of the police, which bred a culture of impunity. More than 500 murders have taken place in the year since the United Nations force took complete control of the province, and no one has yet been convicted.

There are still only four international judges and prosecutors in a province where violence and intimidation mean neither Serbs nor Albanians can administer fair justice.

What depresses him most, Mr. Kouchner says, is the persistence of ethnic violence even against the innocent and the caregivers. One of his worst moments came last winter, he said, when a Serbian obstetrician who cared for women of all ethnic groups was murdered by Albanians in Gnjilane, in the sector of Kosovo patrolled by American units of the United Nations force.

''He was a doctor!'' Mr. Kouchner exclaimed, still appalled. ''It was the reverse of everything we did with Doctors Without Borders.''

While Mr. Kouchner says he has put himself alongside ''the new victims,'' the minority Serbs, he carries with him his visit to the mass graves of slain Albanians.

''I'm angry that world opinion has changed so quickly,'' he said. ''They were aware before of the beatings and the killings of Albanians, but now they say, 'There is ethnic cleansing of the Serbs.' But it is not the same—it's revenge.''

He does savor the international military intervention on moral and humane grounds. ''I don't know if we will succeed in Kosovo,'' he said. ''But already we've won. We stopped the oppression of the Albanians of Kosovo.''

Mr. Kouchner paused, lost in thought and memory. ''It was my dream,'' he said softly. ''My grandparents died in Auschwitz,'' he said, opening a normally closed door. ''If only the international community was brave enough just to bomb the railways there,'' which took the Nazis' victims to the death camp. ''But all the opportunities were missed.''

That, he said, is why he became involved, early on, in Biafra, the region whose secession touched off the Nigerian civil war of

1967–70, in which perhaps one million people died. And it was what drives him in Kosovo.

Mr. Kouchner, now 60, holds to the healing power of time. He points to the reconciliation now of Germany and Israel, and of France and Germany.

''Working with Klaus Reinhardt is a good memory,'' he said. ''He called me his twin brother.'' They both came of age in the Europe of 1968. ''I'm a Frenchman and he's a German,'' and 50 years ago, he said, ''no one could imagine this.''

''It's much easier to make war than peace,'' Mr. Kouchner said. ''To make peace takes generations, a deep movement and a change of the spirit.'' He smiled, looked away. ''It's why I sometimes want to believe in God.''

EXHIBIT NO. 3

RESOLUTION ON SOUTHEASTERN EUROPE

The OSCE Parliamentary Assembly,

1. Recalling that conflicts in the former Yugoslavia since 1991 have been marked by open aggression and assaults on innocent civilian populations, have been largely instigated and carried out by the regime of Slobodan Milosevic and its supporters, and have caused the deaths of hundreds of thousands of people; the rape, illegal detention and torture of tens of thousands; the forced displacement of millions; and the destruction of property on a massive scale, including places of worship;

2. Viewing the overall rate of return of refugees and displaced persons throughout the region to their original, pe-conflict homes, especially where these persons belong to a minority ethnic population, has been unacceptably low;

3. Reaffirming the necessity of fulfilling in good faith UNSC resolution 1244 for the settlement of the situation in Kosovo, Federal Republic of Yugoslavia;

4. Condemning the continuing violence in Kosovo against members of the Serb and other minority communities, including hundreds of incidents of arson and damaged or destroyed Serbian Orthodox church sites, and dozens of aggravated assaults and murders;

5. Reaffirming the commitment to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia, as stipulated by UNSC resolution 1244;

6. Noting that the OSCE and the United Nations High Commissioner for Refugees (UNHCR) have jointly reported that a lack of security, freedom of movement, language policy, access to health care and access to education, social welfare services and public utilities are devastating the minority communities of Kosovo;

7. Expressing concern for the situation of missing Albanians, Serbs and people of other nationalities in Kosovo and for ethnic Albanians kept in prisons in Serbia;

8. Noting that reports indicate that hundreds, and perhaps thousands, of ethnic Albanians, transferred from Kosovo to jails in Serbia proper around the time of the entry of international forces into Kosovo, have not been released in the year since, that several have received harsh sentences in show trials, and that problems regarding access to and treatment of such prisoners continue;

9. Recalling that the people and governments of the former Yugoslav Republic of Macedonia and Slovenia have positive records of respect for the rights of persons belonging jto national minorities, the rule of law and democratic traditions since independence;

10. Welcoming the commitment of the newly elected leadership of Croatia to progress regarding respect for human rights, refugee returns and the elimination of corruption;

11. Believing that the people of Serbia share the right of all peope to enjoy life under democratic institutions;

12. Viewing democratic development throughout Serbia and Montenegro as essential to long-term stability in the region, including the implementation of agreements regarding Bosnia and Herzegovina and Kosovo;

13. Noting that the regime of Slobodan Milosevic has been engaged in a planned effort both to repress independent media, and to crush political opposition, in Serbia, through the use of unwarranted fines, arrests, detentions, seizures, blackouts, jamming, and possibly assassination attempts, and also engaged in an effort to stop student and other independent movements;

14. Recognizing the importance of the Stability Pact to the long-term prosperity, peace and stability of southeastern Europe;

15. Supporting OSCE Missions throughout the region in their efforts to ensure peace, security and the construction of civil society; and

16. Recalling the legally binding obligation of States to cooperate fully with the International Criminal Tribunal for the former Yugoslavia, contained in UN Security Council Resolution 827 or 25 May 1993, including the apprehension of indicted persons present on their territory and the prompt surrender of such person to the Tribunal;

17. Insists that all parties in the region make the utmost effort to ensure the safe return and resettlement of all displaced persons and refugees, regardless of ethnicity, religious belief or political orientation, and to work towards reconciliation between all sections of society;

18. Encourages members of all ethnic groups in southeastern Europe, especially in Kosovo, Bosnia and Serbia, to respect human rights and the rule of law;

19. Reiterates its call upon all authorities of the Federal Republic of Yugoslavia, in accordance with international humanitarian law, to continue to provide for the ICRC ongoing access to all ethnic Albanians kept in prisons in Serbia, to ensure the humane treatment of such prisoners, and to arrange for the release of prisoners held without charge;

20. Encourages the newly elected leadership of Croatia to continue their efforts to reform and modernize their country in a manner that reflects a commitment to human rights, the rule of law, democracy and a market-based economy;

21. Condemns the repressive measures taken by the regime of Slobodan Milosevic to suppress free media, to stop student and other independent movements, and to intimidate political opposition in Serbia, all in blatant violation of OSCE norms;

22. Urges the regime of Slobodan Milosevic to immediately cease its repressive measures and to allow free and fair elections to be held at all levels of government throughout Serbia and monitored by the international community;

23. Calls upon Slobodan Milosevic to respect human rights and other international norms of behaviour in Montenegro;

24. Calls upon the international community to fully implement the Stability Pact, under OSCE auspices, in an effort to integrate the nations of South-Eastern Europe into the broader European community, and to strengthen those countries in their efforts to foster peace, democracy, respect for human rights and economic prosperity, in order to achieve stability in the whole region;

25. Encourages all representatives of the international community operating in southeastern Europe, including the OSCE, the United Nations, the North Atlantic Treaty Organization and other non-governmental organizations to actively promote respect for human rights and the rule of law;

26. Urges participating States to provide sufficient numbers of civilian police to those international policing efforts deployed in conjunction with peacekeeping efforts in post-conflict situations such as Kosovo;

27. Calls upon the international community to target assistance programmes to help those persons returning to their original homes have the personal security and economic opportunity to remain;

28. Calls upon the participating States to organize, including through the OSCE and its Office for Democratic Institutions and Human Rights (ODIHR) programmes that can assist and promote democratic change in Serbia, and protect it in Montenegro; and

29. Reiterates its condemnation of any effort to provide persons indicted by the International Criminal Tribunal for the Former Yugoslavia, and its support for sanctioning any State which provides such persons with any form of protection from arrest.

The PRESIDING OFFICER. The Senator from Iowa.

TENTH ANNIVERSARY OF AMERICANS WITH DISABILITIES ACT

Mr. HARKIN. Mr. President, I ask the indulgence of the Senate to do something that I did 10 years ago; that is, to recognize the 10th anniversary of the Americans with Disabilities Act by doing what I did on the floor 10 years ago. I will do a little bit of sign language with respect to that.

(Signing.)

Mr. President, what I just said in sign language was that 10 years ago I stood on the floor of the Senate and spoke in sign language when we passed the Americans with Disabilities Act. The reason I did that was because my brother Frank was my inspiration for all of my work here in Congress on disability law.

That was the reason that I became the chief sponsor of the Americans With Disabilities Act. I further said that I was sorry to say that my brother passed away last month. Over the last 10 years, he always said me that he was sorry the ADA was not there for him when he was growing up, but that he was happy that it was here now for young people so they would have a better future. Mr. President, we do celebrate today the tenth anniversary of the Americans With Disabilities Act, which has taken its place as one of the greatest civil rights laws in our history.

When you think about it, ten years ago, on July 25, 1990, a person with a disability saw an ad in the paper for a job for which that person was qualified, and went down to the business to interview for the job. The prospective employer could look at that person and say: we don't hire people like you, get out of here. On July 25, 1990, that person was alone. The courthouse door was closed. There was no recourse for that person because there was no ban on discrimination because of disability. We banned it on the basis of race, sex, religion, national origin, but not disability. So on July 25, 1990, a person

with a disability held the short end of the stick.

But one day later, on July 26, 1990, the courthouse doors were opened. A person with a disability could now go down to that courthouse and enforce his or her civil rights. On July 26th, that one person who was alone the day before became 54 million people, and now that short end of the stick became a powerful club by which a disabled American could defend his or her rights.

Ten years ago, we as a Nation committed ourselves to the principle that a disability does not eliminate a person's right to participate in the cultural, economic, educational, political and social mainstream. Ten years ago, we said no to exclusion, no to dependence, no to segregation. We said yes to inclusion, yes to independence, and yes to integration in our society to people with disabilities. That is what the ADA is all about.

For me, the ADA, as I have just said, was a lot about my brother Frank. He lost his hearing at an early age. Then he was taken from his home, his family and his community and sent across the State to the Iowa State school for the deaf. People often referred to it as the school for the ''deaf and dumb.'' I remember one time my brother telling me, ''I may be deaf, but I am not dumb.''

While at school, Frank was told he could be one of three things: a cobbler, a printers assistant, or a baker. When he said he didn't want to be any one of those things. They said, OK, you are a baker. So after he got out of school, he became a baker. But that is not what he wanted to do. So he went on to do other things, obviously.

Everyday tasks were always hard. I remember, as a young boy, going with my older brother Frank to a store and how the sales person, when she found out that he was deaf, looked through him like he was invisible and turned to me to ask me what he wanted; or how when he wanted to get a driver's license, he was told that ''deaf people don't drive.'' So his life was not easy because the deck was stacked against him. He truly held the short end of the stick.

I remember when my brother finally changed jobs. He got out of baking and got a job at a plant in Des Moines. He had a good job at Delavan's. Mr. Delavan decided he wanted to hire people with disabilities, and so my brother went to work there. He had a great job. He became a drill press operator making jet nozzles for jet engines. He was very proud of his work. Later on, I was in the Navy, in the military. I remember when I came home on leave for Christmas, and I was unmarried at the time. I came home to spend it with my brother Frank, who was also unmarried, and the company he worked for had a Christmas dinner. So I went with my brother to it, not knowing that anything special was going to happen. It turned out that they were honoring Frank that night, because in 10 years of working there he had not missed one day of work and hadn't been late once. Mr. President, that is during Iowa winters. So, again, that is an indication of just how hard-working and dedicated people with disabilities are when they do get a job. He worked at that plant for 23 years, and in 23 years he missed 3 days of work. And that was because of an unusual blizzard.

Another little funny aside. In ADA, we mandated a nationwide relay system for the deaf, so that a deaf person could call a hearing person, and a hearing person could call a deaf person without having to use the TTY. One of the first calls made on the nationwide relay system was from the White House in 1993, when President Clinton put in a call to my brother Frank. We had it all set up. President Clinton called the number, and the line was busy. All the national press was there and everything. He waited a few seconds and the line was busy again. It was busy three or four times. Finally, I called my neighbor in Cumming, Iowa, and I said, ''Go over and find out what is going on.'' My brother was so excited that he had been on the phone talking to his friends. He forgot that the President was going to call him. President Clinton related that story at the FDR memorial this morning in celebration of the Americans With Disabilities Act and reminded me again of what the ADA was all about. As President Clinton so eloquently said this morning, it is about ensuring that every American can just do ordinary things, such as use the phone, go shopping, use public transportation. It is also about ensuring that every American has access to resources as fundamental as health insurance, a job, an education—things that we take for granted.

The ADA is about designing our policies and physical environment so that we as a Nation can benefit from the talent of every citizen. It is about acknowledging that it costs much more to squander the potential of millions of people than to make the modest accommodations that let all Americans contribute fully. It is about tearing down the false dichotomy of abled and disabled, and realizing that each of us has a unique set of abilities.

Mr. President, a few weeks ago, in anticipation of this tenth anniversary celebration of ADA, I announced ''A Day in the Life of the ADA Campaign.'' I asked people from across America to send stories about how their lives are different because of ADA. I wanted to find out just what the ADA meant to other people in ordinary life.

Based on these stories, I have learned that the ADA is truly changing the face of America.

A woman from Vinton, Iowa who uses a wheelchair wrote to tell me that because of the ADA, she now can travel around the country. She said:

> You can't understand until you've been there, searching for a hotel room, a restroom to stop in, a room to accommodate you, your spouse and your wheelchair. Oh, the joy of now knowing there are rest areas where we can stop, enter in without great difficulty, and then travel on to a waiting accessible motel room! What a good feeling to call ahead, make reservations and know that when we arrive there we'd find a clean room, ready to accommodate my needs.

A man from St. Paul, Minnesota who is visually-impaired wrote to say that because of accommodations required by the ADA, he can use city buses with dignity, hear the audible traffic signals, and work. He said that the ADA also enables him to enjoy cultural activities, because he can listen to narrations of plays through earphones and basketball games through special radio receivers. In his words:

> [The ADA] has made my life 1000 times better than my father's who was also totally blind.

And, a woman from Corpus Christi, Texas, whose daughter is hearing impaired told me that her daughter is able to join her schoolmates in classes and activities because of relay services and interpreters. The mother also told me that because of the ADA-required relay services, her daughter was able to speak with her father for the first time.

> When my daughter was just 4 years old, she got to call her real father for the first time. I wish you could have seen the sparkle in her eyes and the tears in mine as she 'talked' with her daddy. It took forever (she couldn't type) but the relay service was friendly and patient. I believe that Relay has played a part in keeping their relationship strong. Every little girl needs her daddy.

Mr. President, I have a whole stack of these stories. I will not ask permission for all, but I ask unanimous consent to have some of the more poignant stories that I received from around the country be printed in the RECORD. They are very short.

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

SUCCESS STORIES FROM U.S. SENATOR TOM HARKIN'S ''A DAY IN THE LIFE OF THE AMERICANS WITH DISABILITIES ACT'' CAMPAIGN

NEW YORK

Summary: According to a man in New York with cerebral palsy, the ADA-required ramps, elevators, automatic doors, curb cuts, and accessible transportation have allowed him to be more independent in his life. Thanks to the ADA, he is now able to do his own banking, go to the post office or shop by himself, or enjoy a meal at a restaurant. Reasonable accommodation requirements have allowed him to work as an advocate for people with disabilities and earn money to contribute to his household expenses. In his words, the ADA has allowed him to ''show my community that I am willing and able to be like anyone else in ways like getting a job and being independent.''

Quotation: [Prior to the ADA,] I felt that I was not a real human being because people with disabilities . . . were not supposed to be seen or heard . . . [The ADA] opened the door to freedom for people with all types of disabilities . . . The ADA is a step toward reaching equal ground for EVERYONE! . . . Doing things on my own makes me feel like I am a PERSON and gives me a lot of confidence in myself''.

TENNESSEE

Summary: A man from Tennessee has been quadriplegic since an automobile accident in 1990, the very year that the ADA was signed. According to him, the ADA has helped him pursue his academic, as well as employment, dreams. The ADA helped him to earn an undergraduate degree and was even the subject of his master's thesis during graduate school at a Tennessee state university.

Quotation: [With the passage of the ADA], my physical impairments that had recently been introduced to a cold world now had a blanket. A blanket provided by my country . . . My disability and the ADA were born together and this year we celebrate 10 years of success, for the both of us.

MARYLAND

Summary: A woman from Maryland is the mother of three autistic children—all of whom have benefitted from the ADA. Because of the ADA, she looks forward to her children graduating from school and working in the community when they grow up.

Quotations: Ten years ago before the ADA my boys would have been wrenched with heart ache as they walked with their heads hung down in shame. They would feel the pain of having a disorder that would make them stand and learn apart from the other children at school. I am not sure what their future holds in store. I know that the supports are in place.

SACRAMENTO, CALIFORNIA

Summary: A man with muscular dystrophy from Sacramento, California, cannot imagine what his life would be like without the ADA and celebrates July 26 as the ''Other Independence Day.'' He credits the ADA with making his life ''full and independent'' by requiring stores, restaurants, parks, and theaters to be accessible to all people.

Quotation: The ADA embodies what people with disabilities really want, to be viewed as people first, not judged or excluded because of our disabilities. We want to earn a living, raise families, go to restaurants, churches and live our lives as independently as possible with dignity and respect and not be excluded because of barriers—be they architectural, communication or attitudinal barriers.

MOSS POINT, MISSISSIPPI

Summary: A woman from Moss Point, Mississippi has been in a wheelchair since 1997. The ADA makes it possible for her to do her own grocery shopping, attend events at her grandchildren's school, go to dinner ''anywhere,'' travel, and stay in a handicapped room at a motel with the ''greatest shower [she has] ever seen''.

Quotation: No one plans to become handicapped, but I am grateful the ADA Program planned for me.

ARROYO GRAND, CALIFORNIA

Summary: A man from Arroyo Grand, California who uses a wheelchair says that he has benefitted from the ADA in a variety of ways. Because of the ADA, he is able to watch his nieces play basketball in an accessible gymnasium, to play chess in accessible recreation rooms, even to attend a Bob Dylan concert and to shut his own apartment door.

Quotation: The success of the Americans with Disabilities Act over the last ten years was caused by its enormous power. Knowledge of its power brings improvement. The reason the ADA is powerful is that all businesses know about it, and people with disabilities can communicate with that powerful knowledge . . . Everywhere I go today I can seriously say ''ADA'' and get a response.

SALEM, INDIANA

Summary: A woman from Salem, Indiana, uses a wheelchair and has limited use of one arm. She credits the ADA for the construction of buildings where her disability ''never occurs to [her]''—with aisles wide enough to accommodate a wheelchair, bathrooms that are accessible, and drinking fountains at chair level. She writes of the joy of being allowed access, via outside elevators and ramps, to such historical sites as Thomas Jefferson's Monticello and the Lincoln Memorial.

Quotation: Dear ADA, Thank you for being there when we need you, the curb cuts, low-incline ramps, the grab bars and the list goes on and on . . . ADA, what life has done to us, you have equalized it, with accessibility.

GREENBELT, MARYLAND

Summary: A man who lives in Greenbelt, Maryland and is hearing impaired thanks the ADA for increasing public awareness of the abilities the ''disabled'' have. He praises the ADA for helping him become an attorney and allowing him to help other people with disabilities ''achieve their dreams.'' According to him, the ADA has impacted almost every aspect of his daily life, from the time he turns on the television with closed-captioning in the morning, to the time he attends a city advisory meeting with an interpreter at night.

Quotation: The impact of the ADA is felt throughout my daily life. When I turn on the TV in the morning, I can watch captions and public service announcements because of the ADA. When I go to work and make phone calls, I use the telecommunication relay services enacted by the ADA. I talk with my friends who are given accommodations on the job as required by the ADA. In the afternoon I go to the doctor's office and am able to communicate with my doctor because the ADA has required the presence of a sign language interpreter. After the doctor's office, I decide to go shopping and am able to find a TTY (as required by the ADA) in the mall to call my family and let them know that I will be a bit late arriving home. After dinner with my family, I go to [city meeting] . . . and am able to participate fully . . . because the ADA allows me to receive the services of a sign language interpreter. In short, the ADA has had a major impact on almost every facet of my life.

WAUKEGAN, ILLINOIS

Summary: A 25-year-old social worker who is sight impaired writes from Waukegan, Illinois. According to her, Title III of the ADA has allowed her to receive bank statements in Braille and to balance her checkbook. She is now able to enjoy a level of privacy that many Americans take for granted.

Quotation: I now receive my statements in the mail every month, as do other bank customers. This might seem like a small victory to some. Obviously such people have never been denied the ability to read something so personal as a bank statement.

LAS CRUCES, NEW MEXICO

Summary: A woman from Las Cruces, New Mexico, uses a wheelchair and credits the ADA for allowing her to ''pick up and make a move across the country'' to a new home. She says that the ADA has given her her life back and made her a ''possibility-thinker'' again.

Quotation: I know that things are made possible for the disabled now because IT'S THE LAW. We have greater options, self-respect and better public awareness because of the ADA . . . My independence and free will are intact.

TEXAS

Summary with Quotation: A woman from Texas is hearing-impaired and writes of how the ADA has allowed her to return to academia. After teaching for 20 years, she was forced to quit teaching college-level English when she could no longer hear her students in the classroom. In her words ''it tore my heart out to give it up.'' Now, because of services for disabled students required by the ADA, she can attend literature courses at a university by wearing a headset that amplifies her professor's voice. In her words, ''[it] was sheer heaven to be in the classroom again.''

GLEN ELLYN, ILLINOIS

Summary and Quotations: A man in Glen Ellyn, Illinois who is sight impaired regards the ADA as ''a necessary civil rights law.'' Because of the ADA's employment provisions, he has been able to ask his employer to make materials—such as benefits information, texts for training courses, and time sheets—in an alternative format. Because of the ADA's transportation provisions, he has been able to travel on public transportation, because bus drivers now call out individual stops. Because of the ADA's public accommodation requirements, he is able to order what he wants at restaurants and to attend hotels and movie theaters independently.

BROOKLINE, MASSACHUSETTS

Summary and Quotations: A hearing-impaired man from Brookline, Massachusetts, writes to praise the ADA. Having grown up in Trinidad without the benefits of disability legislation, he appreciates being able to attend open-captioned movie theaters, use the Boston subways, which have visual displays announcing stops, and have access to interpreting services for work-related meetings and training sessions. He writes of the ''growing respect'' people give to individuals with disabilities and ''awareness'' that is motivated by more than ''just a legal obligation.''

ROCKY MOUNT, NORTH CAROLINA

Summary: A man in Rocky Mount, North Carolina who has been a paraplegic all his life thanks the ADA for allowing him ''to become as independent as others.'' He now has access to a variety of school, shopping malls, and sports and entertainment events. Because of the ADA, he has job opportunities that he never could have dreamed of growing up.

Quotation: ''When I was growing up I had to go to certain schools and shopping malls that were accessible. Sports and entertainment was something you dreamed about, but was never able to participate in. . . . But now things are different, thanks to the [ADA] . . . [The ADA] has made us . . . able to say, ''Don't look at my disability, but look at my ability.''

ARKADELPHIA, ARKANSAS

Summary: A sight-impaired student in Arkadelphia, Arkansas, credits the ADA for making her first year at a state university a ''beautiful experience and resounding success.'' Because the ADA requires colleges to ensure equal access to educational information, she is able to get a quality college education.

Quotation: [The ADA] has really helped the disabled people that are present on our campus to get as good an education as possible and also to make their college career a beautiful experience and a resounding success.

SOUTH AMBOY, NEW JERSEY

Summary: A woman from South Amboy, New Jersey who has mental, behavioral, and learning disabilities says that the ADA has made her feel included in community life. Through her local independent living center, a psycho-social rehabilitation program, an anger management workshop, and other support and advocacy groups, she has learned to accept her disabilities and ''welcome them as a dimension to [her life].''

Quotation: Most importantly, I strongly believe that the ADA is breaking both physical and attitudinal barriers in the community and society so citizens with all disabilities are able to live, inclusive, full, productive, and independent lives.

Mr. HARKIN. Mr. President, the ADA, of course, ultimately is about our children. They will be the first generation to grow up with the ADA—the first generation in which children with and without disabilities play together on the playground, learn together in school, hang out together at the mall and the movie theater, and go out together for pizza. These children who will grow up as classmates and friends and neighbors will now see each other as neighbors and coworkers—no longer segregated. That is what the ADA is about. It has opened up new worlds for people with disabilities—where people with disabilities are participating more and more in their communities, living fuller lives as students, as coworkers, as taxpayers, as consumers, voters, and neighbors.

But we must never forget that prohibiting discrimination is not the same as ensuring equal opportunity. President Johnson understood this when he said: ''[Y]ou cannot shackle men and women for centuries, then bring them to the starting line of a race and say, 'You see, we're giving you an equal chance.'''

That is why we all work so hard for the Ticket to Work and Work Incentives Improvement Act because we had to set the stage to change the employment rate for people with disabilities. That is why we all work so hard to defend the Individuals with Disabilities Education Act, because there is no equal opportunity without education.

I am proud that this morning President Clinton announced a new effort by the Federal Government to open up an additional 100,000 jobs in the Federal Government for people with disabilities. That is leadership. I thank President Clinton for providing that leadership.

Again, that is why we have to fight against genetic discrimination. That is why we have to add people with disabilities to the Hate Crimes Act that passed the Senate, and to make sure it becomes law.

That is why we have to fight to make sure we don't lose in the Supreme Court what we gained in Congress. There is a case now pending before the Supreme Court in which a State has argued that title II of the ADA which applies to State governments should be held unconstitutional because the Federal Government does not have the power to enforce the ADA against the States in the way other civil rights laws are.

The Civil Rights Act of 1964, which prohibits discrimination on the basis of race, applies to all the States and State governments. Now a State is arguing that the ADA, a civil rights law for people with disabilities, should not apply to States. They are saying: Don't worry. The State says: Leave it to us. We will make sure that people aren't subject to employment discrimination. We will make sure that people aren't forced to live inside institutions or carried up the steps in order to get into the local courthouse.

Some of us remember after the 1964 civil rights bill was passed that States were arguing the same thing: Leave it to the States; they will take care of civil rights; we don't need the Federal Government coming in.

What I think we are forgetting is that this is a civil rights law that covers the citizens of America. We are all in this together. We are talking about citizens'—Federal, national—constitutional rights to equal protection under the law. It is up to this Federal Congress to ensure that citizens with disabilities get that equal treatment. That is why we have title II of the ADA.

In sign language, there is a wonderful sign for America. It is this: This is the sign for America, all of the fingers put together, joining the hands in a circle. That describes America for all. We are all together. We are not separated out. We are all within one circle; a family—the deaf sign. It is not separate and apart. It is not one State and another State when it comes to civil rights and ensuring equal protection of the law. We will not let the Supreme Court rewrite history and erase civil rights—the national civil rights for people with disabilities.

Finally, we have to close the digital divide to make sure that people with disabilities have full access to the new technologies.

Last night, Vice President Gore held a reception at the Vice President's house for literally hundreds and hundreds of people with disabilities from all over America. It was a great event to celebrate the 10th anniversary. In one tent, they set up a wide variety of new technologies to assist people with disabilities. I was particularly taken with one new device that had a cathode ray tube, CRT. It was hooked up to a PC. There was a little device under the net, a CRT that looked up at your eyes. You sat there for a second and it calibrated it. With your eye movement alone, you could turn on lights, turn off lights, make phone calls, talk to people, type letters, get on the Internet, only by moving your eyes.

Think about what that means for people who have Lou Gehrig's disease or severe cerebral palsy. There are a lot of disabled people who can't do anything but move their eyes. But their mind is perfect.

One perfect example that Vice President Gore always uses is Stephen Hawkins, perhaps the smartest individual in the world, who is fully immobile because of his disability. Yet here is a machine that will allow him to more rapidly access information and to write his wonderful books about the universe. That is what I mean when I say we ought to close the digital divide because there is so much out there that can help people with disabilities.

Lastly, I say that the next step we have to do is fight and win against the continued segregation of people with disabilities from their own communities. That is why we have to move forward on the bill called MiCASSA, S. 1935, a bill that is pending in the Senate right now—the Medicaid Community Attendant Services and Supports Act—a bipartisan bill that will eliminate institutional bias in the Federal Medicaid program and give people with disabilities and the elderly a real choice to live in their communities. Right now, Medicaid is biased toward institutionalization.

Why shouldn't we give a person with a disability the right to decide where he or she wants to live and how they want to live? Let them live in their own home, in their own community settings. That is what S. 1935 is about. The disability community all over this country understands personal attendants are sorely needed. No individual should be forced into an institution just to receive reimbursement for services that can be effectively and efficiently delivered in the home of the community. Individuals must be empowered to exercise real choice in selecting long-term services and supports that meet their unique needs and allow them to be independent. Federal and State Medicaid policies should be responsive to and not impede an individual's choice in selecting services and supports.

This bill eliminates the bias toward institutional care. It would help deliver services and supports consistent with the principle that people with disabilities have the right to live in the most integrated setting appropriate to meeting that individual's unique needs.

In last year's Olmstead decision, the Supreme Court found that to the extent that Medicaid dollars are used to pay for a person's long-term care, that person has a civil right to receive those services in the most integrative settings. Therefore, we in Congress have a responsibility to help States meet the financial costs associated with serving people with disabilities who want to leave institutions and live in the community. MiCASSA, as the bill is known, S. 1935, will provide that help.

A lot of people say this will cost money. Actually, it will save money. Medicaid spending on long-term care in 1997 totaled $56 billion, but only $13.5 billion was spent on home and community-based services. That $13.5 billion paid for the care of almost 2 million people.

In contrast, the $42.5 billion we spent on institutional care paid for just a little over 1 million people.

The average annual cost of institutional care for people with disabilities is more than double the average annual cost of providing home and community-based services. Right now, all across the country, hundreds of thousands of people are providing unpaid

support to sons and daughters, mothers, fathers, sisters and brothers, to allow them to remain in the community. Yet when they turn to the current long-term care system for relief, all too often all they can do is add their name to a very long waiting list. That is not right. That is not just. That is not fair. These family care givers are sacrificing their own employment opportunities and costing the country millions in taxable income.

Lastly, I take a moment to remark on the surplus. Lately that is all we are hearing about is how much surplus we will have over the next 10 years. I hear now it is up to $2 trillion and counting. We have some very important decisions to make about what we do with the surplus. Everyone is lining up—tax breaks here, tax cuts here, tax breaks here, for business, for corporations, for this group, for that group—all lining up to get some of that surplus.

I believe we have to make some important decisions. I believe we have to use that money to pay down the debt, shore up Social Security, make sure that our seniors get what they need under Medicare. With all these groups lining up to get a piece of the action on the surplus, I am asking: What about the disability community? What about the Americans all over our country who want to live in their own communities, who want supportive services in their homes, who want personal assistance services so they can go to work every day? I believe we should use some of that surplus to make sure that all Americans have the equal right to live in the community—not just in spirit, but in reality.

As I said, our present Medicaid policy has an institutional bias. We need to use some of this surplus to get people in their own homes and communities. There may be some transitional cost, but we know later on when these people start going to work, when their families and the family care givers who are at home now and underemployed, are employed, when they go to work they are working, making money, paying taxes.

Yes, when we are talking about what we are going to do with that surplus, let's not forget we have millions of Americans far too long segregated, far too long kept out of the main stream of society, far too long denied their rights as American citizens to full integration in our society. It is time we do the right thing. It is time when we make decisions about the surplus, we use some of that to make sure that people with disabilities are able to live and work and travel as they want.

ADA may stand for the Americans with Disabilities Act, but it stands for more than that. It really stands for the American dream for all.

In closing, as I said earlier, my brother, Frank, passed away last month. I miss him now and I will miss him forever. He was a wonderful brother to me. He was a great friend. He was my great inspiration. He was proud of what the ADA meant for people with disabilities. For 10 years he and millions of people across our country lived out its possibilities. So I thank my brother, Frank. I thank everyone else in the entire disability community who was an inspiration for me, who worked so hard for the Americans with Disabilities Act.

I include in that many of my fellow Senators and Representatives. This was never a partisan bill. It is not now a partisan bill. It will never be a partisan bill. Too many good people on both sides of the aisle worked hard. Senator Weicker, who led the charge early on, before I even got to the Senate; Senator Dole, who worked so hard, so long, to make sure we got ADA through; Boyden Grey, Counsel to the President who worked with us every step of the way; Attorney General Dick Thornburgh, what a giant he was, hung in there, day after day, working to make sure we got it through. On our side of the aisle, Senator KENNEDY, who made sure we had all the hearings, got the people there, made the record, to ensure that ADA was on solid ground; Tony Coehlo from the House of Representatives, and Representative STENY HOYER in the House; Congressman Steve Bartlett, another great giant, Republican leader in the House at that time, later on became mayor of Dallas. He was there this morning, too.

At that time, there weren't Democrat and there weren't Republicans. We were all in that same boat together, and we were all pulling together. We were, as I said earlier, Mr. President—the deaf sign for Americans is this (signing)—all of us together, fingers intertwined, all of us in that same family circle. That is what ADA is about. It is about this deaf sign. We are all in this together.

We want to make sure the ADA really does stand for the American dream for all.

I yield the floor.

The PRESIDING OFFICER (Mr. BROWNBACK). Under the previous order, Senator DEWINE is recognized.

Mr. GORTON. Mr. President, I believe the Senator from Ohio will yield to me, and I ask unanimous consent to be recognized for a few remarks in morning business.

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

REMEMBERING SENATOR PAUL COVERDELL

Mr. GORTON. Mr. President, all last week I deferred coming to the floor to speak about my friend, Paul Coverdell, on the ground that it might be easier to do so this week. It is not. It is not, but it is vitally important to memorialize such a friend.

Every Monday evening or Tuesday morning, Paul Coverdell and I sat at the end of the table during leadership meetings in the majority leader's office, with an opportunity to comment on all of the issues that came before that group. Frequently, however, at the end of the table, we would exchange whispered remarks on some of the other people or subject matter, either present or not present. Paul Coverdell had a wonderful sense of humor, there and elsewhere: Dry, gentle, always to the point. It was a delightful pleasure to share those moments, sometimes stressful, sometimes marvelously relaxed, with such a man.

If you sought advice on a matter of vitally important public policy, Paul Coverdell was one of the first you would seek out. You knew that anything he would discuss with you would be filled with wisdom and common sense, and that stacking your remarks against his would focus and sharpen your own thoughts and your own ideas. It hardly mattered what the subject was—education, taxes, national security, a dozen others; the advice was always good and always relevant.

If you then sought tactics or advice on how to accomplish a shared goal, Paul Coverdell was a man whom you sought out. Particularly if there were an individual in your own party, or in the other party, whom you might be reluctant, for one reason or another, to approach, you could ask Paul Coverdell to do it for you, and he would. There was no task, there was no detail that was too small for him, none that he thought was beneath him, if it was constructive, if it would help the cause in the long term.

One way in which you can determine individuals' reactions to other individuals is in a group. At the Republican conference meeting immediately before the Fourth of July recess, Paul Coverdell, as the Secretary of the conference, presented us a little plastic note card, the top of which read ''Republican Policy.'' I no longer remember the particular subject, but I do remember that first one or two people said, ''I don't agree with point 3.'' Pretty soon, everyone was piling on. Finally, one of our colleagues wrote across the top of this, ''One Republican's Policy,'' and handed it back to Paul Coverdell, who just went back to perfect his message.

Whom you tease, you generally love. That in many respects was an expression of the love and respect his Republican colleagues had for Paul Coverdell.

Paul Coverdell made us all proud of our profession, a profession often criticized, in fact a profession rarely praised. When a State sends a Paul Coverdell to the Senate, it is proof positive that our system works. And when the Senate of the United States listens to and respects and follows a Paul Coverdell, that, too, is proof that our system works. When, as was my privilege, you come to know and be befriended by a Paul Coverdell, you are especially privileged and especially honored. I was so privileged. I was so honored.

I will not know his like again.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I congratulate my colleague from Washington State on very eloquent comments about our dear friend, Paul Coverdell. I had the chance a few days ago to make some more extensive comments than I will tonight about Senator Coverdell. But I just want to add, I had the opportunity, as many Members of the Senate did, to travel to Atlanta this past weekend to participate in that very wonderful service for our dear friend. I don't think it really hit me that he was really gone until I got back this week to Washington and started contemplating this Senate body without Paul Coverdell and all that he meant to each and every one of us. He was our friend. We loved him very much. This body, this institution, is a poorer place because he is gone.

Each one of us is richer because we were privileged to know this very gentle, this very kind, this very sweet, this very good man.

HONORING VIRGINIA ''GINNY'' GANO

Mr. DEWINE. Mr. President, on a happy note, I rise this evening to honor someone who has spent the last 30 years of her life serving the people of this country, of this Congress, of the State of Ohio; specifically, of the Seventh Congressional District in Ohio.

I am talking about a dear friend of mine, Virginia ''Ginny'' Gano. I had the great pleasure and honor to work with her during my years as Congressman from the Seventh Congressional District in Ohio. Ginny is now in her 31st year of service to the people. She is truly an ambassador for the Seventh district and for the entire State of Ohio.

Ginny grew up in Springfield, OH. She started working for Congressman Bud Brown at a very young age in 1969. In 1982, when I was elected to the House of Representatives, I asked Ginny if she would come work with me. I became the Congressman. Ginny agreed to stay on and work in our office. During that time, Ginny Gano was really invaluable to me and invaluable to our office and to the people of the district. She had and has an unbelievable wealth of knowledge and institutional memory. If you want something done, if you want to know something, you ask Ginny Gano.

In 1991, she joined current Seventh District Congressman DAVID HOBSON's team. This evening—I am sure at this very moment—knowing Ginny, she is still at work in the Longworth Building serving the people in the district.

Ginny is one of the hardest working people whom I have ever met. With her resources, her experience, and her knowledge, she can answer any question or just about any request made of her. She never says no. She is that good. She gets the job done. She just knows how to get it done. Whatever you want, Ginny will figure out a way of getting it done.

One of the many things that Ginny has done over the years has been to work with interns in a Congressman's office. She goes to great lengths to make sure these young people who come out from Ohio to serve the people and to learn have meaningful experiences in Washington, that they feel at home, that they have someone to look out for them.

Ginny has spent the last 30 years helping people in our district and has truly gotten to know the people of the Seventh District, and they know that she cares about them. She is the one constant in the office of the Congressman from the Seventh Congressional District. Whether it was Bud Brown, MIKE DEWINE, or DAVE HOBSON, Ginny Gano has been there. Ginny Gano is making a difference.

One of the things I appreciate about Ginny so much is that she has a way about her that makes everyone feel at ease. Whether it is a group of schoolchildren from Greene County or maybe someone whom she bumps into in the Rotunda of the Capitol, a total stranger, it does not matter; Ginny is there to help them and she makes everyone feel welcome in our Nation's Capitol. Ginny is a caring and compassionate human being. Being around Ginny Gano just makes you happy. She is that type of person. Her smile, her spirit, her energy—you just feel good when you are around Ginny Gano.

Ginny has dedicated some of her free time—the little free time she has—to something she loves: music. For years she has participated with a great deal of enthusiasm in the Capitol Hill Choral Society. She also has been a driving force behind the Ohio State society's selection of the cherry blossom princess every spring.

My wife Fran and I are just so proud to call Ginny Gano a friend. I thank her for over 30 years of dedicated service to the people of the Seventh Congressional District of the State of Ohio.

Ginny, thank you.

P.L. 480 ASSISTANCE IN HAITI

Mr. DEWINE. Mr. President, I want to talk this evening about an issue about which I have spoken before on the floor of the Senate, and that is the situation with the children in the poor country of Haiti. I rise tonight to remind my colleagues of a very important feeding program that is crucial to these children. The program I am talking about, of course, is the Public Law 480 title II Food Assistance Program which, according to the USAID mission in Port au Prince in Haiti, helps feed roughly 500,000 Haitian schoolchildren and almost 10,000 orphaned children through its Orphan Feeding Program.

As we know, funding for the P.L. 480 title II program was included in the Senate fiscal year 2001 Agriculture appropriations bill, which we in the Senate recently passed. I commend and thank the chairman and ranking member on the subcommittee, Senator COCHRAN and Senator KOHL, and also the chairman and ranking member on the full committee, Senator STEVENS and Senator BYRD, for their continuing ongoing support of Public Law 480.

I am very pleased the committee included language in the Agriculture appropriations bill that will maintain the same level of USAID resources for the Orphan Feeding Program in Haiti as were provided for our current year. I urge my colleagues in conference to continue this language and continue this program.

The reality is that the country of Haiti is a great human tragedy. The nation is in turmoil on a political, economic, and humanitarian level. Though the small island nation finally did hold its parliamentary elections in May after three previous postponements, and though voter turnout was certainly acceptable and the citizens were voting, the openness of these elections remains in serious question. The violence against opposition party members and supporters leading up to the May election cast serious doubt on the legitimacy of this election.

Leon Manus, the president of the electoral council, resigned after the first round of elections and had to flee the country fearing for his life after having accused the Haitian Government of pressuring him to approve the questionable election results.

The international community has severely and justifiably criticized both rounds of elections, with the European Union threatening economic sanctions. In spite of widespread criticism, in spite of OAS refusal to recognize the contested election results, Haitian officials proceeded with the runoff elections on July 9, and, as expected, a handful of Haitians turned out to vote, just a handful of people for the few legislative and local offices that were not already won by the ruling Lavalas Party.

Prior to these elections, I spoke on the Senate floor about Haiti's distressing political and economic situation. I talked at that time about how it was incumbent upon the political elite and the ruling party in Haiti, the Fanmi Lavalas Party, to make and to take reforms seriously. As I said then, and I have said many times before, Haiti simply will not progress until its political leaders and the elite in that country take responsibility for their situation and commit to true democratic reform.

Regardless of the recent election outcome, Haiti can succeed as a democracy if and only if the leaders of the nation, the political elite, the ruling elite, the economic elite, resolve to develop a free market system, resolve to reduce corruption, resolve to improve Haiti's judicial system and its election process, resolve to respect human rights and develop a sustainable agricultural system that can feed its people, and especially the poor children of Haiti.

Despite the success—I have seen it; and there has been success—of some

USAID programs to promote growth in Haiti's agricultural sector, past deforestation and a lack of education about how best to use the land for both short-term and long-term economic gain have slowed, almost to a standstill, any improvement in the agricultural sector.

Because of that, I firmly believe that the United States should continue efforts aimed at teaching Haitian farmers viable ways to farm—agriculture that produces food for the Haitian people now and conserves the land for production in the future by generations to come—agriculture that shows farmers how sustainable agriculture is really in their best economic interest, both in the short run and in the long run.

Efforts to work directly with farmers provide the greatest hope of preventing Haitians from abandoning agriculture for urban areas, such as Port-au-Prince. One of the biggest problems in Haiti is that so many people who are not making it in agriculture at all, who can't feed their family, understandably flee the countryside and go into one of Haiti's big cities, only to face worse poverty and create a more dire situation for their family. The only way that will stop is if Haiti can develop, with our assistance, with the assistance of the international community, a viable, sustainable agricultural program.

As I have said, I have visited Haiti eight or nine times. My wife and I have seen many of these programs and have seen that they do, in fact, work. But until sustainable improvements are made in the Haitian agricultural sector, I believe we have a responsibility—I believe we have an obligation—to ensure that humanitarian and food assistance continues to reach this tiny island nation and most particularly, most importantly, continues to reach these children.

That is why it is vital that we maintain current funding levels for the Public Law 480 title II assistance program for Haiti and other parts of the world as well. The simple fact is, this program is essential to the survival—literally the survival—of many thousands of Haitian children, especially those living in overcrowded orphanages.

There are currently 114 orphanages throughout Haiti receiving USAID funds and caring for a vast number of children. Quite candidly, these represent just a small fraction of the total number of orphanages on this island.

My wife Fran and I have traveled to Haiti repeatedly—eight times in the past 5 years. We visited many of these orphanages. We have seen the dire and dismal conditions. We have held the children and felt their malnourished bodies. But we have also seen what can happen with these children, and how so many dedicated people working in these orphanages can literally nurse these children back to life.

The orphanages of Haiti feed and take care of thousands upon thousands upon thousands of orphaned and abandoned children. The flow of desperate children into these orphanages is constant, and these facilities face the increasing challenge of accommodating these children.

It is these children who need our help the most. It is these children who are not capable of providing for themselves. That is why I am convinced that the Public Law 480 title II feeding program is absolutely essential. This low-cost program guarantees one meal per day to orphan children who otherwise would not receive any food at all.

The school feeding program is also essential because the title II assistance program—the offer of a free meal to these children, and the parents who send their children to school—helps keep Haitian children in school.

I again thank the committee for its support for and its commitment to Public Law 480 title II assistance for these children in Haiti.

I urge my colleagues on the conference committee—and throughout this year, and into the next—to continue their support for this program.

COMMENDING AMBASSADOR TIM CARNEY

Mr. DEWINE. Mr. President, on another matter related to Haiti, I take this opportunity this evening to commend and thank my friend, Ambassador Tim Carney, for his 2-year service as U.S. Ambassador to Haiti. Tim and his wife Vicki proudly represented the United States. Day in and day out, they were committed to helping the people of Haiti overcome their dismal surroundings and their dire circumstances. Tim and Vicki worked to alleviate hunger and poverty throughout the island and encouraged practical economic reforms.

Through the support and cooperation of Ambassador Carney and Vicki, the conditions of several Haitian orphanages continue to improve. Although the Carneys' assignment in Haiti has concluded, their commitment continues today.

My wife Fran and I appreciate their friendship. We appreciate the support and help they have given to the children of Haiti. We look forward to continuing our work with them to help the children of Haiti.

TRIBUTE TO ERV NUTTER

Mr. DEWINE. Mr. President, I rise this evening to celebrate the life of a great man from my home State of Ohio, a true renaissance man. I am talking about Erv Nutter, who died on January 6 of this year at the age of 85.

I am honored to have known Erv and am humbled to have the chance this evening to say just a few words about what his friendship has meant to me and my family, to my community, and to my State.

Ervin John Nutter was born in Hamilton, OH, on June 26, 1914, to parents he described as ''a Kentucky schoolteacher and a Wyoming cowboy.'' He was a running guard on the State championship Hamilton High School football team and later graduated from there. He attended Miami University in Oxford, OH, and then transferred to the University of Kentucky where, at the age of 21, he dropped out to take the Ohio examination for stationary engineers. Following that test, he became the youngest licensed engineer in Ohio, and then took a job at Proctor & Gamble in Cincinnati.

In 1943, Erv returned to the University of Kentucky to earn his degree in mechanical engineering. After graduation, he took a job in the engineering division of the Air Force at Wright-Patterson Air Force Base, where he was put in charge of aircraft environmental testing.

Then in 1951, Erv Nutter founded the Elano Corporation, which fabricates metal parts for jet engines. He started the business in a Greene County, OH, garage. Elano grew and grew, and it grew ultimately into a multimillion-dollar business that has influenced aviation worldwide, through precision forming and bending of tubular assemblies for fuel, and lubrication and hydraulic systems for jet aircraft and missiles.

I met Erv Nutter for the first time in 1973. I was right out of law school, on my first job, as an assistant county prosecutor in Greene County. I remember Sheriff Russell Bradley and then-county prosecutor Nick Carrera, and I were conducting a major drug investigation. It was going well. The only problem was, we had run out of money.

So we went to some people in the community. One of the first people we went to was Erv Nutter. To keep that investigation going, we simply had to have some financial assistance. So we asked Erv if he would help. Without any hesitation, as Erv would always do—he didn't ask anything—he just said: Sure. If you boys think it's a good idea, if you think we need to do it, I'll do it.

When it came to his community, Erv was always ready to lend a hand, whether with his financial resources or his time and energy. That was just Erv Nutter.

Erv has been a role model for so many people throughout the years. Through his kindness and extreme generosity, he has taught invaluable lessons, such as the importance of giving back to our communities, the importance of building and trusting our neighbors, and the economic future of our villages and our cities.

Through the years, he donated millions of dollars to the University of Kentucky and Wright State University. Today, two buildings at the Lexington campus bear Erv's name, as does Wright State University's indoor athletic complex.

Erv Nutter was a blunt man. He was an open man. He was a man who would tell you what he thought, never afraid in any way to express his convictions or his strong beliefs.

That is one of the things that made Erv Nutter so endearing. It has been said that the greatness of a man can be measured by the extent and the breadth of his interests and how he acts on those interests to make a difference in this world. Surely by that test, Erv Nutter was a great man. He was so passionate about his interests, and what interests he had: agriculture, technology, wild game conservation, education, sports, history, aviation, or working for a better government. Whatever Erv was interested in, he cared passionately about and he acted upon. And in each area, he made a difference. Sure, he helped financially but, more importantly, Erv gave his time and he gave his energy. He was a man of great passion.

In 1981, Erv Nutter was named Greene County Man of the Year. He served as business chairman of the American Cancer Society, chairman of the Fellow's Committee at the University of Kentucky, member of the President's Club at both Ohio State and Wright State University, past president and trustee of the Aviation Hall of Fame—one of his great passions and his wonderful wife, Zoe Dell's great passions; the work with Zoe Dell continues to this day—as former chairman of the Ohio Republican Finance Committee, and former chairman of the Beavercreek Zoning Commission.

In 1995, at the age of 80, Erv was inducted into the Ohio Senior Citizens Hall of Fame, an honor for outstanding contributions and exceptional achievements begun or continued after the age of 60. Erv always was there for our community. Erv always was there for our State. In all that he did, he made a positive difference. Erv Nutter was a remarkable person, a person who affected countless lives for the better. His family knows that probably better than anyone else because there were so many things Erv Nutter did that he didn't tell anybody about. He just was there to be supportive and to make a difference. He just quietly helped out whenever his community asked. And many times when his community didn't ask, he did it anyway.

The only thing Erv wanted was to make the world a better place for his children, his grandchildren, and for all of us. Erv Nutter took great pleasure in sharing his personal success with the whole community. I was particularly struck by Erv's humility. I remember that he once told the Xenia Daily Gazette he was the luckiest man in the world. He was lucky because he had had the opportunity to do so many things he had never, ever, in his wildest dreams, thought he would be able to do. He told the paper:

> No one can achieve success by himself. I think this is one of the most important things for people to remember today.

Erv didn't seek credit. Rather, he appreciated his success and understood that his community was a great part of that success. We all admired Erv Nutter. We all respected him.

As Chesterton once said:

> Great men take up great space, even when they are gone.

Erv Nutter will continue to take up great space on this Earth, not just in buildings but in lives touched and lives changed. Erv Nutter will continue to live on through the great work he has done. He also will live through his wonderful family: his wife Zoe Dell, Joe, Bob and Mary, Ken and Melinda, Katie and Jonathan.

We pay tribute to Erv tonight for what he has meant to our community.

ROCCO SCOTTI—A GREAT AMERICAN

Mr. DEWINE. Mr. President, I rise to recognize tonight Rocco Scotti, a talented and patriotic singer from my home State of Ohio, who is a fixture in Cleveland and Cuyahoga County, northeast Ohio, a fixture at Cleveland Indians baseball games and just about any public event in our community that matters.

Rocco, because of the countless times he has sung our national anthem at local, national, and international events, has truly earned the title of ''Star-Spangled Banner Singer of the Millennium.''

Rocco, an Italian American whose family is from Italy's east coast, grew up in Cleveland and started his vocal training in opera. He first performed the national anthem publicly in 1974 at an Indians-Orioles game.

Since that time, he has become a regularly featured national anthem singer for both American and National League baseball games, games played in Cincinnati, Cleveland, New York, for the Baltimore Orioles, Oakland A's, Kansas City Royals, Toronto Blue Jays, LA Dodgers. The list goes on and on. Rocco has also had the honor of performing the national anthem for Presidents Gerald Ford and Ronald Reagan.

Rocco's list of accomplishments doesn't end there. He was awarded the United States civilian Purple Heart for inspiring patriotism for his exceptional performance of the national anthem, and he has performed the anthem on national television for events such as the NBC game of the week, an American League playoff game, the 1981 All Star game, and countless other televised sporting events. Dubbed by People's magazine as one of the best anthem singers in America, he is the first singer to perform the national anthem for the Baseball Hall of Fame in Cooperstown, NY. He is a featured singer for the Indians, Cleveland Cavaliers, and Cleveland Force, and he is the permanent singer of the anthem for the Football Hall of Fame ceremonies in Canton, OH.

While Rocco is most known for his rendition of the national anthem, he is also a featured singer of other nations' anthems. He has sung the Polish national anthem for Polish boxing team matches, the Hungarian national anthem for Hungarian basketball games, the Italian national anthem for Italian soccer team contests, and the Israeli national anthem for the appearance of the Assistant Prime Minister of Israel in Cleveland.

Needless to say, Rocco Scotti is an American icon. His voice, indeed, is a national treasure. What impresses me most about Rocco isn't so much his beautiful voice, although it is beautiful, but his amazing attitude about his heritage, his life here in this great country. Rocco said the following to me once:

> I am very, very proud that with my Italian heritage, God has given me the honor of performing our country's greatest and most meaningful song.

For that kind of patriotism, love of country, I wish to say thank you to Rocco. I am proud to call him the Star-Spangled Banner Singer of the Millennium.

TRIBUTE TO THE GENERAL DANIEL ''CHAPPIE'' JAMES AMERICAN LEGION AUXILIARY UNIT 776

Mr. DEWINE. Mr. President, today I would like to honor a great volunteer organization from my home state of Ohio—The General Daniel ''Chappie'' James American Legion Auxiliary Unit 776. Based in the city of Dayton, this organization and its members were recognized recently by USA Weekend magazine for their participation in the ''Ninth Annual Make a Difference Day,'' which is the largest national day of helping and volunteerism.

To be recognized by USA Weekend, an organization must demonstrate great efforts and achievements in the areas of volunteerism and community service. The General Daniel ''Chappie'' James American Legion Auxiliary Unit 776 certainly has done that. One of its members, Mrs. Ola Matthews, heard that foster children around the Dayton community must carry their belongings through the foster care system in plastic trash bags. This worried her greatly. So, she set about to help these children. Under her leadership, the members of Unit 776 conducted fundraisers to buy luggage and collected luggage from community donors. On October 23, 1999, the members of Unit 776 delivered the fruits of their effort—over 1,000 pieces of luggage, plus toiletries, underclothes, and baby supplies—to the Montgomery County Children's Services in Dayton. This is a remarkable achievement and one demonstrating great selflessness and generosity. It is actions like these—an organization helping those in its community—that makes Dayton such a great city.

Mr. President, one young member of this organization, in particular, has made outstanding contributions to her community. Shatoya Hill, who has been involved in Unit 776 most her life,

has just been awarded a $6,000 scholarship for her community service and academic achievements. She has been Junior President of the organization for over 5 years. During this time, she has organized and participated in many fundraisers, from helping veterans to delivering food baskets to the needy during Christmas.

The Dayton Alumnae Chapter of Delta Sigma Theta, a public service sorority, awarded the scholarship, which is presented to young women who have excellent academic records, possess high moral character, participate in their church and community, and have interest in higher education. Shatoya certainly exhibits all of these positive qualities. It is great to see Ohio youths working hard for their communities and being recognized for their achievements.

Congratulations Unit 776 and congratulations Shatoya!

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

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

EXPLANATION OF ABSENCE

Mr. WELLSTONE. Mr. President, I was necessarily absent today for rollcall vote No. 228, on the motion to invoke cloture on the motion to proceed to S. 2507, the intelligence authorization bill. I was in Minnesota visiting with my constituents in Granite Falls who were victims of a tornado which struck the city last night and caused severe damage and some loss of life. Had I been present, I would have voted aye on the motion.

MIDDLE EAST PEACE

Mr. BROWNBACK. As recently as this morning, upon Chairman Arafat's arrival back in Gaza, Arafat said:

> There is an agreement between us and the Israeli government made in Sharm-El-Sheikh that we continue negotiations until Sept. 13th, the date for declaring our independent state, with Jerusalem as its capital, whether people like it or not.

By itself, the threat undermines confidence in the Palestinians' commitment to the peace process and, in effect, would abrogate the foundation of the Oslo accords that all outstanding final status issues will be resolved through negotiations.

Allow me, for a moment, to review the history here. More than 50 years ago, the United Nations created two states: Israel and Palestine. The creation of a homeland for the Jews in Israel was unacceptable to the Arabs, and five Arab states attacked the newly created state. When all was said and done, Israel was a reality, and the nominal Palestine ended up in the hands of Jordan. We never heard about Jerusalem then.

In fact, when the PLO was created in 1964, Jerusalem was never even mentioned.

When Jordan lost the West Bank and Jerusalem in 1967, then the question of Palestine and Jerusalem became important once again. In fact, we are told that the reason Yasser Arafat walked out of Camp David was because he did not get all of east Jerusalem and the Old City. In other words, when Arafat did not get through the peace process what he could not get through war, he decided to walk away from peace.

One thing has become clear to me in the last few years. The Oslo agreement was nothing less than an admission on the part of the Palestinians and the PLO that Israel would never be defeated in war. The Palestinians entered into a peace process because they had no other choice. Now I am forced to question just how committed they are to that process. If the aim is to win through negotiations what they could not through war, then what kind of a process is it?

There are no ambiguities here: Either the Palestinians are committed to the process, and to a negotiated outcome, or they are not. Arafat's threat to declare a Palestinians state on September 13, 2000 is an abrogation of the peace process, and as such, an abrogation of any understanding with the United States regarding the PLO and Mr. Arafat as negotiating partners.

U.S. assistance to the Palestinians is predicated upon good faith negotiations in a peace process. Nothing else. Nothing. For those that have some doubt, I remind them that as far as U.S. law is concerned, the Palestine Liberation Organization is a terrorist organization.

I and many of my colleagues have always stood ready to accept the outcome of a negotiated peace between Israel and the Palestinians. We have done so reluctantly, because of fears about what a Palestinian state would do, how it would survive, about the commitment to democracy, and real fears about terrorism.

We will not stand idly by and accept a non-negotiated solution, contrary to the Oslo Accords, contrary to the spirit of a peace process. Should Mr. Arafat go forward and declare a Palestinian state, the bill that Senator SCHUMER and I are offering today will preclude the expenditure of funds to recognize that state and preclude further assistance to any Palestinian governing entity. It instructs the President to use the voice and vote of the United States in the United Nations bodies to stop recognition or admission of a Palestinian state.

I hope Chairman Arafat chooses the path of peace. However, if he does not, this legislation makes very clear that the relationship between the U.S. government and the Palestine leadership will change.

We will not recognize the unilaterally declared Palestinian state and we will strongly urge all others not to do so. Either there is peace through a process or there can be no peace. If that is what Yasser Arafat wants, it is a terrible crime against the Palestinians, and a mistake that history will not forget.

CELEBRATING THE 10TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT: A DECADE OF PROGRESS

Mr. BYRD. Mr. President, over the past month and a half, a brightly lit torch has made its journey through nineteen cities, carrying with it each step of the way the passionate and able spirit of the disability community. Today the torch arrives at its 20th stop along the way, our Nation's Capital, to mark the tenth anniversary of the signing of the Americans with Disabilities Act. It is indeed an important day in our Nation's long history.

President Franklin Roosevelt once said, ''No country, no matter how rich, can afford to waste its human resources.'' I am proud to say that the Americans with Disabilities Act lives up to President Roosevelt's objective. For 10 years now, this momentous, landmark civil rights legislation has opened new doors to the disability community. It has, at long last, allowed handicapped individuals the opportunity and the access to have their potential recognized both inside the workplace and outside in the community. It has brought the American dream within reach for the millions of American families with disabled members.

Over the past decade of the ADA, we have seen dramatic changes throughout the nation in equal opportunity—from new and advanced technology allowing for greater public accommodation at places of business and in commercial establishments, to state and local government services and activities, to transportation and telecommunications technology for disabled Americans. Look around today—people with disabilities are participating to a far greater extent in their communities and are living fuller, more productive lives as students, workers, family members, and neighbors. They are dining out; cheering at football games and other sporting events, often even playing sports themselves; going to the movies; participating in state, local, and Federal Government; and raising families of their own.

It is evident that that the capability of this community far outshines the challenges of a disability. I am proud that the ADA has been particularly instrumental in removing many of the barriers that would otherwise impede the ability and success of the disability community. Take the example of Casey Martin, the professional golfer from Orgeon with a rare disability that substantially limits one's ability to walk.

Casey had long dreamed of playing in a PGA tour, but, because of his disability, Casey encountered a huge barrier. In these tournaments in which Casey wanted to play, the tour would not allow the use of a golf cart. When a Federal trial court in Oregon found that the PGA tour is a ''public accommodation'' and should modify their policy of no golf carts to accommodate Casey's disability, his vision became a reality. According to Casey, ''Without the ADA I never would have been able to pursue my dream of playing golf professionally.''

While for Casey Martin the ADA has meant achieving his most far-reaching goal, for other disabled Americans, the ADA has simply allowed them to live each new day with a little more ease and comfort. To name just a few areas in which the ADA has facilitated progress—access to restaurants and public restrooms, modifications to the aisles and entrances of supermarkets, assistive listening systems at places like Disney World and many theaters for the deaf and hard of hearing, and large print financial statements for those with vision impairments. Mr. President, these are the kind of simplicities in life that those without disabilities expect and take for granted, and because of the ADA, they have now come to be a part of the disability community's life too.

Just as the barriers that continue to face each of us in life take many years to craft, they take many years to conquer. Together, we must find the strength and the courage to pick our battles. I commend the disability community today on their passion and their vigilance, and I celebrate with you on this 10th anniversary of the Americans with Disabilities Act for all that this day has brought to your community, and for all that it will continue to bring in the years ahead. Let today recommit each of us to the ADA for all Americans.

Mr. KENNEDY. Mr. President, 10 years ago today Congress passed landmark civil rights legislation, based on the fundamental principle that people should be measured by what they can do, not what they can't do. With the passage of the Americans with Disabilities Act, America began a new era of opportunity for the 47 million disabled citizens who had been denied full and fair participation in society.

We continue to build in Congress on the bipartisan achievements of the ADA. I'm gratified by President Clinton's strong endorsement today of the Grassley-Kennedy Family Opportunity Act now pending in Congress. The goal of our legislation is to remove as many of the remaining barriers as possible that prevent families raising children with disabilities and special health needs from leading full and productive lives. No family in this country should ever be put in a position of having to choose between a job and the healthcare their disabled child needs. The Family Opportunity Act ensures that no family raising a child with special needs would be left out and left behind.

For generations, people with disabilities were viewed as citizens in need of charity. Through ignorance, the nation accepted discrimination and succumbed to fear and prejudice. The passage of the ADA finally moved the nation to shed these condescending and suffocating attitudes—and widen the doors of opportunity for people with disabilities.

Today we see many signs of the progress that mean so much in our ongoing efforts to see that persons with disabilities are included—the ramps beside the stairs, the sidewalks with curbs to accommodate wheelchairs, the lifts for helping disabled people board buses.

Whether they are family members, friend, neighbors, or co-workers, persons with disabilities are no longer second class citizens. They are demonstrating their abilities and making real contributions in schools, in the workplace, and in the community. People with disabilities are no longer left out and left behind—and because of that, America is a stronger, better and fairer country today.

As the Americans with Disabilities Act, and the many disabled persons who worked so long and hard and well for its passage continue to remind us, equal opportunity under the law is not a privilege, but a fundamental birthright of every American.

INFECTIOUS DISEASE SURVEILLANCE

Mr. LEAHY. Mr. President, I want to briefly discuss a GAO report that was released earlier this week to be sure that other Senators are aware of.

The report, entitled ''Global Health: Framework for Infectious Disease Surveillance,'' was commissioned by Senator MCCONNELL and myself, and Senators FRIST and FEINGOLD. It investigates the existing global system, or network, of infectious disease surveillance, and will be followed by a second report which analyzes the strengths and weaknesses of this network and make recommendations for strengthening it.

We requested this report in response to a growing concern among public health officials about the inability of many countries to identify and track infectious diseases and respond promptly and effectively to disease outbreaks. In fact, the World Health Assembly determined in 1995 that the existing surveillance networks could not be considered adequate.

By way of background, the term ''surveillance'' covers four types of activities: detecting and reporting diseases; analyzing and confirming reports; responding to epidemics; and reassessing longer-term policies and programs. I will touch on these categories in a bit more detail, as they illustrate the need for reform.

In the detection and reporting phase, local health care providers diagnose diseases and then report the existence of pre-determined ''notifiable'' diseases to national or regional authorities. The accurate diagnosis of patients is obviously crucial, but it can be very difficult as many diseases share symptoms. It is even more difficult in developing countries, where public health professionals have less access to the newest information on diseases.

In the next stage of surveillance, disease patterns are analyzed and reported diseases are confirmed. This process occurs at a regional or national level, and usually involves lab work to confirm a doctor's diagnosis. From the resulting data, a response plan is devised. Officials must determine a number of other factors as well, such as the capability of a doctor to make an accurate diagnosis. Unfortunately, in many developing countries this process can take weeks, while the disease continues to spread.

When an epidemic is identified, various organizations must determine how to contain the disease, how to treat the infected persons, and how to inform the public about the problem without causing panic. Forty-nine percent of internationally significant epidemics occur in complex emergency situations, such as overcrowded refugee camps. Challenges in responding to epidemics are mainly logistical—getting the necessary treatment to those in need.

Finally, in assessing the longer-term health policies and programs, surveillance teams can provide information on disease patterns, health care priorities, and the allocation of resources. However, information from developing countries is often unreliable.

I want to emphasize two points. The first is that all the activities that I have just described are done by what WHO calls a ''network of networks.'' There is, in fact, no global system for infectious disease surveillance. Let me repeat, for anyone who thinks there is some centrally-managed, well-organized global system, there is not. Rather, what exists is a loose network, a patch-work quilt of sorts, involving the UN, non-governmental organizations, national health facilities, military laboratories, and many other organizations, all of which depend upon each other for information, but with no standardized procedures.

The second point is that in countries where a tropical climate fosters many infectious diseases, one also finds the least amount of reliable data. If we as a country, or we as a global community, are committed to eradicating the deadliest diseases, building the capacity for effective surveillance in the developing countries is where we need to focus our attention.

The sequel to this report is due to be released by the GAO in a few months. It will assess the strengths and weaknesses of this loosely-organized surveillance system, and make recommendations for strengthening it. We need to

be able to accurately diagnose diseases, and quickly transmit the information to the global health community.

I urge other Senators to read this first report. This is an issue that has received far too little attention, and which directly affects the health of every American. Any disease, whether HIV/AIDS, malaria, TB, or others as yet unknown, which could infect and kill millions or tens of millions of people, is only an airplane flight away.

Accurate surveillance, which is the first step to an effective response, is critical. Yet today we are relying on a haphazard network of public, private, official, and unofficial components of varying degrees of reliability, patched together over time. It is a lot better than nothing, but the world needs a uniformly reliable, coordinated system with effective procedures that apply the highest standards. I look forward to GAO's next report, and its recommendations for action.

CAMPAIGN FINANCE REFORM

Mr. MCCONNELL. As chairman of the Senate Rules Committee, which has jurisdiction over the campaign finance issue, and one who has been rather closely identified with the spirited debate in this arena over the past decade, I wholeheartedly support putting S. 1816, the Hagel-Kerrey bill, on the Senate Calendar.

That is not to say I would vote ''aye'' were there a rollcall vote on the bill as it is currently drafted.

Senator HAGEL's legislation was the backdrop for a comprehensive series of hearings held by the Senate Rules Committee between March and May of this year. The final hearing featured the testimony of Senator HAGEL, Senator KERREY, Senator ABRAHAM, Senator HUTCHISON, and Senator LANDRIEU. An impressive, to say the least, bipartisan lineup of Senators bravely stepping into the breach separating those who persist in trotting out the old, blatantly unconstitutional campaign finance schemes of the past, from others like myself who firmly believe that the first amendment is America's greatest political reform and must not be sacrificed to appease a self-interested editorial board at the New York Times.

The Senator from Nebraska has taken what for the past couple of years has been the biggest bone of contention in the campaign finance fight in the Senate—party soft money—and essentially split the difference between the opposing camps. Rather than an unconstitutional and destructive provision to entirely prohibit non-federal activity by the national political parties, Senator HAGEL has crafted a middle ground in which the party so-called ''soft'' money contributions would be capped. Yet, even a cap raises serious constitutional questions and would surely be challenged were one to be enacted into law. Nevertheless, the Hagel-Kerrey approach is more defensible and practicable than outright prohibition.

Coupled with the party soft money cap in the Hagel-Kerrey bill is an ameliorative and common sense provision to update the hard-money side of the equation by simply adjusting the myriad hard money limits to reflect a quarter-century of inflation. An inflation adjustment of the hard money limits is twenty-five years overdue. Candidates, especially political outsiders who are challenging entrenched incumbents, are put at a huge disadvantage by hard money limits frozen in the 1970s.

The lower the hard money limits are, the more that insiders with large contributor lists are advantaged. Incumbents and celebrities who benefit from the outset of a race with high name recognition among the electorate also start way ahead of the unknown challenger. The greatest beneficiary of low hard money limits are the millionaire and billionaire candidates who do not have to raise a dime for their campaigns because they can mortgage the family mansion, cash out part of their stock portfolio and write a personal check for the entire cost of a campaign.

As hard money limits are eroded through inflation and non-wealthy candidates are further hampered, election outcomes are ever more likely to be determined by outside groups whose independent expenditures and issue advocacy are completely unlimited. That is ''non-party soft money.''

Mr. President, absent from the attacks on party soft money is any acknowledgement by reformers that the proliferation is linked to antiquated hard money limits which control how much the parties can take from individuals and PACs to pay for federal election activities. It stands to reason that hard money limits frozen in 1974 and thereby doomed to antiquity are going to spawn an explosion of activity on the soft money side of the party ledger.

It also is not coincidence that increased soft money activity in the past decade corresponded to vastly increased competition in the political arena. We are amidst the third fierce battle for control of the White House in the past decade And every two years America has witnessed extremely spirited contests over control of the Congress. Democrats who had been exiled from the White House since Jimmy Carter's administration at long last got to spend some quality time at 1600 Pennsylvania Avenue and are not keen to give that up. Republicans, after four decades in the minority, got to savor the view from the Speaker's office in the House of Representatives and would like very much to keep it. And we have seen more than a little action on the Senate-side of the Capitol.

Reformers look upon all this activity over the past decade in abject horror, seeing only dollar signs and venal ''special interests.'' I survey the same era and see an extraordinary period in which every election cycle featured a tremendous and beneficial national war of ideas over the best course for our nation to pursue in the coming years and which party could best lead America on that path.

All signs, Mr. President, of a competitive, healthy, and vibrant democracy.

While I strongly support the hard money adjustments in the Hagel-Kerrey bill, I remain concerned by the bill's silence in an area sorely in need of reform: Big Labor soft money. The siphoning off of compulsory dues from union members for political activity with which many of them do not agree is a form of tyranny which must not be permitted to continue. Senate Republicans have fought hard, and unsuccessfully, to protect union workers from this abuse. Democrats are understandably and predictably loathe to risk any diminution of Big Labor's contributions which may result from freeing the rank-and-file union members from forced support of Democratic candidates and causes, but the absence of reform in this area is unacceptable. Big Labor soft money and involuntary political contributions must be part of any comprehensive reform package which ultimately passes Congress.

With those provisos and a few others, I will close by again commending the Senator from Nebraska from his willingness to wade in a big way into one of the most contentious issues before Congress—an issue in which all Members of Congress have a vested personal interest but that affects not just us but every American citizen and group that aspires to participate in the political process. That is why the U.S. Supreme Court will be the final arbiter of any campaign finance bill of consequence. And those are the reasons we should continue to be cautions and deliberative as the effort continues for a nonpartisan, constitutional campaign reform package.

Mr. HAGEL. Mr. President, today we have moved a step closer to implementing comprehensive campaign finance reform. With the help of Senator MITCH MCCONNELL, Chairman of the Senate Rules Committee, the Open and Accountable Campaign Financing Act of 2000 will soon be placed on the Senate Calendar, ready for debate by the full Senate.

I introduced the Open and Accountable Campaign Financing Act of 2000 along with Senators BOB KERREY, SPENCE ABRAHAM, MIKE DEWINE, SLADE GORTON, MARY LANDRIEU, CRAIG THOMAS, JOHN BREAUX, KAY BAILEY HUTCHISON, and GORDON SMITH as a bipartisan approach to campaign finance reform because we felt it was a common sense, relevant and realistic approach. We offered it as a bipartisan compromise to break the deadlock on campaign finance reform and to bring forth a vehicle that could address the main holes in the net of our current system.

The purpose of our legislation is to place more control and responsibility

for the conduct of campaigns directly in the hands of the candidates. Our legislation is not the solution for all of the problems now facing us, but I believe it is a good solid beginning to accomplish meaningful campaign finance reform.

After a series of hearings in the Senate Rules Committee this spring on campaign finance reform, we will now be able to put a bill on the Senate Calendar that has bipartisan support. If we are to accomplish comprehensive reform this year, bipartisan support is essential and our bill has that support.

While I was very pleased with the recent vote in Congress to require disclosure for the '527' organizations, that bill is not a substitute for more comprehensive campaign finance reform. It is a solution for a small problem. We need to continue to fight for campaign finance reform that is broader and more comprehensive.

I am hopeful that the full Senate will be able to debate comprehensive campaign finance reform legislation, including the Open and Accountable Campaign Financing Act of 2000, this year. We have an opportunity to achieve something reasonable and responsible this year.

Again, I would like to thank Senator MCCONNELL for holding hearings in the Rules Committee on campaign finance reform and helping move the process along. I look forward to working with him and all Senators interested in advancing campaign finance reform.

VICTIMS OF GUN VIOLENCE

Mr. WYDEN. 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.

July 26:

Frederick Branch, 17, Memphis, TN; Kenny Curry, 30, Chicago, IL; Mendell Jones, 17, Baltimore, MD; Eduardo Lezcano, 36, Miami-Dade County, FL; Andre Moore, 21, Baltimore, MD; Kenneth Plaster, 52, Houston, TX; Mark Pringle, 18, Baltimore, MD; Carlton Valentine, 33, Baltimore, MD; Unidentified male, Detroit, MI.

We cannot sit back and allow such senseless gun violence to continue. The deaths of these people are a reminder to all of us that we need to enact sensible gun legislation now.

RUSSIAN WARHEADS/DOMESTIC SECURITY

Mr. MURKOWSKI. Mr. President, I rise today to discuss two issues of great importance to our national security and our energy security—the agreement between the United States and the Russian Federation which provides for the conversion of Russian highly enriched uranium (HEU) derived from the warheads into fuel for civilian nuclear power plants, and the need for the United States to maintain a viable uranium enrichment capability.

First, let me give you a bit of history.

In 1992, the Energy Policy Act established the United States Enrichment Corporation as a wholly-owned government corporation to take over the Department of Energy's uranium enrichment enterprise. The Corporation was to operate as a business enterprise on a profitable and efficient basis and maximize the long-term valuation of the Corporation to the Treasury of the United States. The objective was to eventually privatize the Corporation as a viable business enterprise able to compete in world markets. Subsequently, the Corporation was selected as Executive Agent for, and entrusted with, the responsibility for carrying out the Russian HEU Agreement.

Enactment of the 1992 Act was the culmination of a decade of bipartisan effort spearheaded by Senators DOMENICI and Ford. Extensive hearings were held in both the House and the Senate and the legislation garnered the strong support of the Bush Administration.

Recognizing the complexity of privatization and the national security implications of the Russian HEU Agreement, Congress enacted the USEC Privatization Act of 1996. The Act provided the mechanics for privatization, clarified the relationship between a private USEC and the U.S. Government, and addressed concerns related to the implementation of the Russian HEU Agreement. The Corporation was sold in July of 1998.

Implementation of the Russian HEU Agreement has been important for the government and USEC. This government-to-government agreement facilitates Russian conversion of highly enriched uranium taken from their dismantled nuclear weapons into fuel purchased by USEC and resold for use in commercial nuclear power plants. The program is financed as a commercial transaction.

Every day, new warnings are heard about the ability of one rogue state or some well-financed terrorist to obtain weapons-grade nuclear materials on the black market. The Russian HEU Agreement addresses those concerns by converting thousands of nuclear warheads into fuel for electric power plants—the quintessential swords to plowshares concept. In spite of some start-up problems, implementation of the Agreement has resulted in the conversion of the equivalent of nearly 4,000 nuclear warheads into fuel for U.S. commercial power plants. The process, as well as purchases and shipments to USEC, continues.

From the outset, many felt there were built-in contradictions between the objectives of maintaining a viable domestic uranium enrichment capability while controlling the disposal of former Soviet nuclear weapons. But, all things considered, the program to date has been a success. Without question our Nation's national security—our most important charge as lawmakers—has been enhanced by implementation of this Agreement.

Mr. President, the Russian HEU Agreement contributes to our Nation's security, but the Agreement also adversely affects the enterprise that makes this commercial solution to a national security problem possible. This difficulty was understood when the government adopted this program. Purchases of large quantities of Russian weapons derived material result in growing effects on the companies in the private sector domestic nuclear fuel cycle. Our uranium mining, conversion, and enrichment industries have been affected. The result has been steadily declining market prices for all phases of the nuclear fuel cycle. USEC, its plant workers, and the communities dependent upon those plants are being hit especially hard. As Executive Agent, USEC has suffered substantial losses due to fixed price purchases from Russia as well as increased costs due to reduced levels of domestic production resulting from introduction of the Russian material into the market.

Earlier this year, and with the support of the Administration, USEC had been negotiating with Russia to amend the Agreement to include market-based pricing. I have been advised that USEC closely coordinated its plans and intentions with the President's Interagency Enrichment Oversight Committee at all phases of its discussions with the Russians. Yet, as USEC and the Russians were meeting in Moscow to sign the new Agreement, the Department of Energy, a member of the Oversight Committee, prevented the signing at the last minute.

I can not understand why the Energy Department would prevent the adoption of an amendment that would stabilize the Agreement through the remaining thirteen years of the program. Reportedly the terms were acceptable to both parties. In addition, the Agreement would have protected the interests of our own domestic nuclear fuel industry. As part of the Agreement, Russia wanted USEC to purchase commercially produced enrichment in addition to the weapons derived enrichment. USEC negotiated terms consistent with a previous Administration approved program making it mandatory that this additional quantity be matched with domestically produced enrichment. In addition, no additional natural uranium would be brought into the domestic market. The amendment to the Agreement was specifically crafted so that no damage would be inflicted upon the domestic nuclear fuel cycle as a result of purchasing the additional material.

The Department of Energy's action threatens to destabilize the agreement.

Who knows how long the Russians will sit by without this Agreement. The National Security Council and the State Department and others on the Enrichment Oversight Committee have endorsed the signing of this Agreement. I strongly urge that it be completed. I suggest that those of us in the Congress who believe in the vital importance of this Agreement express our concern to the Administration and demand that the Energy Department withdraw its objection and that the Agreement be speedily signed.

As I mentioned, higher production costs, decreased demand, and lower world prices have hit USEC, our Nation's sole domestic uranium enricher, particularly hard. USEC's Form 10–Q filed with the Securities and Exchange Commission for the quarter ended March 31, 2000 noted that: ''In February 2000, Standard & Poor's and Moody's Investors Service revised their credit ratings of USEC's long-term debt to below investment grade. The revised rating gives USEC the ability to discontinue its uranium enrichment operations at a plant. USEC is evaluating its options; however, a decision has not been made as to whether to close a plant, which plant would be selected or the timing of any closure.'' Finally, on June 21, the Board of Directors of USEC Inc. voted to cease uranium enrichment operations in June 2001 at the Portsmouth gaseous diffusion plant in Piketon, Ohio, and to consolidate all enrichment operations at its Paducah, Kentucky production plant. USEC maintained that it could not sustain current operations at two production plants, each of which is currently operating at only 25 percent of capacity. The company said that its production costs were too high and that the termination of operations at Portsmouth would save upwards of $55 million in fixed costs annually.

USEC's decision to close a plant comes as no surprise. For over a year, there has been speculation within the Clinton Administration, the energy industry, the media and on Capitol Hill that USEC would be forced to consolidate its uranium enrichment production.

Mr. James R. Mellor, Chairman of USEC's Board of Directors was quoted in a news release as saying: ''The decision to cease enrichment at one of our facilities was necessary given the business challenges facing the uranium enrichment industry . . . Mr. Mellor went on to say: ''Choosing to close the Portsmouth plant was an extremely difficult decision because of the impact it will have on the lives of many of our workers, their families and the communities surrounding the plant.''

USEC cited multiple factors in determining which plant would close. Key elements in USEC's analysis included ''long-term and short-term power costs, operational performance and reliability, design and material condition of the plants, risks associated with meeting customer orders on time, and other factors relating to assay levels, financial results, and new technology issues.''

I know that my colleagues from Ohio are deeply disturbed by USEC's decision to close the Portsmouth plant. I also know that if the company had chosen to cease operations at Paducah, my friends from Kentucky would be equally distraught. Plant closures are serious matters, particularly when they are the mainstay of the local economy. The public record is clear that technological advances in uranium enrichment were rapidly overtaking the gaseous diffusion process as an economic method of enriching uranium. Make no mistake, the Portsmouth and Paducah gaseous diffusion plants were and continue to be extraordinary engineering, design, and construction achievements—matched only by the dedication and skill of the men and women who have made the plants work—work, 24 hours a day—work, seven days a week—work, continuously for over 45 years without a stop, without a break in service—until now. It was inevitable that this would happen someday, but knowing that it will happen does not make it any easier.

The only person who seemed to be caught by surprise and unprepared to deal with the closure was the Secretary of Energy. Certainly, he must have known that USEC was preparing to make an announcement. He must have been aware that, as part of the 1996 USEC Privatization Act, the Department of Energy—not the company—would be responsible for decommissioning, decontamination and clean-up of the plants and the sites as well as for workforce disposition.

In fact, in a June 19, 2000 letter to Mr. William H. Timbers, USEC's president and chief executive officer, the Secretary of Energy asked if the company was planning to close either one of its uranium production facilities. In response, Mr. Timbers wrote on June 20, 2000, that ''during our last meeting, I indicated to you, and reiterated in subsequent meetings with your staff, that it is inevitable that USEC must close one of its enrichment facilities.'' Mr. Timbers added that ''During the last eight months, we have presented numerous proposals—still pending before you—to accomplish [transition]. But, DOE has yet to make a decision. We have also engaged in discussions with PACE union leadership aimed at advancing these efforts. We are still ready and eager to translate these discussions into actions and look forward to the prospect of working with DOE to adopt a program to minimize the employment disruption associated with ensuring a financially sound USEC under today's market conditions.''

The next day, when USEC announced that its Board of Directors had voted to close the Portsmouth facility, the best the Nation's Secretary of Energy could come up with was the following statement: ''I am extremely disappointed by [USEC's] decision today to close the uranium enrichment plant at Portsmouth. First and foremost, I am very concerned about the effect this closure will have on USEC workers. Many of these men and women spent their entire working lives helping our nation win the Cold War. They deserve better treatment. . .''

For once, Secretary Richardson and I agree. The workers do deserve better. But rather than threatening USEC, as the Secretary of Energy did when he recommended ''serious consideration of replacing USEC as executive agent'' for the Russian HEU Agreement, he should have been drafting a plan to assist the workers in Portsmouth to make the transition from operating the Department of Energy owned gaseous diffusion plant to cleaning up the site. This is an environmental restoration mission that is likely to take many years. We are all aware of the environmental contamination at the plants and the desperate need for action to restore them to reasonable environmental condition.

When Congress created the United States Enrichment Corporation as part of the 1992 Energy Policy Act, and when we later passed the 1996 USEC Privatization Act, we recognized that a privately owned USEC could better respond to the needs of the marketplace and thereby sustain a viable domestic uranium enrichment capability. Now that USEC has taken what it believes is a necessary step to ensure that it can compete in the world uranium enrichment marketplace, the first response by the Secretary of Energy is to second-guess the company's intentions and actions. Apparently the Secretary would keep facilities open regardless of the fundamental laws of economics that are evident to even the most modest businesses.

It has been suggested that the solution is to nationalize USEC—to have the government buy it back. I have no sympathy for such a proposal. While I am sympathetic to those who will be affected by the closure of Portsmouth, I do not believe that a return to the past is the remedy that will provide for a competitive domestic uranium enrichment capability in the future. I do not favor an appropriation of substantial sums, perhaps well over a billion dollars to buy USEC back, nor do I favor the then obligatory commitment to annually appropriate funds to make up for uneconomic operations.

It has been only two years since we privatized USEC. On the one hand the Congress and the Administration made an extraordinary effort to provide a private USEC with a strong foundation for a successful private enterprise competing in world markets—in the words of the '96 Act '' . . . in a manner that provides for the long-term viability of the Corporation . . .'' But at the same time, contradictory restraints imposed on the Corporation detract from its ability to compete. In retrospect, perhaps Congress and the Administration should not have placed so many burdens on USEC as it faced private sector

dynamics and demands. Ensuring that the vital national security interests of the United States are protected is paramount, but preserving the competitiveness of our domestic uranium enrichment capability—at minimal costs to the federal government—is important too. We need to stop thinking of USEC as a Federal agency and respect it for what it is—a private business enterprise.

Challenges remain in the implementation of the Russian HEU Agreement and the long-term viability of the domestic uranium enrichment enterprise. These have proven to be complex, and at times conflicting tasks, but I believe that the National interest more than justifies our continued efforts to see these programs through to a successful conclusion. As part of these efforts we should encourage the Clinton Administration to approve the market-based pricing amendment to the Russian HEU Agreement. Now is also the time to secure a future for the workers in Portsmouth who face plant closure. We need to help them achieve their third transition—from Cold War patriots, to peacetime producers of fuel, to the task of environmental restoration

Thank you, Mr. President.

OMNIBUS LONG-TERM CARE ACT OF 2000

Mr. BAYH. Mr. President, I rise today as an original cosponsor of the ''Omnibus Long-Term Care Act of 2000.'' This bill brings together very important initiatives for making long-term care more affordable for Americans. In particular, this bill contains a $3,000 tax credit for caregivers and a tax deduction for the purchase of long-term care insurance.

There are over 22 million people providing unpaid help with personal needs or household chores to a relative or friend who is at least 50 years old. In Indiana alone, there are 568,300 caregivers. The government spent approximately $32 billion in formal home health care costs and $83 billion in nursing home costs. If you add up all the private sector and government spending on long-term care it is dwarfed by the amount families spend caring for loved ones in their homes. As a study published by the Alzheimers Association indicated, caregivers provide $196 billion worth of care a year.

As a member of the Special Committee on Aging, I held a field hearing in Indiana on making long-term care more affordable. At this hearing, I learned first hand the importance of this tax credit. Jerry and Sue Cahee take care of Jerry's mother who has Alzheimers. At the hearing Jerry Cahee shared the following: ''Mother is a wonderful and friendly person to everyone—except her caregivers. We have discovered that life, aging, and illness are not fair. We have discovered that love is hard—that love is not enough to make the difference. We know that memories are all that we have left of the happy times in Mother's life. To care for her, make her last days comfortable, to meet her ever increasing medical needs, to offer her the security of a loving safe home, and to let her know that she is loved—these things have become our purpose for living. The financial drain has been difficult, the emotional strains are enormous.''

Paul Severance, the Director of United Senior Action, a senior advocacy group in Indiana represented his constituency at the hearing when he stated ''The burden on families who are trying to provide long-term care at home is tremendous; they typically face substantial expenses for special care, such as nursing visits, they often have lost wages because of the demands of caring for a loved one; and there can be a great cost to their own health as a result of the constant demands of caregiving.''

In addition to the tax credit, a deduction for the purchase of long-term care insurance makes it more affordable for Americans to purchase long-term care policies that can provide them with the coverage they will need. Congress needs to continue to explore ways in which to ensure long-term care options are available for all Americans.

I am encouraged by the introduction of this bill and the bipartisan support it has received. It is my hope that we can work together to implement this legislation and make it more affordable for seniors to receive long-term care. I urge my colleagues to support this bill.

FCC REGULATION OF PAY PHONES

Mr. BURNS. Mr. President, in the four years since the passage of the Telecommunications Act of 1996, dramatic changes have occurred in our telecommunications markets. We have seen competitive environments in such areas as wireless communication and long distance service. Advanced telecommunications services have great potential for deployment in the near term, if only the Federal Communications Commission would more aggressively promote them. All of this change is occurring in the context of an explosion of information technologies and the Internet.

Yet the '96 Act dealt with much more than the high tech changes we read so much about these days. The legislation was designed to transform the entire telecommunications industry under the leadership of the FCC, to the benefit of all consumers. And the Act was designed to ensure that all Americans could have access to the vast array of services the Act will stimulate.

Today I would like to briefly address one aspect of the '96 Act that is often overlooked in the glamour of ''high-tech.'' Public payphones are a critical piece of this access. For millions of Americans, public payphones are the only access to the telecom network. And when the batteries or the signal for the wireless device fail, public payphones are a reliable source of inexpensive access, in an emergency or otherwise. Public payphones are emerging as public information portals, true on-ramps to the information highway, available to anyone at anytime.

In order to ensure that these instruments of public access would continue serving as gateways of last resort and continue evolving using new technologies, the issue of adequate compensation for pay phone operators was addressed by the '96 Act. This requirement of the '96 Act was designed to promote fair competition and benefit consumers by eliminating distorting subsidies and artificial barriers. However, the law has not been successfully implemented, and I am calling on the FCC to act expeditiously to address this regulatory oversight. Payphones are an important segment of the telecommunications industry, especially in low income neighborhoods and in rural areas like those in my home state of Montana.

Local telephone companies operated payphones as a legal monopoly until 1984, when an FCC ruling mandated that competitors' payphones be interconnected to local networks. Still, local telephone companies were able to subsidize their payphone service in competition with independent payphones. The '96 Act was designed to change all of this. It was designed to create a level playing field between all competitors and to encourage the widespread deployment of payphones. It did this by requiring local telephone companies to phase out subsidies; by mandating competitive safeguards to prevent discrimination by the ILECs and ensure fair treatment of competitors when they connect to local systems; and by assuring fair compensation for every call, including so-called ''dial around'' calls which bypass the pay phones' traditional payment mechanism.

Yet the basic requirements of the '96 Act are not being implemented by the FCC to assure fair competition. Pay phone operators are not being compensated for an estimated one-third of all dial-around calls, particularly when more than one carrier is involved on long distance connections. An industry proposal to remedy this situation has been pending at the FCC for more than a year without any action being taken. And the FCC also needs to bring to a hasty resolution the issue of the appropriate line rate structure for payphone providers. Today, there are about 2.3 million pay phones nationwide. While all payphones are threatened by the gaps in dial-around payments, 600,000 of them are independently owned and are under particularly intense pressure; many small payphone operators now find themselves being forced to pull payphones or go out of business altogether. They are also in need of certainty regarding the rates they pay the telephone companies. This situation should not exist more than four years after the enactment of the 1996 legislation.

I hope the FCC will act quickly to assure adequate compensation for each call. I hope the FCC will take immediate steps to enforce the requirement for non-discriminatory and fair line rates. I hope the FCC will take those basic steps required by the 1996 law. Fair competition—and the resulting benefits to consumers envisioned by Congress—will not occur until these actions are taken. As Chairman of the Senate Communications Subcommittee, I will be carefully monitoring actions taken by the FCC on these important issues in the weeks and months ahead.

THE BULLETPROOF VEST PARTNERSHIP GRANT ACT OF 2000

Mr. LEAHY. Mr. President, I wanted to inform the Repubican leadership that the House of Representatives today passed the Bulletproof Vest Partnership Grant Act of 2000, H.R. 4033, by an overwhelming vote of 413–3. I hope that the Senate will quickly follow suit and pass the House-passed bill and send it to the President. President Clinton has already endorsed this legislation to support our nation's law enforcement officers and is eager to sign it into law.

Senator CAMPBELL and I have introduced the Senate companion bill, S. 2413. Unfortunately, someone on the other side of the aisle has a hold on our bill. We have been working for the past week to urge the Senate to pass the Bulletproof Vest Partnership Grant Act of 2000, S. 2413. The Senate Judiciary Committee passed our bill unanimously on June 29. It has been cleared by all 45 Democratic Senators.

But it still has not passed the full Senate. This is very disappointing to our nation's law enforcement officers who need life-saving bulletproof vests to protect themselves. Protecting and supporting our law enforcement community should not be a partisan issue.

Senator CAMPBELL and I worked together closely and successfully with the Chairman of the Judiciary Committee in the last Congress to pass the Bulletproof Vest Partnership Grant Act of 1998 into law. Senator HATCH is an original cosponsor this year's bill to reauthorize this grant program. Senators SCHUMER, KOHL, THURMOND, REED, JEFFORDS, ROBB, REID, SARBANES, BINGAMAN, ASHCROFT, EDWARDS, BUNNING, CLELAND, HUTCHISON, and ABRAHAM are also cosponsors of our bipartisan bill.

But for some reason a Republican senator has a hold on this bill to provide protection to our nation's law enforcement officers. According to the Federal Bureau of Investigation, more than 40 percent of the 1,182 officers killed by a firearm in the line of duty since 1980 could have been saved if they had been wearing body armor. Indeed, the FBI estimates that the risk of fatality to officers while not wearing body armor is 14 times higher than for officers wearing it.

To better protect our nation's law enforcement officers, Senator CAMPBELL and I introduced the Bulletproof Vest Partnership Grant Act of 1998. President Clinton signed our legislation into law on June 16, 1998. Our law created a $25 million, 50 percent matching grant program within the Department of Justice to help state and local law enforcement agencies purchase body armor for fiscal years 1999–2001.

In its two years of operation, the Bulletproof Vest Partnership Grant Program has funded more than 180,000 new bulletproof vests for police officers across the country.

The Bulletproof Vest Partnership Grant Act of 2000 builds on the success of this program by doubling its annual funding to $50 million for fiscal years 2002–2004. It also improves the program by guaranteeing jurisdictions with fewer than 100,000 residents receive the full 50–50 matching funds because of the tight budgets of these smaller communities and by making the purchase of stab-proof vests eligible for grant awards to protect corrections officers in close quarters in local and county jails.

More than ever before, police officers in Vermont and around the country face deadly threats that can strike at any time, even during routine traffic stops. Bulletproof vests save lives. It is essential the we update this law so that many more of our officers who are risking their lives everyday are able to protect themselves.

I hope this mysterious ''hold'' on the other side of the aisle will disappear. The Senate should pass without delay the Bulletproof Vest Partnership Grant Act of 2000 and sent to the President for his signature into law.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, July 25, 2000, the Federal debt stood at $5,670,717,940,248.21 (Five trillion, six hundred seventy billion, seven hundred seventeen million, nine hundred forty thousand, two hundred forty-eight dollars and twenty-one cents).

Five years ago, July 25, 1995, the Federal debt stood at $4,940,346,000,000 (Four trillion, nine hundred forty billion, three hundred forty-six million).

Ten years ago, July 25, 1990, the Federal debt stood at $3,161,885,000,000 (Three trillion, one hundred sixty-one billion, eight hundred eighty-five million).

Fifteen years ago, July 25, 1985, the Federal debt stood at $1,798,533,000,000 (One trillion, seven hundred ninety-eight billion, five hundred thirty-three million).

Twenty-five years ago, July 25, 1975, the Federal debt stood at $535,316,000,000 (Five hundred thirty-five billion, three hundred sixteen million) which reflects a debt increase of more than $5 trillion—$5,135,401,940,248.21 (Five trillion, one hundred thirty-five billion, four hundred one million, nine hundred forty thousand, two hundred forty-eight dollars and twenty-one cents) during the past 25 years.

ADDITIONAL STATEMENTS

TRIBUTE TO WILLIAM T. YOUNG

● Mr. McCONNELL. Mr. President, I rise today to honor my good friend and fellow Kentuckian, Bill Young, in recognition of his service and dedication to the state of Kentucky. As Bill steps down from a few of his many leadership positions, I pay tribute to him for his lifelong commitment to this region.

Born in Lexington, he has always focused on the state's higher education. Bill's many leadership positions, including Transylvania University Board of Trustees member and chairman of the board of Shakertown, have guided the growth and success of Kentucky. As he is known for his single-minded determination to help the future success of Kentuckians, he has left a legacy behind that would prove he is one of the state's greatest assets.

No opportunity has been missed by Bill to continue Kentucky's prosperity. Beginning with investments in peanut butter that is now better known as Jif, his business endeavors started successfully. With an interest in horses, he continued his success in the business world by becoming a prominent leader of thoroughbred racing. Over the years, he became a leading philanthropist by helping construct the YMCA located on Lexington's High Street, Shakertown, and the University of Kentucky's new William T. Young Library. He still continues other projects for the community that are significant and meaningful to him.

Kentucky would not be what it is today without Bill's leadership and guidance over the past years. Though Bill has stepped down for others to guide the future, Kentucky will feel the effects of his accomplishments for years to come. Thank you, Bill, for putting so much of yourself into this state to make it a better place for others. Your hard work and successes are admired, and they will continue to impact Kentucky for years to come. My colleagues join me in congratulating you on a job well done, and I wish you all the best for your future.●

CELEBRATING THE 100TH BIRTHDAY OF COACH JEROME VAN METER

● Mr. ROCKEFELLER. Mr. President, today I rise to celebrate the life and accomplishments of one of West Virginia's most esteemed citizens, Coach Jerome Van Meter. On August 15th of this year, Coach Van Meter will celebrate his 100th birthday. A remarkable milestone for a truly remarkable man, Coach Van Meter's birthday provides a special opportunity for all of West Virginia to join in thanking him for a lifetime of service to our state.

With a career that has spanned a century, there isn't much that Coach Van Meter hasn't accomplished. Known affectionately as just Coach to his many students, he led the Beckley Flying Eagles to three state championships in football, and six more in basketball. A member of the National High School Sports Hall of Fame, Coach was both a beloved teacher and principal and served on the faculty of Beckley College. In addition to the numerous honors and awards he has received, Coach Van Meter holds the great distinction of being a surviving veteran of both World Wars.

Today, however, the countless lives touched by Coach are his greatest legacy. The lessons he taught on the basketball court and football field brought many victories, but the lessons of life he taught his players and students shaped their destinies in more profound ways. Dedication, hard work, compassion and dignity are the touchstones of Coach Van Meter's career, and his example continues to inspire us.

Thank you, Coach, for the invaluable contributions you have made to the families and communities of West Virginia. As you celebrate this very special birthday, you have my deepest admiration and gratitude.●

A GREAT LADY DEPARTS

● Mr. HELMS. Mr. President, on July 1, Mrs. Eusebia Ortiz Vera passed away in North Carolina. Born in 1912, she arrived in the United States from Cuba, appropriately, on the Fourth of July, 1954, poor and with young children to support.

In America, she promptly seized the opportunity to build a new life, as all immigrants to the U.S. hope they can do. Eusebia worked very hard to ensure that her children prospered. She made certain, above all, that all of them received good educations.

And those children who came to the United States did prosper, and become good citizens of the United States, going on to be a U.S. Ambassador to Honduras, a high school teacher, and a professor at the University of North Carolina.

Among her grandchildren, Mr. President, are two U.S. naval officers, a medical student studying to be a Navy doctor, two lawyers and an elementary school principal—college graduates all. Each of them is a testament to a good life.

When I read about her in The Charlotte Observer, I felt a sense of pride in her story. It is not merely a testimony to her own character, discipline and strength. No, it is also a reflection of what America is all about for so many—a land of opportunity and of hope.

Mr. President, I ask that the July 3 article published by The Charlotte Observer be printed in the RECORD at the conclusion of my remarks.

The article follows:

[From the Charlotte Observer, July 3, 2000]

FOR IMMIGRANT, JULY 4 WAS SPECIAL—WOMAN FROM CUBA ACHIEVED HER DREAM

(By Christopher Windham)

Eusebia Ortiz Vera of Charlotte came from Cuba on July 4, 1954, in search of the American dream.

Like millions of immigrants who arrived before her, she was poor, but optimistic about the future. She had only one wish: for her children to become educated and successful Americans.

When Vera, 87, died of natural causes Friday—just days before Independence Day and the anniversary of her arrival in this country—it marked an end of a life that some say epitomized American patriotism.

''She was the original liberated woman,'' said Vera's daughter Miriam Leiva, after Vera's burial Sunday. ''She really wanted a better life for herself and her children.''

And Vera did attain that American dream.

Born in Ponce, Puerto Rico, in 1912, Vera moved to Cuba with her father and six siblings when she was just 4 months old. Her mother had died moments after she was born. Vera married a Cuban schoolteacher at 22. She was a housewife during her years in Cuba. The marriage that brought Vera three children ended in 1952.

After the divorce, Vera was determined to give her children a better life than she had, family members said.

Vera decided to move the family to America, where she hoped her children would have greater opportunities. Leiva, 59, was 13 when her mother told her—at a moment's notice—to pack a suitcase of her belongings.

Leiva said she boarded a plane along with her mother, brother and two aunts en route to Miami. Her sister, Beatriz Manduley, 17 at the time, stayed in Cuba because she was married.

''We came to America for the same reasons as all immigrants, to better our family,'' said Leiva, a consulting professor at UNC Charlotte.

The family could not speak English when they arrived, family members said.

''It was hard,'' Leiva said. ''The most difficult part was all things we didn't understand.'' She said her mother did not learn the language until 10 years later when she took English classes at a local high school.

The entire family shared a tiny one-room apartment, Leiva said. To make ends meet, Vera took a job as seamstress in the garment district of Miami. She never made more than 75 cents an hour, family members said.

Despite the limited income and food, Vera still strived for her children to be successful.

''From the moment we came to the United States, she told us we were going to succeed,'' said Frank Almaguer, Vera's son. Almaguer is now the U.S. ambassador to Honduras.

Leiva said her mother prevented her from using a needle and thread because she didn't want her daughter to become a seamstress.

''Women would come to the house and ask, 'When is Miriam coming to the factory?' and mother will say 'No, Miriam is going to the university,' '' Leiva said.

Vera's dream came true in 1957 when Leiva enrolled at Guilford College in Greensboro. With scholarships, loans and help from local Quakers, Leiva was able to graduate in 1961 with a degree in mathematics.

Almaguer graduated from the University of Florida in 1967. Manduley came to Miami in 1960. She received her master's degree from UNC Greensboro in 1973. All seven of Vera's grandchildren are college graduates. Vera lived in Miami until 1997, when health conditions caused her to move to a nursing home in Charlotte, close to Leiva.

''This is her legacy,'' said Leiva. ''Failure was simply not an option for us.''●

HONORING JUDGE QUILLEN

● Mr. BIDEN. Mr. President, I rise today to honor one of Delaware's most brilliant legal minds and genuinely altruistic public servants—the Honorable William T. Quillen.

I have known Judge Quillen for 33 years, since I was an attorney fresh out of law school and looking for a job. As a 32-year old Delaware Superior Court judge he met with me and on blind faith recommended me for my first legal job. He has been a dear friend and confidant ever since. Over the past three decades, I have watched Judge Quillen with pride and admiration attain the greatest judicial heights any lawyer could ever strive for in Delaware, which is universally recognized—nationally and internationally—as having one of the most reputable, intellectual benches bar none.

He is known in my state affectionately and respectfully as ''Judge,'' ''Chancellor,'' ''Justice,'' and ''Mr. Secretary of State.'' He nearly became Governor and was my recommendation to President Clinton in June, 1999 to serve on the United States Third Circuit Court of Appeals. It was during a medical examination required for this position that his physician detected prostate cancer. For health reasons, we withdrew his name from consideration. I am happy to report that following treatment for prostate cancer, he is as healthy as ever, running 5K races like a man half his age.

Now, in classic Bill Quillen altruism—he says it's time to retire from the bench and make way for younger lawyers to serve as judges.

Early in his career, Bill Quillen served in the United States Air Force as a judge advocate, then as a top aide for Delaware's Governor. His judicial career began in 1966 on the Superior Court, which is Delaware's primary trial court. In 1973, he was elevated and confirmed as Chancellor of Delaware's renowned Court of Chancery.

Following a two-year experience as a private attorney with the Wilmington Trust Company, he again heeded the call for public service. In 1978, the General Assembly had expanded Delaware's Supreme Court from three to five members, and the Governor called on Bill Quillen. He was confirmed unanimously as a Delaware Supreme Court Justice. He served on the State's Highest Court for five years, before stepping down to run for Governor on the Democratic ticket. In one of the rare instances when he did not achieve his goal, Bill Quillen was not bitter or discouraged. In 1993, he accepted Governor Tom Carper's call for continued public service to become Secretary of State. In a state that more than half of the Fortune 500 companies call home, Secretary Quillen made his mark on this prestigious office.

But his heart remained in the law. In November, 1994, Governor Carper nominated and the General Assembly unanimously confirmed him to the Court where his storied career began—the

Delaware Superior Court. As I said earlier, I believe our federal bench would have been enlightened by his experience and brilliance, but for health reasons, this was not meant to be.

What's even more striking than his distinguished legal career is Judge Quillen's love for history. He is a true Delaware historian, with long-time family roots in historic New Castle. His love and respect for the law, democracy and justice for all are unparalleled.

Judge Quillen is recognized nationally for his extensive writings on Delaware's Court of Chancery, the history of Equity Jurisdiction in Delaware and the Federal-State Corporate Law Relationship. His colleagues nationwide also have awarded him numerous prestigious awards, including the First Place Award for the 1980 Judge Edward R. Finch Law Day U.S.A. Speech, sponsored by the American Bar Association, on the topic of ''Seven Perceptions of Freedom.'' In June, 1998, he also received the ''American Judicature Society's Herbert Harley Award.''

Judge Quillen will continue to serve as a professor at the Widener University School of Law and plans to spend more time with his wife of 41 years, two daughters and three grandchildren. I have no doubt his legal legacy, knowledge of Delaware, writing and speaking ability will continue to serve our State for many years to come.

Judge Quillen is a proud graduate of Harvard Law School, and it was the Dean Emeritus of Harvard Law School—Roscoe Pound—who said:

''Law is experience developed by reason and applied continually to further experience.''

Judge Quillen's vast experience and reasoned principles applied as a member of Delaware's top three courts will forever leave its marks on our body of law in Delaware. Our State and our citizens are so much better for his service. So, Your Honor, May It Please The Court, respectfully accept this statement of profound gratitude and admiration.●

TRIBUTE TO RON GIST

● Mr. MCCONNELL. Mr. President, I rise today to pay tribute to my friend and Phi Kappa Tau fraternity brother Ron Gist, as founder of Gist Piano Services, on the occasion of his success with his Louisville piano dealership.

After attending the University of Louisville, Ron started his piano dealership with only $1000 and two used pianos in 1971. Many years later, after persevering through a tornado in 1974, a devastating fire that nearly destroyed his business, and the hardship of an unfortunate economic downturn, Gist Piano Services has grown to become one of Louisville's most highly regarded piano dealerships, restorers, and consultants in the region.

As a natural salesman, Ron's success has led to profitable relationships with the Louisville Orchestra, Kentucky Center for the Arts, and Kentucky Fair & Exposition Center. Also, Ron is one of few in the country selected for the honor to represent Steinway pianos. Ron has also provided piano services to other prestigious performance venues and for popular entertainers like James Taylor and Carol King.

Ron should not only be congratulated for his success with Gist Piano Services, but he should be recognized for his service to the community. He has dedicated himself to making a difference in people's lives through music. By creating more avenues for young people to express themselves, like through playing the piano, children can learn how to imagine, create, and organize the power of music. These skills can later be used as key tools to succeed in the future as they enter adulthood. Thank you, Ron, for ensuring a better future for this state as the younger generations are better equipped to lead Kentucky.

Your hard work continues to display an unswerving commitment to the people of Kentucky and possesses the respect and gratitude of many in the community. The significant work which you and your wife Amanda have accomplished is appreciated by myself and the many others whose lives you have touched throughout your career.

Ron, thank you and best wishes for many more years of success. Know that your efforts to better the lives of those in the region will be felt for years to come. On behalf of myself and my colleagues in the United States Senate, thank you for giving so much of yourself for so many others in Louisville, the state of Kentucky, and the entire music industry.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

THE TWENTY-FIRST ANNUAL REPORT OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR FISCAL YEAR 1999—MESSAGE FROM THE PRESIDENT—PM #122.

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs.

To the Congress of the United States:

In accordance with section 701 of the Civil Service Reform Act of 1978 (Public Law 95–454, 5 U.S.C. 7104(e)), I have the pleasure of transmitting to you the Twenty-first Annual Report of the Federal Labor Relations Authority for Fiscal Year 1999.

The report includes information on the cases heard and decisions rendered by the Federal Labor Relations Authority, the General Counsel of the Authority, and the Federal Service Impasses Panel.

WILLIAM J. CLINTON.
THE WHITE HOUSE, *July 26, 2000*.

MESSAGE FROM THE HOUSE

At 11:59 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the bill (S. 768) to establish court-martial jurisdiction over civilians serving with the Armed Forces during contingency operations, and to establish Federal jurisdiction over crimes committed outside the United States by former members of the Armed Forces and civilians accompanying the Armed Forces outside the United States, with an amendment, in which it requests the concurrence of the Senate:

The message also announced that the House disagreed to the amendment of the Senate to the bill (H.R. 4578) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2001, and for other purposes, and agree to the conference asked by the Senate on the disagreeing votes of the two Houses, and appoints Mr. REGULA, Mr. KOLBE, Mr. SKEEN, Mr. TAYLOR of North Carolina, Mr. NETHERCUTT, Mr. WAMP, Mr. KINGSTON, Mr. PETERSON of Pennsylvania, Mr. YOUNG of Florida, Mr. DICKS, Mr. MURTHA, Mr. MORAN of Virginia, Mr. CRAMER, Mr. HINCHEY, and Mr. OBEY, as the managers of the conference on the part of the House.

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

H.R. 2348. An act to authorize the Bureau of Reclamation to provide cost sharing for the endangered fish recovery implementation programs for the Upper Colorado and San Juan River Basins.

H.R. 2462. An act to amend the Organic Act of Guam, and for other purposes.

H.R. 2919. An act to promote preservation and public awareness of the history of the Underground Railroad by providing financial assistance to the Freedom Center in Cincinnati, Ohio.

H.R. 3236. An act to auhorize the Secretary of the Interior to enter into contracts with the Weber Basin Water Conservancy District, Utah, to use Weber Basin Project facilities for the impounding, storage, and carriage of noproject water for domestic, municipal, industrial, and other beneficial purposes.

H.R. 3291. An act to provide for the settlement of the water rights claims of the Shivwits Band of the Paiute Indian Tribe of Utah, and for other purposes.

H.R. 3468. An act to direct the Secretary of the Interior to convey certain water rights to Duchesne City, Utah.

H.R. 3485. An act to modify the enforcement of certain anti-terrorism judgments, and for other purposes.

H.R. 4047. An act to amend title 18 of the United States Code to provide life imprisonment for repeat offenders who commit sex offenses against children.

H.R. 4210. An act to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide for improved Federal efforts to prepare for and respond to terrorist attacks, and for other purposes.

H.R. 4320. An act to assist in the conservation of great apes by supporting and providing financial resources for the conservation programs of countries within the range of great apes and projects of persons with demonstrated expertise in the conservation of great apes.

H.R. 4697. An act to amend the Foreign Assistance Act of 1961 to ensure that United States assistance programs promote good governance by assisting other countries to combat corruption throughout society and to promote transparency and increased accountability for all levels of government and throughout the private sector.

H.R. 4806. An act to designate the Federal building located at 1710 Alabama Avenue in Jasper, Alabama, as the ''Carl Elliott Federal Building.''

H.R. 4868. An act to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes.

H.R. 4923. An act to amend the Internal Revenue Code of 1986 to provide tax incentives for the renewal of distressed communities, to provide for nine additional empowerment zones and increased tax incentives for empowerment zone development, to encourage investments in new markets, and for other purposes.

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

H. Con. Res. 343. Concurrent resolution expressing the sense of the Congress regarding the importance of families eating together.

H. Con. Res. 372. Concurrent resolution expressing the sense of the Congress regarding the historic significance of the 210th anniversary of the establishment of the Coast Guard, and for other purposes.

H. Con. Res. 375. Concurrent resolution recognizing the importance of children in the United States and supporting the goals and ideas of American Youth Day.

At 3:06 p.m., a message from the House of Representatives, delivered by Mr. Hayes, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4033. Act act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to clarify the procedures and conditions for the award of matching grants for the purchase of armor vests.

H.R. 4710. An act to authorize appropriations for the prosecution of obscenity cases.

H.R. 4807. An act to amend the Public Health Service Act to revise and extend programs established under the Ryan White Comprehensive AIDS Resources Emergency Act of 1990, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2462. An act to amend the Organic Act of Guam, and for other purposes; to the Committee on the Judiciary.

H.R. 2919. An act to promote preservation and public awareness of the history of the Underground Railroad by providing financial assistance, to the Freedom Center in Cincinnati, Ohio; to the Committee on Energy and Natural Resources.

H.R. 3236. An act to authorize the Secretary of the Interior to enter into contracts with the Weber Basin Water Conservancy District, Utah, to use Weber Basin Project facilities for the impounding, storage, and carriage of nonproject water for domestic, municipal, industrial, and other beneficial purposes; to the Committee on Energy and Natural Resources.

H.R. 4047. An act to amend title 18 of the United States Code to provide life imprisonment for repeat offenders who commit sex offenses against children; to the Committee on the Judiciary.

H.R. 4210. An act to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide for improved Federal efforts to prepare for and respond to terrorist attacks, and for other purposes; to the Committee on Environment and Public Works.

H.R. 4320. An act to assist in the conservation of great apes and supporting and providing financial resources for the conservation programs of countries within the range of great apes and projects of persons with demonstrated expertise in the conservation of great apes; to the Committee on Environment and Public Works.

H.R. 4697. An act to amend the Foreign Assistance Act of 1961 to ensure that United States assistance programs promote good governance by assisting other countries to combat corruption throughout society and to promote transparency and increased accountability for all levels of government and throughout the private sector; to the Committee on Foreign Relations.

H.R. 4710. An act to authorize appropriations for the prosecution of obscenity cases; to the Committee on the Judiciary.

H.R. 4806. An act to designate the Federal building located at 1710 Alabama Avenue in Jasper, Alabama, as the ''Carl Elliott Federal Building''; to the Committee on Environment and Public Works.

H.R. 4868. An act to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes; to the Committee on Finance.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 343. Concurrent resolution expressing the sense of the Congress regarding the importance of families eating together; to the Committee on the Judiciary.

H. Con. Res. 372. Concurrent resolution expressing the sense of the Congress regarding the historic significance of the 210th anniversary of the establishment of the Coast Guard, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H. Con. Res. 375. Concurrent resolution recognizing the importance of children in the United States and supporting the goals and ideas of American Youth Day; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3485. An act to modify the enforcement of certain anti-terrorism judgments, and for other purposes.

H.R. 4807. An act to amend the Public Health Service Act to revise and extend programs established under the Ryan White Comprehensive AIDS Resources Emergency Act of 1990, and for other purposes.

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

S. 2912. A bill to amend the Immigration and Nationality Act to remove certain limitations on the eligibility of aliens residing in the United States to obtain lawful permanent residency status.

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–9975. A communication from the Director of the Office of Regulations Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Increase in Rates Payable Under the Montgomery GI Bill—Active Duty'' (RIN2900–AJ89) received on July 19, 2000; to the Committee on Veterans' Affairs.

EC–9976. A communication from the Assistant Secretary of Legislative Affairs, transmitting, pursuant to law, a report of a rule entitled ''Amendments to the International Traffic in Arms Regulation: NATO Countries, Australia and Japan'' received on July 17, 2000; to the Committee on Foreign Relations.

EC–9977. A communication from the Assistance Secretary of Legislative Affairs, transmitting, pursuant to law, the report of the transmittal of the certification of the proposed issuance of an export license relative to Germany; to the Committee on Foreign Relations.

EC–9978. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–9979. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–9980. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–9981. A communications from the Alternate OSD Federal Register Liaison Officer, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''TRICARE Nonavailability Statement Requirement for Maternity Care'' received on July 19, 2000; to the Committee on Armed Services.

EC–9982. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the Mid-Session Review for fiscal year 2001; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committees on Appropriations, and the Budget.

EC–9983. A communication from the General Counsel of the National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled ''Part 702—Prompt Corrective Action; Risk-Based Net Worth Requirement'' received on July 19, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–9984. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled

''Export Administration Regulations Entity List: Revisions to the Entity List'' (RIN0694–AB73) received on July 20, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–9985. A communication from the Managing Director, Office of the General Counsel, Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled ''Federal Home Loan Bank Advances, Eligible Collateral, New Business Activities and Related Matters'' (RIN3069–AA97) received on July 24, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–9986. A communication from the Managing Director, Office of the General Counsel, Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled ''Election of Federal Home Loan Bank Directors'' (RIN3069–AB00) received on July 24, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–9987. A communication from the Managing Director, Office of the General Counsel, Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Membership Regulation and Advances Regulation'' (RIN3069–AA94) received on July 24, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–9988. A communication from the Director of the Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Implementation of Hernandez v. Reno settlement agreement; Certain aliens eligible for family unity benefits after sponsoring family member's naturalization; additional class of aliens ineligible for family unity benefits'' (RIN1115–AE72 INS No. 1823–96) received on July 19, 2000; to the Committee on the Judiciary.

EC–9989. A communication from the Chief Justice of the Supreme Court, transmitting, the report of the Proceedings of the Judicial Conference on March 14, 2000; to the Committee on the Judiciary.

EC–9990. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of the transmittal of the certification of the proposed issuance of an export license relative to Australia, French Guiana, Japan, Jordan, Kourou, The Netherlands, Singapore, and the United Kingdom; to the Committee on Foreign Relations.

EC–9991. A communication from the Under Secretary of Defense, Acquisition, Technology, and Logistics, Department of Defense, transmitting , pursuant to law, the report on A–76 reviews; to the Committee on Appropriations.

EC–9992. A communication from the Deputy Executive Secretary to the Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Solvency Standards for Provider-Sponsored Organizations (HCFA–1011–F)'' (RIN0938–AI83) received on July 12, 2000; to the Committee on Finance.

EC–9993. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Rev. Proc. 2000-31 Form 1040 IRS e-file Program'' (Rev. Proc. 2000–31) received on July 13, 2000; to the Committee on Finance.

EC–9994. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''1999 Differential Earnings Rate'' (Revenue Ruling 2000–37) received on July 17, 2000; to the Committee on Finance.

EC–9995. A communication from the Commisioner of Social Security, Social Security Administration, transmitting, a draft of proposed legislation entitled ''Social Security Amendments of 2000''; to the Committee on Finance.

EC–9996. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''August 2000 Applicable Federal Rates'' (Revenue Ruling 2000–38) received on July 21, 2000; to the Committee on Finance.

EC–9997. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Coordinated Issue: All Industries-Lease Stripping Transactions'' (UIL 9226.00–00) received on July 21, 2000; to the Committee on Finance.

EC–9998. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Coordinated Issue: Motor Vehicle Industry-Service Technician Tool Reimbursements'' (UIL 62.15–00) received on July 21, 2000; to the Committee on Finance.

EC–9999. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Increase in Cash-out Limit Under sections 411(a)(7), 411(a)(11), and 417(e)(1) for Qualified Retirement Plans'' (RIN 1545–AW59 (TD8891)) received on July 18, 2000; to the Committee on Finance.

EC–10000. A communication from the Deputy Secretary to the Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Prospective Payment System for Home Health Agencies (HCFA–1059–F)'' (RIN0938–AJ24) received on July 19, 2000; to the Committee on Finance.

EC–10001. A communication from the Deputy Secretary to the Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; State Health Insurance Program (SHIP)–HCFA–4005–IFC'' (RIN0938–AJ67) received on July 19, 2000; to the Committee on Finance.

EC–10002. A communication from the Chief of the Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Forced or Indentured Child Labor'' (RIN1515–AC36) received on July 20, 2000; to the Committee on Finance.

EC–10003. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Weighted Average Interest Rate Update'' (Notice 2000–40) received on July 24, 2000; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1586: A bill to reduce the fractionated ownership of Indian Lands, and for other purposes (Rept. No. 106–361).

By Mr. SMITH, of New Hampshire, from the Committee on Environment and Public Works, without amendment:

H.R. 1729: A bill to designate the Federal facility located at 1301 Emmet Street in Charlottesville, Virginia, as the ''Pamela B. Gwin Hall''.

H.R. 1901: A bill to designate the United States border station located in Pharr, Texas, as the ''Kika de la Garza United States Border Station''.

H.R. 1959: A bill to designate the Federal building located at 743 East Durango Boulevard in San Antonio, Texas, as the ''Adrian A. Spears Judicial Training Center''.

H.R. 4608: A bill to designate the United States courthouse located at 220 West Depot Street in Greeneville, Tennessee, as the ''James H. Quillen United States Courthouse''.

By Mr. HELMS, from the Committee on Foreign Relations, with an amendment in the nature of a substitute:

S. 2253: A bill to authorize the establishment of a joint United States-Canada commission to study the feasibility of connecting the rail system in Alaska to the North American continental rail system; and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SMITH of New Hampshire for the Committee on Environment and Public Works.

Arthur C. Campbell, of Tennessee, to be Assistant Secretary of Commerce for Economic Development. (New Position)

Ella Wong-Rusinko, of Virginia, to be Alternate Federal Cochairman of the Appalachian Regional Commission.

By Mr. HELMS for the Committee on Foreign Relations.

Everett L. Mosley, of Virginia, to be Inspector General, Agency for International Development.

Richard A. Boucher, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be an Assistant Secretary of State (Public Affairs).

Michael G. Kozak, of Virginia, a Career Member of the Senior Executive Service, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Belarus.

Nominee: Michael G. Kozak.

Post: Ambassador to Belarus.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self: none.

2. Spouse: Eileen Louise Kozak, none.

3. Children and spouses names: Dan B. and Laura D. Kozak, none; Alexander G. Kozak, none.

4. Parents names: George C. and Margaret L. Kozak, none.

5. Grandparents names: deceased.

6. Brothers and spouses names: none.

7. Sisters and spouses names: Susan D. and Tom Volking, none; Lucinda J. and Bruce Campbell, none.

(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.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bill was introduced, read the first and second times by

unanimous consent, and referred as indicated on July 24, 2000.

By Mr. REID (for himself, Mr. GRASSLEY, and Mrs. LINCOLN):

S. 2910. A bill to amend title XVIII of the Social Security Act to permit the expansion of medical residency training programs in geriatric medicine; to the Committee on Finance.

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated on July 26, 2000:

By Mr. BINGAMAN:

S. 2922. A bill to create a Pension Reform and Simplification Commission to evaluate and suggest ways to enhance access to the private pension plan system; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY (for himself, Mr. ROCKEFELLER, Mr. DASCHLE, Mr. MOYNIHAN, Mr. REED, Mr. L. CHAFEE, Ms. COLLINS, Ms. SNOWE, Mr. BAUCUS, Mr. BREAUX, Mr. CONRAD, Mr. GRAHAM, Mr. BRYAN, Mr. KERREY, Mr. ROBB, Mr. INOUYE, Mr. LAUTENBERG, Mr. AKAKA, Mr. SCHUMER, and Mr. LEAHY):

S. 2923. A bill to amend title XIX and XXI of the Social Security Act to provide for Family Care coverage for parents of enrolled children, and for other purposes; to the Committee on Finance.

By Ms. COLLINS (for herself, Mr. DURBIN, and Mrs. FEINSTEIN):

S. 2924. A bill to strengthen the enforcement of Federal statutes relating to false identification, and for other purposes; to the Committee on the Judiciary.

By Mr. THURMOND:

S. 2925. A bill to amend the Public Health Service Act to establish an Office of Men's Health; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN:

S. 2926. A bill to amend title II of the Social Security Act to provide that an individual's entitlement to any benefit thereunder shall continue through the month of his or her death (without affecting any other person's entitlement to benefits for that month) and that such individual's benefit shall be payable for such month only to the extent proportionate to the number of days in such month preceding the date of such individual's death; to the Committee on Finance.

By Mr. FEINGOLD:

S. 2927. A bill to ensure that the incarceration of inmates is not provided by private contractors or vendors and that persons charged or convicted of an offense against the United States shall be housed in facilities managed and maintained by Federal, State, or local governments; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself, Mr. KERRY, Mr. ABRAHAM, and Mrs. BOXER):

S. 2928. A bill to protect the privacy of consumers who use the Internet; to the Committee on Commerce, Science, and Transportation.

By Mrs. FEINSTEIN (for herself, Mr. HOLLINGS, Mr. INOUYE, and Mr. KENNEDY):

S. 2929. A bill to establish a demonstration project to increase teacher salaries and employee benefits for teachers who enter into contracts with local educational agencies to serve as master teachers; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SANTORUM:

S. 2930. A bill to guarantee the right of individuals to receive social security benefits under title II of the Social Security Act in full with an accurate annual cost-of-living adjustment; to the Committee on Finance.

By Mr. MURKOWSKI:

S. 2931. A bill to make improvements to the Arctic Research and Policy Act of 1984; to the Committee on Governmental Affairs.

By Mr. LAUTENBERG:

S. 2932. A bill to amend title 39, United States Code, to provide for the issuance of a semipostal stamp in order to afford the public a convenient way to contribute to funding for the establishment of the World War II Memorial; to the Committee on Governmental Affairs.

By Mr. NICKLES:

S. 2933. A bill to amend provisions of the Energy Policy Act of 1992 relating to remedial action of uranium and thorium processing sites; to the Committee on Energy and Natural Resources.

By Mr. TORRICELLI:

S. 2934. A bill to provide for the assessment of an increased civil penalty in a case in which a person or entity that is the subject of a civil environmental enforcement action has previously violated an environmental law or in a case in which a violation of an environmental law results in a catastrophic event; to the Committee on Environment and Public Works.

By Mr. GRAHAM (for himself, Mr. GRASSLEY, Ms. MIKULSKI , Mr. BAYH, Mr. BREAUX, Ms. COLLINS, and Mr. AKAKA):

S. 2935. A bill to amend the Employee Retirement Income Security Act of 1974, the Internal Revenue Code of 1986, and the Public Health Service Act to increase Americans' access to long term health care, and for other purposes; to the Committee on Finance.

By Mr. ROBB (for himself, Mr. DASCHLE, Mr. BAUCUS, Mr. BREAUX, Mr. DODD, Mr. DORGAN, Mr. JOHNSON, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. LEAHY, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. REID, Mr. ROCKEFELLER, Mr. SCHUMER, Mr. TORRICELLI, Mr. HARKIN, and Mr. BAYH):

S. 2936. A bill to provide incentives for new markets and community development, and for other purposes; to the Committee on Finance.

By Mr. DOMENICI (for himself, Mr. WYDEN, Mr. GRASSLEY, and Mr. KERREY):

S. 2937. A bill to amend title XVIII of the Social Security Act to improve access to Medicare+Choice plans through an increase in the annual Medicare+Choice capitation rates and for other purposes; to the Committee on Finance.

By Mr. BROWNBACK (for himself and Mr. SCHUMER):

S. 2938. A bill to prohibit United States assistance to the Palestinian Authority if a Palestinian state is declared unilaterally, and for other purposes; to the Committee on Foreign Relations.

By Mr. GRASSLEY (for himself, Mr. ROCKEFELLER, Mr. JEFFORDS, and Mrs. LINCOLN):

S. 2939. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for energy efficient appliances; to the Committee on Finance.

By Mr. HATCH:

S. 2940. A bill to authorize additional assistance for international malaria control, and to provide for coordination and consultation in providing assistance under the Foreign Assistance Act of 1961 with respect to malaria, HIV, and tuberculosis; read the first time.

By Mr. HAGEL (for himself, Mr. KERREY, Mr. ABRAHAM, Mr . BREAUX, Mr. DEWINE, Mr. GORTON, Mrs. HUTCHISON, Ms. LANDRIEU, Mr. SMITH of Oregon, and Mr. THOMAS):

S. 2941. A bill to amend the Federal Campaign Act of 1971 to provide meaningful campaign finance reform through requiring better reporting, decreasing the role of soft money, and increasing individual contribution limits, and for other purposes; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FITZGERALD (for himself, Mr. LIEBERMAN, Mr. HAGEL, Mr. HELMS, and Mr. LUGAR):

S. Res. 343. A resolution expressing the sense of the Senate that the International Red Cross and Red Crescent Movement should recognize and admit to full membership Israel's Magen David Adom Society with its emblem, the Red Shield of David; to the Committee on Foreign Relations.

By Mr. MCCAIN (for himself and Mr. GORTON):

S. Res. 344. A resolution expressing the sense of the Senate that the proposed merger of United Airlines and US Airways is inconsistent with the public interest and public convenience and necessity policy set forth in section 40101 of title 49, United States Code; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN:

S. 2922. A bill to create a Pension Reform and Simplification Commission to evaluate and suggest ways to enhance access to the private pension plan system; to the Committee on Health, Education, Labor, and Pensions.

THE PENSION REFORM AND SIMPLIFICATION COMMISSION ACT

Mr. BINGAMAN. Mr. President: I rise today to introduce legislation calling for the establishment of a Pension Reform and Simplification Commission. The legislation derives directly from conversations I have had with constituents and experts on three key issues.

First, there is the problem related to the current cost and complexity of private pension plans. In my view current regulations place an unnecessary burden on small and medium business as they attempt to adopt pension plans. Indeed, even the most simple plans are often so complicated in form and function as to be incomprehensive to an everyday businessperson.

Second, there is the problem involved in coverage. Although over-all pension coverage may be consistent over the last decade and the assets of private plans have been on the increase, my concern is with those individuals of low to moderate income who are being left out of the private pension plan equation. As companies move toward cheaper plans—401(k)s being a salient example—and feel less obligated to offer defined benefit-type plans, individuals who do not have the extra money to contribute to their pension plans are

unable to benefit from a plan's availability. This is if a plan is available at all, and in many cases it is not.

Third, there is the problem of what kind of private pension plans are best suited for the so-called ''New Economy''. Clearly there is considerable debate as of late in terms of what kind of private pension plans should be offered so as to increase saving, decrease mobility, provide opportunity, enhance entrepreneurship, and so on, all of which is apparent in the rise of hybrid pension plans. My foremost concern here is that Congress now finds itself reacting to innovative private pension plans rather than being pro-active in their creation.

Mr. President, in 1974, Congress passed the Employee Retirement Income Security Act, known by most people by its acronym of ERISA, our intention at the time being twofold. First, we wanted to protect the assets held in private sector retirement plans. Second, we wanted to create uniform rules that govern how these plans will be implemented in each and every state.

From most accounts we have accomplished these two goals. There is no question that ERISA has flaws that must be addressed—and I will discuss these in detail later—but for all these flaws ERISA was extremely significant in that it reaffirmed the government's commitment to the importance of retirement plans for all Americans. Furthermore, it created a comprehensive framework in this country under which the expansion of private retirement plans could occur. Equally important, the mechanisms it established for personal saving has added trillions of dollars in available investment capital over the last decade alone, fueling in a very tangible way the unprecedented economic growth that we are seeing right now.

But for all the praise ERISA receives, it is also criticized widely and, in my opinion, correctly on a number of counts. For this reason, it is time to seriously re-evaluate whether it is addressing the needs and concerns of all Americans. It is time to examine whether it fits the demands of a changing, global, ''new'' economy.

As a specific example of these problems, the adoption of piecemeal, narrow, and complicated statutes and regulations in the 26 years since ERISA's implementation has made substantial portions of our retirement system inefficient, expensive, and oftentimes incomprehensible to anyone wishing to use it. It is well-known that we continue to add provisions and plans with no effort at all to make them internally compatible. We may have a broad vision about what we want to do with retirement policy in this country, but we instead of revising retirement policy in a comprehensive and strategic manner, we simply add new ideas and language incrementally, hoping they will appeal to businesses who wish to offer them to their employees.

Sadly, the end result is that for many businesses the cost of compliance with ERISA regulations—the administrative and professional costs of qualification—rival and even outweigh the costs of providing the benefits themselves. This, in turn, has led to a decision by many business owners that they can no longer afford to offer retirement plans to their employees, this in spite of their desire to do so. For these people, the current rules burden the system beyond the benefits they provide. This has to change.

But the cost and complexity I have just mentioned has had a corollary effect, that being a lack of access to pension plans on the part of low- and middle-income workers, women and minorities in particular. Rightly or wrongly, one of the foremost criticisms directed toward ERISA is that it has accelerated the demise of traditional defined benefit pensions and increased conversions to new forms of plans, specifically defined contribution plans like 401(k)s. Employers oftentimes no longer feel it is their role to provide retirement income to their employees as they once did under defined benefit plans. Instead they make defined contribution plans available and then educate employees as to how to save for themselves.

The problem is that the retirement security of a great many workers now lies in their ability to contribute individually to these plans, and this is not always possible. Indeed, data suggests that if these individuals are able to save adequately at all, they do so late in their careers—this after paying for their homes, their childrens' education, and other important spending priorities. Only then do they have the opportunity to accumulate the money needed to supplement Social Security and carry them through retirement. But these are the lucky ones. The fact is a large portion of Americans simply no longer have the capacity to save, this in spite of living in a time of economic prosperity. This too needs to be changed.

There is a third reason to re-evaluate ERISA, and that is that the dynamics of the New Economy demand a discussion of what retirement policies best serve the economic interests of the United States. For a good part of this century, private pension plans were seen by employers as a way to keep their workforce intact, their employees' morale high, and devotion to the company constant. Employees stayed with companies because they identified with the company and were treated by employers as family. Continuity and connection were the primary motivations for individuals as they considered a job.

Recently, however, this rationale has changed, and has done so significantly. According to most analysts, the main determinant for most employees as they choose a job is personal development and professional growth, the feeling being that economic security is best attained by mobility—moving from one job to another, increasing education, pay, and retirement savings as you go. Staying at one firm is still an ideal for some but it is not essential for many. Perhaps more importantly, given the dynamics of the New Economy, it may no longer be practical to assume that you can find retirement security at a single firm.

The bottom line, much as the recent debates over cash balance plans suggest, is that some very basic issues concerning pension policy are coming to the fore at this time, examples being the essence of the employer-employee relationship, the ability of companies to attract and maintain a skilled workforce, the benefits provided to short- and long-term employees, the advisability of worker mobility seen in the context of technological innovation and globalization, and so on. Here, we must confront the reality of political economic change, and do so quickly and coherently.

But Congress is not doing that. As I stated previously, we are reacting to changes rather than planning for the future in a coherent and strategic manner. In my view, this is an extremely serious problem as it limits our ability to create the conditions necessary for national economic growth and individual economic welfare.

As many of my colleagues know, the notion of a Pension Commission has been discussed and debated for a number of years, but we have never placed it high enough on our list of priorities to address it with purpose. I would argue that we can no longer afford the luxury of contemplation, and the time to act is now. Failure to adjust our existing policies to meet the challenges we face both now and in the future will result in several specific outcomes.

First, it will mean that many workers will see their retirement expectations fade or disappear. Second, it will likely mean that these individuals will be forced to rely on government sponsored programs that are themselves financially overextended. Finally, it will mean that the capacity of U.S. firms to compete in the global marketplace will be diminished. In my view, none of these outcomes are acceptable. We simply must become more thoughtful and pro-active.

The bill I introduce today has a number of purposes, but foremost among them is to establish an affordable, accessible, equitable, efficient, cost-effective, and easy to understand private pension plan system in the United States. It is designed to conduct a complete top-to-bottom evaluation of the current system and provide concrete recommendations as to how we can reform it to serve the interests of employers, employees, and the entire nation as a whole.

This Commission will be composed of fifteen members, all with significant experience in areas related to retirement income policy. It is mandated that the activities of the Commission

will be concluded in a little over two years, with specific language to be provided to Congress so that we can act on their recommendations immediately. To ensure that the activities of the Commission are not redundant or otherwise wasteful, it will be allowed to secure data from any government agency or department dealing with retirement policy, and furthermore, may request detailees from these agencies and departments on a non-reimburseable basis. The Commission will also be allowed to hold hearings, take testimony, and receive evidence as appropriate from individuals who are able to contribute to this reform effort.

This bill has been created after detailed discussions with a number of individuals and organizations interested in retirement policy, from the Employee Benefits Research Institute, to the Center for Budget and Policy Priorities, to the Association of Private Pension and Welfare Plans. Although all of the organizations involved have their own perspective on how retirement policy issues should be addressed in the United States, I have made a concerted effort to make their concerns compatible in this legislation. Significantly, all endorse the goals of the bill, as does the American Academy of Actuaries, the Executive Committee of the New York State Bar Association, and the Chairman of the Special Commission on Pension Simplification of the New York State Bar Association, Mr. Alvin D. Lurie.

Mr. President, although there is much to recommend concerning our current pension system, it is common knowledge that this system is, in many instances, too complicated for participants to understand, too difficult for businesses to use, and too inaccessible for individuals to join. We have added layer upon layer of legislation, to the point that the system is not only unwieldy, but often of questionable purpose. We have reached the point that its complexity and inaccessibility is having a tangible impact on individuals and businesses alike.

In my view, the status quo is no longer viable or acceptable. It is time to meet the challenge that faces us in a direct and strategic fashion. It is time to reform and simplify the system so that we have a effective mechanism that serves employers and employees alike and provides the means to guarantee all Americans income security in their retirement years.

Mr. President, the time to act is now. I ask my colleagues to recognize the importance of this legislation, and lend their support for its passage.

Mr. President, I ask unanimous consent that a copy of the bill be included in the RECORD at the conclusion of my statement. I also ask that the letters of support from the American Academy of Actuaries and the Association of Private Pension and Welfare Plans be included in the RECORD immediately following my floor statement.

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

S. 2922

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 ''Pension Reform and Simplification Commission Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The creation and implementation of an affordable, accessible, equitable, efficient, cost-effective, and easy to understand system is essential to the continuity and viability of the current private pension plan system in the United States.

(2) There is a near universal recognition in the United States that the laws that regulate our pension system have become unwieldy, complex, and burdensome, a condition that hinders the achievement of increased saving and economic growth and cannot be fixed by ad hoc improvements to ERISA and the Internal Revenue Code of 1986.

(3) Significant and effective improvement of laws can only be accomplished through a coordinated, comprehensive, and sustained effort to revise and simplify current laws by a high-level body of pension experts, whose recommendations are then transmitted to Congress.

(4) In recent years, the adoption of narrowly focused and increasingly complex statutes through amendment of the Employee Retirement Income Security Act of 1974 (in this Act referred to as ''ERISA'') and the Internal Revenue Code of 1986 has impeded the efforts of employers and employees to save for their retirement and imposed significant challenges for businesses which consider establishing pension plans for their workforce.

(5) A high national savings rate can contribute significantly to the economic security of the Nation as it adds to available investment capital, fuels economic growth, and enhances productivity, competitiveness, and prosperity.

(6) The Federal Government can potentially increase the national savings rate through the implementation of policies that create an effective framework for the spread of voluntary retirement plans and the protection of the private assets held in those plans.

(7) Private pension plans have been, and remain, the single largest repository of private capital in the world and potentially act as a significant inducement for personal saving and investment.

(8) Pensions represent the only hope that most working Americans have an adequate supplement to social security benefits, and while the private pension system has been greatly improved since the establishment of ERISA, many inequities remain, and many workers are still not covered by the system.

(9) It is essential that all Americans, no matter what their income security level, have the opportunity to achieve income security in their retirement years. Currently, many tax and retirement incentives for private pension plans, while benefiting higher income employees who can often save adequately for their retirement, do not serve sufficiently the needs of low and moderate income workers.

(10) The current pensions rules have tended to produce disparate coverage rates for low and moderate income workers.

(11) The failure of the Government to modify current pension policies will mean that many workers will be deprived of the options needed to save for their retirement and will, consequently, have their retirement expectations minimized or eliminated.

(12) The failure of the Government to redress the burdens imposed by over-regulation and complexity on employer-sponsored pension plans will harm employees and their families.

(13) The failure of the Government to redress the problems related to private pension plans may erode the ability of United States companies to compete effectively in the international market and result in a decrease in the economic health of the Nation.

SEC. 3. ESTABLISHMENT OF COMMISSION.

There is established a commission to be known as the Pension Reform and Simplification Commission (in this Act referred to as the ''Commission'').

SEC. 4. DUTIES.

(a) IN GENERAL.—The Commission shall—

(1) study the strengths, weaknesses, and challenges involved in the regulation of the current private pension system;

(2) review and assess Federal statutes relating to the regulation of the current private pension system; and

(3) recommend changes in the law regarding the regulation of the current private pension system to mitigate the problems identified under subsection (b), with the goal of making the system more affordable, accessible, efficient, less costly, less complex, and, in general, to expand pension coverage.

(b) ISSUES TO BE STUDIED.—The Commission shall include in the study under subsection (a) a consideration of—

(1) the manner in which the current rules impact private pension coverage, how such coverage has changed over the last 25 years (since the enactment of ERISA), and reasons for such change;

(2) the primary burdens placed on small and medium business in the United States regarding administration of pension plans, especially how such burdens affect the tenuous position occupied by these organizations in the competitive market;

(3) the simplification of existing pension rules in order to eliminate undue costs on employers while providing retirement security protection to employees;

(4) the primary obstacles to employees in gaining optimum advantages from the current pension system, with particular attention to the small and medium business sector and low and moderate income employees, including minorities and women;

(5) the feasibility of providing innovative design options to enable small and medium businesses to be relieved of complex and costly legislative and regulatory burdens in matters of adoption, operation, administration, and reporting of pension plans, in order to increase affordable and effective coverage in that sector, for low and moderate income employees, with emphasis on minorities and women;

(6) the means of leveling distribution of private pension plan coverage between high wage earners and low and moderate income workers;

(7) the feasibility of forward-looking reforms that anticipate the needs of small and medium businesses in the United States given the obstacles and opportunities of the new global economy, in particular issues related to the mobility and retention of skilled workers;

(8) how pension plan benefits can be made more portable;

(9) the means of achieving the expansion and adoption of pension plans by United States businesses, especially those employing low and moderate income workers who currently lack access to such plans;

(10) the impact of expanding individual retirement account contribution limits and income limits on private pension plan coverage;

(11) the provision of innovative incentives that encourage more employers to use existing private pension plans;

(12) the impact of qualified plan contribution and benefit limits on coverage; and

(13) any proposals for major simplification of Federal legislation and regulation regarding qualified pension plans, in order to address and mitigate problem areas identified under this subsection, with the goal of—

(A) strengthening the private pension system;

(B) expanding the availability, adoption, and retention of tax-favored savings plans by all Americans;

(C) eliminating rules that burden the pension system beyond the benefits they provide, for low and moderate income workers, including minorities and women, with specific emphasis on—

(i) eligibility and coverage;

(ii) contributions and benefits;

(iii) minimum distributions, withdrawals, and loans;

(iv) spousal and beneficiary benefits;

(v) portability between plans;

(vi) asset recapture;

(vii) plan compliance and termination;

(viii) income and excise taxation; and

(ix) reporting, disclosure, and penalties; and

(D) identification of the trade-offs involved in simplification under subparagraph (C).

(c) REPORT.—

(1) IN GENERAL.—Not later than 24 months after the designation of the chairperson under section 5(d), the Commission shall transmit to the President and Congress a report containing—

(A) the issues studied under subsection (b);

(B) the results of such study;

(C) draft legislation and commentary under paragraph (2); and

(D) any other recommendations based on such study.

(2) LEGISLATIVE RECOMMENDATIONS.—The Commission shall develop draft legislation and associated explanations and commentary to achieve major simplification of Federal legislation regarding regulation of pension plans (including ERISA and the Internal Revenue Code of 1986) to implement any findings or recommendations of the study conducted under subsection (b).

(3) RECOMMENDATIONS.—Any official findings or recommendations of the Commission shall be adopted by ⅔ of the members of the Commission.

(4) MINORITY VIEWS.—All findings and recommendations of the Commission formally proposed by any member of the Commission and not adopted under paragraph (3) shall also be included in the report.

SEC. 5. MEMBERSHIP OF THE COMMISSION; RULES; POWERS.

(a) COMPOSITION.—

(1) NUMBER.—The Commission shall be composed of 15 members, appointed not later than 45 days after the date of enactment of this Act.

(2) APPOINTMENTS.—The membership of the Commission shall be as follows:

(A) 3 individuals appointed by the President, after consultation with the Secretary of Labor and the Secretary of the Treasury, or their respective designees.

(B) 3 individuals appointed by the majority leader of the Senate.

(C) 3 individuals appointed by the minority leader of the Senate.

(D) 3 individuals appointed by the Speaker of the House of Representatives.

(E) 3 individuals appointed by the minority leader of the House of Representatives.

(b) QUALIFICATIONS OF MEMBERS.—

(1) IN GENERAL.—Individuals appointed under subsection (a)(2) shall be individuals who—

(A) have experience in actuarial disciplines, law, economics, public policy, human relations, business, manufacturing, labor, multiemployer pension plan administration, single employer pension plan administration, or academia, or have other distinctive and pertinent qualifications or experience in retirement policy;

(B) are not officers or employees of the United States; and

(C) are selected without regard to political affiliation or past partisan activity.

(2) OTHER CONSIDERATIONS.—In the appointment of members under subsection (a), every effort shall be made to ensure that the individuals, as a group—

(A) are representatives of a broad cross-section of perspectives on private pension plans within the United States;

(B) have the capacity to provide significant analytical insight into existing obstacles and opportunities of private pension plans; and

(C) represent all of the areas of experience under paragraph (1)(A).

(c) TERMS; VACANCIES.—

(1) TERMS.—Each member shall be appointed for the life of the Commission.

(2) VACANCIES.—Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner as the appointment of the member causing the vacancy.

(d) CHAIRPERSON; VICE CHAIRPERSON.—Not later than 60 days after the date of enactment of this Act, the President shall designate a chairperson and vice chairperson of the Commission from the individuals appointed under subsection (a)(2).

(e) COMPENSATION.—

(1) PROHIBITION OF PAY.—Except as provided in subparagraph (B), members of the Commission shall serve without pay.

(2) TRAVEL EXPENSES.—Each member of the Commission may receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code, while away from their homes or regular place of business in the performance of services for the Commission.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Eight members of the Commission shall constitute a quorum for conducting the business of the Commission, except 5 members of the Commission may hold hearings, take testimony, or receive evidence.

(2) NOTICE.—Any meetings held by the Commission shall be duly noticed in the Federal Register at least 14 days prior to such meeting and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, think tanks, and State and local government officials to testify.

(4) MEETINGS.—The Commission shall meet at the call of the chairperson of the Commission.

(5) OTHER RULES.—The Commission shall adopt such other rules as necessary.

(g) POWERS OF THE COMMISSION.—

(1) INFORMATION FROM FEDERAL AGENCIES.—

(A) IN GENERAL.—The Commission may secure directly from any Federal department or agency such materials, resources, data, and other information as the Commission considers necessary to carry out the provisions of this section. Upon request of the chairperson of the Commission, the head of such department or agency shall furnish such materials, resources, data, and other information to the Commission.

(B) COORDINATION OF RESEARCH INFORMATION.—The Commission shall ensure effective use of such materials, resources, data, and other information and avoid duplicative research by coordinating and consulting with the head of the appropriate research department of—

(i) the Pension and Welfare Benefits Administration of the Department of Labor;

(ii) the Department of the Treasury;

(iii) the Social Security Administration;

(iv) the Small Business Administration;

(v) the Pension Benefit Guaranty Corporation;

(vi) the National Institute on Aging; and

(vii) private organizations which have conducted research in the pension area.

(2) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as any other Federal agency.

(3) ACCEPTANCE OF SERVICES; GIFTS; AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(4) CONTRACT AND PROCUREMENT AUTHORITY.—The Commission may make purchases, and may contract with and compensate government and private agencies or persons for property or services, without regard to—

(A) section 3709 of the Revised Statutes (41 U.S.C. 5); and

(B) title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.).

(5) VOLUNTEER SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use voluntary and uncompensated services as the Commission determines necessary.

SEC. 6. STAFF AND SUPPORT SERVICES.

(a) EXECUTIVE DIRECTOR; STAFF.—

(1) IN GENERAL.—The chairperson of the Commission may, without regard to civil service laws and regulations and after consultation with the Commission, appoint an executive director of the Commission and such other additional personnel as may be necessary to enable the Commission to perform its duties.

(2) COMPENSATION.—The chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level IV of the Executive Schedule under section 5315 of such title.

(b) STAFF OF FEDERAL AGENCIES.—Upon request by the chairperson of the Commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any of the personnel of the department or agency to the Commission to assist the Commission to carry out its duties under this Act and such detail shall be without interruption or loss of civil service status or privilege.

(c) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, any administrative support services that are necessary to enable the Commission to carry out this Act.

SEC. 7. TERMINATION.

The Commission shall terminate not later than 26 months after the date of enactment of this Act.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

AMERICAN ACADEMY OF ACTUARIES,
July 13, 2000.

Hon. JEFF BINGAMAN,
U.S. Senate, Washington, DC.

DEAR SENATOR BINGAMAN: The American Academy of Actuaries would like to express its strong support for your idea of establishing a national commission on pension reform and simplification. The Academy has long advocated a comprehensive and coordinated approach to retirement policy. We believe the establishment of a bipartisan commission of experts to analyze obstacles that weaken our private pension system and recommend solutions is a positive first step. The Academy also believes that slight modifications to your proposal would make the commission more effective.

The Academy commends you for recognizing that, because the laws that regulate our private pension system have become too complex, they discourage employers from helping their workers save for an adequate retirement. We strongly support the concept of a bipartisan commission of experts that will recommend specific ways to simplify the rules governing private plans, thereby encouraging employers to expand coverage to more workers.

The Academy believes that the commission called for in your proposal could be made more effective if Congress was required to have an up-or-down vote on its recommendations. Furthermore, we believe that, given the expertise available to the commission, it should be possible to formulate a result in 12–18 months, rather than the 24 months specified in your legislation. Finally, we would encourage the commission to examine pension changes in the context of a national retirement income policy, including Social Security, since major changes to the private pension system undoubtedly will affect Social Security.

The Academy believes that creation of a national commission will be a positive first step toward our mutual goal of increasing pension coverage for Americans. We appreciate your recognition of the unique role that actuaries should play in such a commission and look forward to providing any assistance that may be of benefit to you and your staff.

Sincerely,

JAMES E. TURPIN,
Vice President, Pensions.

APPWP, ASSOCIATION OF PRIVATE PENSION AND WELFARE PLANS,
July 18, 2000.

Pension Reform and Simplification Commission Act

Senator JEFF BINGAMAN,
U.S. Senate, Washington, DC.

DEAR SENATOR BINGAMAN: On behalf of the Association of Private Pension and Welfare Plans (APPWP—The Benefits Association), I want to express our appreciation for your interest in, and support for, our nation's voluntary, employer-sponsored retirement system as evidenced by the Pension Reform and Simplification Commission Act that you will soon introduce. APPWP is a public policy organization representing principally Fortune 500 companies and other organizations that assist companies of all sizes in providing benefits to employees. Collectively, APPWP's members either sponsor directly or provide services to retirement and health plans that cover more than 100 million Americans. We appreciate your past and continuing efforts to expand the private, voluntary retirement system that currently enables millions of working Americans to achieve financial security in retirement.

As you know, the employer-based retirement system provides an important source of income security for many Americans in retirement, and, in many respects, has been successful in meeting the challenges of an aging population. However, we recognize that public policy can build and expand on this success. Many employers, particularly small companies, find it difficult to establish retirement plans because of cost and administrative complexity. As a result, many workers do not have access to private pensions and cannot save adequately for retirement. Moreover, our pension laws have not kept pace with the rapid developments in the business world. New technologies, international competition, and many types of corporate transactions pose unique pension challenges that should be better accommodated by our nation's retirement policy. APPWP has consistently campaigned for expansion and reform of the nation's pension laws with the express goals of expanding coverage, increasing portability, reducing complexity, and reflecting business realities. We are therefore pleased that you have made these goals the central objective of the commission you propose.

In particular, APPWP commends you for putting the focus of pension reform on expanding coverage. You correctly note that our retirement system has become overly burdened with unwieldy and complex rules that have impeded expanded coverage and increased retirement security for all Americans. Your advocacy on behalf of the goals of coverage and simplification is an important step towards realizing a more secure retirement for all Americans.

We look forward to working with you on these important issues. If we can be of further assistance, please do not hesitate to contact us.

Sincerely,

JAMES A. KLEIN,
President.

By Mr. KENNEDY (for himself, Mr. ROCKEFELLER, Mr. DASCHLE, Mr. MOYNIHAN, Mr. L. CHAFEE, Ms. COLLINS, Ms. SNOWE, Mr. BAUCUS, Mr. BREAUX, Mr. CONRAD, Mr. GRAHAM, Mr. BRYAN, Mr. KERREY, Mr. ROBB, Mr. INOUYE, Mr. LAUTENBERG, Mr. AKAKA, Mr. SCHUMER, and Mr. LEAHY):

S. 2923. A bill to amend title XIX and XXI of the Social Security Act to provide for FamilyCare coverage for parents of enrolled children, and for other purposes; to the Committee on Finance.

THE FAMILY CARE ACT OF 2000

Mr. KENNEDY. Mr. President, I am pleased to announce the introduction of the Family Care Act of 2000, which takes the next logical step in assuring access by as many citizens as possible to affordable health insurance. I commend Congressman JOHN DINGELL and the rest of our colleagues for their fine work in crafting this legislation.

The number of uninsured Americans is now more than 44 million, and the figure is rising by an average of one million a year. America is the only industrial country in the world, except South Africa, that fails to guarantee health care for all it citizens.

It is a national scandal that lack of insurance coverage is the seventh leading—and most preventable—cause of death in America today.

Three years ago, we worked together to create CHIP, the federal-state Children's Health Insurance Program, which provides coverage to children in families with incomes too high for Medicaid and too low to afford private health insurance.

More than two million children have been enrolled in that program, and millions more have signed up for Medicaid as a result of outreach activities. Soon, more than three-quarters of all uninsured children in the nation will be eligible for assistance through either CHIP or Medicaid.

But, despite this progress, the parents of these children, and too many others, have been left behind. The time has come to take the next step.

The overwhelming majority of uninsured low-wage parents are struggling to support their families. I will ask unanimous consent to insert a statement in the RECORD from Patricia Quezada, a parent of three lovely girls, who would benefit from this legislation.

Parents who work hard, 40 hours a week, 52 weeks a year, should be eligible for assistance to buy the health insurance they need in order to protect their families. Our message to them today is that help is on the way.

Often, they work for companies which don't offer insurance, or they aren't eligible for insurance that is offered. Fewer than a quarter of the jobs taken by those who have been forced off the welfare rolls by welfare reform offer insurance as a benefit—and even when it is offered too few companies make it available for dependents. The time has come to take the next step.

The Family Care Act of 2000 will provide with the resources, incentives and authority to extend Medicaid and CHIP to the parents of children covered under those programs.

Coverage for parents also means better coverage for children. Parents are much more likely to enroll their children in health insurance, if the parents themselves can have coverage, too.

This step alone will give to six and a half million Americans the coverage they need and deserve.

The Family Care Act will also improve the outreach and enrollment for CHIP and Medicaid, and encourage states to extend coverage to other vulnerable population, such as pregnant women, legal immigrants, and children ages 19 and 20.

This program is affordable under current and projected budget surpluses. The Congressional Budget Office estimates that the cost will be $11 billion over the next five years.

Last Monday, a majority of the Senate voted in favor of this proposal as an amendment to the marriage penalty bill. We needed 60 votes, so it was not successful then, but we clearly have a bipartisan majority of the Senate.

The bottom line is that we have the resources to take this needed step, and

end the suffering and uncertainty that accompanies being uninsured.

Mr. President, I ask unanimous consent that statements and letters of support for this legislation be printed in the RECORD.

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

STATEMENT OF PATRICIA QUEZADA, JULY 21, 2000

Good morning. I am Patricia Quezada. I am a mother of three girls (ages 9, 8 and 5). I work as a part-time parent liaison at Weyanoke Elementary School in Fairfax, Virginia. My husband is a self-employed general contractor. Because my husband is self-employed and I work part-time, our family does not have access to health insurance through our jobs.

In the past, we were able to purchase private insurance that covered our family. But, in recent times, our family has been unable to afford the high rates because it came down to either paying for our home, transportation and other necessities—including food—or purchasing this costly insurance. On two occasions, the coverage was cancelled because we were unable to meet the payments, which were required in advance.

It was such a relief that my children are now able to receive coverage through Medicaid and CMSIP, Virginia's SCHIP Program. (As a parent-liaison, part of my job has been to help other families sign up their children for health insurance.) I feel extremely fortunate that my children are now covered in case of an illness or accident, however I continue to fear what could happen if my husband or I fall sick or have an injury. While we both do our best to take care of our health, we know how important it is to have health insurance coverage if we should need it.

Thank you.

CHILDREN'S DEFENSE FUND,
Washington, DC, July 21, 2000.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: We are taking this opportunity to thank you for introducing the FamilyCare Act of 2000 and to express the strong support of the Children's Defense Fund for this bipartisan initiative to provide and strengthen health care coverage for uninsured children and their parents. Building on the successes of Medicaid and the Children's Health Insurance Program (CHIP), this legislation will increase coverage for uninsured children, provide funding for health insurance coverage for the uninsured parents of Medicaid and CHIP-eligible children, and simplify the enrollment process for Medicaid and CHIP to make the programs more family friendly.

We want to extent our appreciation to Senators Chafee, Collins, Daschle, Lautenberg, Rockefeller, and Snowe for co-sponsoring this legislation in the Senate and to Representatives Dingell, Stark, and Waxman for taking the lead on this proposal in the House. We look forward to working with you for passage of the FamilyCare Act of 2000.

Sincerely,

GREGG HAIFLEY,
Deputy Director Health Division.

NATIONAL ASSOCIATION OF
CHILDREN'S HOSPITALS,
Alexandria, VA, July 21, 2000.

Hon. EDWARD KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the National Association of Children's Hospital (N.A.C.H.), which represents over 100 children's hospitals nationwide, I want to express our strong support for your introduction of the ''FamilyCare Act of 2000.''

As providers of care to all children, regardless of their economic status, children's hospitals devote nearly half of their patient care to children who rely on Medicaid or are uninsured, and more than three-fourths of their patient-care to children with chronic and congenital conditions. These hospitals have extensive experience in assisting families to enroll eligible children in Medicaid and SCHIP. They are keenly aware of the importance of addressing the challenges that states face in enrolling this often hard to reach population of eligible children.

In particular, N.A.C.H. appreciates and strongly supports your efforts to simplify and coordinate the application process for SCHIP and Medicaid, as well as to provide new tools for states to use in identifying and enrolling families. In addition, N.A.C.H. applauds your provisions that set a higher bar for covering children by: (1) requiring states to first cover children up to 200% of poverty and eliminating waiting lists in the SCHIP program before covering parents; and (2) requiring every child who loses coverage under Medicaid or SCHIP to be automatically screened for other avenues of eligibility and if found eligible, enrolled immediately in that program.

N.A.C.H. also supports your legislation's provision to give states additional flexibility under SCHIP and Medicaid to cover legal immigrant children. In states with high proportions of uninsured children, such as California, Texas and Florida, the federal government's bar on coverage of legal immigrant children helps contribute to the fact that Hispanic children represent the highest rate of uninsured children of all major racial and ethnic minority groups. Your provision to ensure coverage of legal immigrant children would be extremely useful in improving this situation.

N.A.C.H. greatly appreciates all that you have done throughout your years of service, and continue to do, to provide all children with the best possible chance at starting out and staying healthy. We welcome and look forward to working with you to pass the ''FamilyCare Act of 2000.''

Sincerely,

LAWRENCE A. MCANDREWS.

MARCH OF DIMES,
BIRTH DEFECTS FOUNDATION,
Washington, DC, July 21, 2000.

Hon. EDWARD KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of more than 3 million volunteers and 1600 staff members of the March of Dimes, I want to commend you for introducing the ''FamilyCare Act of 2000.'' The March of Dimes is committed to increasing access to appropriate and affordable health care for women, infants and children and supports the targeted approach to expanding the State Children's Health Insurance Program contained in the FamilyCare proposal.

The ''FamilyCare Act of 2000'' contains a number of beneficial provisions that would expand and improve SCHIP. The March of Dimes strongly supports giving states the option to cover low-income pregnant women in Medicaid and SCHIP programs with an enhanced matching rate. We understand that FamilyCare would allow states to cover uninsured parents of children enrolled in Medicaid and SCHIP as well as uninsured first-time pregnant women. SCHIP is the only major federally-funded program that denies coverage to pregnant women while providing coverage to their infants and children. We know prenatal care improves birth outcomes. Expanding health insurance coverage for low-income pregnant women has bipartisan support in both the House and Senate.

The March of Dimes also supports FamilyCare provisions to require automatic enrollment of children born to SCHIP parents; automatic screening of every child who loses coverage under Medicaid or SCHIP to determine eligibility for other health programs; and distribution of information on the availability of Medicaid and SCHIP through the school lunch program. The March of Dimes also supports giving states the option to provide Medicaid and SCHIP benefits to children and pregnant women who arrived legally to the United States after August 23, 1996, and to people ages 19 and 20.

We thank you for your leadership in introducing the ''FamilyCare Act of 2000'' and are eager to work with you to achieve approval of this much needed legislation.

Sincerely,

ANNA ELEANOR ROOSEVELT,
Vice Chair, Board of Trustees; Chair, Public Affairs Committee.

DR. JENNIFER L. HOWSE,
Presdient.

ASSOCIATION OF MATERNAL AND
CHILD HEALTH PROGRAMS,
Washington, DC, July 20, 2000.

Hon. EDWARD KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the Association of Maternal and Child Health Programs (AMCHP), I am writing to express our support of the FamilyCare Act of 2000. We are particularly supportive of the provisions that allow states to include pregnant women in their SCHIP and Medicaid programs.

We are also pleased with the provisions giving states the flexibility to expand outreach activities as well as moving towards greater equity in program payments.

AMCHP represents state officials in 59 states and territories who administer public health programs aimed at improving the health of all women, children, and adolescents. In 1997, over 22 million women, children, adolescents and children with special health care needs received services, which were supported by the Maternal and Child Health Block Grant.

We look forward to working with you and your staff on this bill.

Sincerely,

DEBORAH DIETRICH,
Director of Legislative Affairs.

AMERICAN DENTAL
HYGIENIST ASSOCIATION,
Washington, DC, July 24, 2000.

Hon. EDWARD M. KENNEDY,
Hon. JAY ROCKEFELLER,
U.S. Senate, Washington, DC.

DEAR SENATORS KENNEDY AND ROCKEFELLER: on behalf of the American Dental Hygienists' Association (ADHA), I write to express ADHA's support for the principles espoused in the Family Care Act of 2000. This legislation is an important step toward the goal of meaningful health insurance coverage, including oral health insurance coverage, for all children and their parents.

Regretfully, there is room for much improvement in our children's oral health, a fundamental part of total health. Studies show that oral disease currently afflicts the majority of children in our country. Dental caries (tooth decay), gingivitis, and periodontitis (gum and bone disorders) are the most common oral diseases. The Public Health Service reports that 50% of all children in the United States experience dental caries in their permanent teeth and two-thirds experience gingivitis.

The percentages of children with dental disease are likely far higher for the traditionally underserved Medicaid-eligible population and for those eligible for the State Children's Health Insurance Program (SCHIP). For example, one of the most severe forms of gum disease—localized juvenile periodontitis—disproportionately affects teenage African-American males and can result in the loss of all teeth before adulthood. If untreated, gum disease causes pain, bleeding, loss of function, diminished appearance, possible systemic infections, bone deterioration and eventual loss of teeth. Yet, each of the three most common oral health disorders—dental caries, gingivitis, and periodontitis—can be prevented through the type of regular preventive care provided by dental hygienists.

Despite the known benefits of preventive oral health services and the inclusion of oral health benefits in Medicaid's Early and Periodic Screening, Diagnosis and Treatment (EPSDT) program, only one in 5 (4.2 million out of 21.2 million) Medicaid-eligible children actually received preventive oral health services in 1993 according to a 1996 U.S. Department of Health and Human Services report entitled Children's Dental Services Under Medicaid: Access and Utilization.

The nation simply must improve access to oral health services and your legislation is an important building block for all who care about our children's oral health, a fundamental part of general health and well-being.

We in the dental hygiene community look forward to working together toward our shared goal of health insurance coverage for all of our nation's families. Please feel free to call upon me or ADHA's Washington Counsel, Karen Sealander of McDermott, Will & Emery (202–756–8024), at any time.

Sincerely,

STANLEY B. PECK,
Executive Director.

PREMIER INC.,
Washington, DC, July 21, 2000.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: On behalf of Premier Inc., I am writing to applaud your introduction of the ''FamilyCare Act of 2000'' and express our strong support. Premier is a strategic alliance of leading not-for-profit hospitals and health systems across the nation. Premier provides group purchasing and other services for more than 1,800 hospitals and healthcare facilities.

As reported by the Urban Institute in the July/August issue of Health Affairs, the population of non-elderly uninsured grew by 4.2 million between 1994 and 1998. This hike in the rate of uninsured occurred among children and adults. In the same period, Medicaid coverage fell from 10 to 8.4 percent, or about 3.1 million persons (1.9 million children and 1.2 million adults). Your legislation confronts and seeks to address these disturbing trends head on.

The FamilyCare Act of 2000 not only expands coverage to children—it also enables states to provide health insurance to parents of children enrolled in CHIP and Medicaid. The bill creates new opportunities for states to cover immigrant children and pregnant women, and provides for the automatic coverage of children born to CHIP-enrolled parents, thereby enhancing presumptive eligibility.

This legislation provides for the mutual reinforcement of the Medicaid and CHIP programs by integrating eligibility determination and outreach efforts. A standard application form and simple enrollment process for both programs will raise the participation rate for both programs. Finally, the bill provides grants to support broader outreach activities and employer subsidies to offer health insurance packages, thereby encouraging joint public/private market innovations to reduce the population of uninsured.

Stifling the growth in the rate of uninsured and reversing the trend remain a top priority for the hospital community. Securing the appropriate preventative care for these individuals will improve the quality and cost-effectiveness of further care, as the uninsured are more likely to be hospitalized for medical conditions that, initially, could have been managed with physician care and/or medication.

Thank you for taking the lead in addressing the problem of America's uninsured. We look forward to working with you toward enactment of this important legislation.

Sincerely,

KERB KUHN,
Vice President, Advocacy.

FAMILIES USA,
Washington, DC, July 17, 2000.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: We congratulate you on the introduction of your bill, the Family Care Act of 2000, which gives states the option to provide parents of children enrolled in the Medicaid and CHIP programs with health insurance. We believe that your bill is a crucial next step in addressing the problem of our nation's uninsured, and we offer our unequivocal support.

By covering parents through CHIP, the Family Care Act could provide health insurance to over four million previously uninsured Americans. We believe this is a cost-effective and efficient way to provide quality healthcare to low- and moderate-income working families. Children of CHIP-enrolled parents will be automatically enrolled at birth, but, equally importantly, research has shown that children are more likely to have health coverage when their parents are insured. This means that the Family Care Act could, in effect, cover many more Americans than the estimated four million. Additionally, the expansion of coverage to legal immigrant children and pregnant women addresses the needs of two particularly vulnerable groups.

Again, we applaud your ongoing leadership in tackling the problem of the uninsured, and we support this important legislation. Please let us know how we can help you to enact this bill into law.

Sincerely,

RONALD F. POLLACK,
Executive Director.

AMERICAN HOSPITAL ASSOCIATION,
Washington, DC, July 21, 2000.

Hon. EDWARD M. KENNEDY,
Ranking Member, Committee on Health, Education, Labor, and Pensions, U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: The American Hospital Association (AHA), which represents, 5,000 hospitals, health care systems, networks, and other providers of care, is pleased to support the FamilyCare Act of 2000. The AHA shares your goal of expanding access to health care coverage for the 44 million uninsured Americans. We believe the federal budget surplus offers a unique opportunity to fund solutions to the health care problems of the uninsured.

Recent Medicaid expansions and the creation of the State Children's Health Insurance Program (S–CHIP) have greatly improved access to health care coverage for millions of children living in low-income families. But more needs to be done. AHA strongly supports the objective of your legislation that embraces, as one option to address the problems of the uninsured, building on existing public programs to expand coverage to the parents of the children covered by S–CHIP.

Furthermore, your provisions that include coverage for legal immigrants, improve Medicaid coverage for those transitioning from welfare-to-work, and create state grant programs to encourage market innovation in health care insurance are to be applauded. AHA believes these are good first steps toward lowering the numbers of the uninsured.

In addition to expanding public programs, AHA supports measures that make health care insurance more affordable for low-income working families. Toward that end, AHA also support H.R. 4113, bipartisan legislation establishing refundable tax credits to assist low-income families in the purchase of health care insurance.

Our nation's hospitals see every day that the absence of health coverage is a significant barrier to care, reducing the likelihood that people will get appropriate preventive, diagnostic and chronic care. With the uninsured growing in numbers, AHA supports your effort to build on current public programs as an important option to make it possible for more low-income families to get needed health care coverage. We thank you for your leadership and we look forward to working with you on advancing the FamilyCare Act of 2000.

Sincerely,

RICK POLLACK,
Executive Vice President.

NETWORK,
Washington, DC, July 2000.

From NETWORK—A National Catholic Social Justice Lobby.

Re: The Family Care Act of 2000.

HON. SENATOR TED KENNEDY: Since 1975, NETWORK: A National Catholic Social Justice Lobby has worked for universal access to affordable, quality health care. NETWORK considers the constant increase in the number of uninsured persons a national disgrace and a serious moral and ethical issue. Sadly, the political will to reform the nation's fragmented non-system of health care is seriously lacking in the current climate of commercialization and profit-making. Therefore, millions of American citizens are denied their human right to medical care.

Given that as the context, NETWORK supports the efforts of those legislators who recognize that the anticipated federal surplus should be utilized in part to rectify the serious flaws inherent in the present situation. The Family Care Act of 2000 is one of those efforts. NETWORK urges Congress to pass the proposal.

The goal of the bill is to build on existing legislation in order to enroll more uninsured children and their working parents in Medicaid or CHIP. The bill requires that states first cover children up to 200% of poverty before they enroll parents. This will serve to increase coverage of previously eligible but uninsured children by eliminating the CHIP waiting lists. It is estimated that over 4 million previously uninsured children will be enrolled.

The proposal targets $50 billion in new money to enable the states to enroll the parents of children already covered by Medicaid and CHIP. This would reduce the number of uninsured parents by an estimated 6.5 million, one out of seven of the nation's uninsured. Most of these uninsured families have at least one member who works.

In addition, the bill proposes another $100 million per year for five years to encourage the states to develop innovative approaches to expanding coverage, tailoring their solutions to market needs. Much needed is the

proposed extension of The Transitional Medicaid Assistance program. Some of the requirements which jeopardize access to health care by persons moving from welfare to low-wage, non-benefit jobs will be removed. First time pregnant women will receive prenatal care under the CHIP program and grants will enable states to develop innovative coverage mechanisms.

All in all, the Family Care Act of 2000 as drafted seeks to rectify to a marked degree the serious problem of lack of health care coverage for the most vulnerable in our society, low-wage working families and their children.

KATHY THORNTON RSM,
National Coordinator.
CATHERINE PINKERTON,
CSJ Lobbyist.

Mr. ROCKEFELLER. Mr. President, over the last several years health care reform has dropped off our national and Congressional agenda. We talk about it primarily to posture politically, not because we are determined to actually succeed in extending coverage. Too often, the goal seems to be to simply create a campaign issue and make voters believe we are working to solve the problem, when in reality no progress is being made.

This year, we have seen a lot of talking on health care, but it's clear that Congress' priorities lie elsewhere. Just this past week we passed a tax break that will affect only 1.7 percent of Americans, yet will cost us $50 billion a year when fully phased in. In the meantime, 40 million people, mostly of modest incomes, continue to live their lives with little hope of getting the health coverage they need.

The question that Congress needs to answer: will we continue to sit back and simply watch as the problem of the uninsured grows worse?

Along with Senator KENNEDY, and Congressmen DINGELL, STARK and WAXMAN, I obviously have very clear answers to this question. And today we are offering a commonsense, bi-partisan step that Congress can take this year to improve the plight of working, uninsured families.

We know that the majority of those without health insurance are concentrated in lower-income, working families. The Medicaid and CHIP Family Care Improvement Act would target our efforts to these families by allowing states to extend Medicaid and CHIP to the parents of eligible children. This is a sensible, affordable expansion that will make a real and immediate difference for many American families.

In addition, FamilyCare would provide assistance to increase coverage for workers in small businesses by providing grant money for states to pursue new and innovative approaches to expand health insurance coverage through small business.

Our plan also gives states a number of new tools to help improve outreach and enrollment in Medicaid and the State Children's Health Insurance Program.

FamilyCare would provide health insurance coverage to millions of low-income working families for a fraction of the cost of the recently-passed tax breaks that affect only a small number of people.

Eight years ago, the fight for universal health care had a surge of energy and there was a common purpose among political leaders and the American people. Unfortunately, little progress has been made since then. While the number of uninsured has grown from 36 million in 1993 to 44 million in 1999, we have stood by as a nation and simply watched. Over the next 3 years, about 30 percent of the population, 81 million Americans, can expect a gap in their health insurance coverage lasting at least one month. It is practically inconceivable—and morally wrong—that we are allowing this to happen in such a strong economy, with an extremely competitive labor market.

It is time to end the failed experiment of trying to let the disease cure itself. We need to accomplish the goal of comprehensive reform in any way we can—even if it means continuing to work on incremental changes, as long as we always keep our target squarely set on universal coverage.

Today, we are giving Congress the opportunity to take a major step forward in accomplishing this goal. With FamilyCare, we are simply taking a program that is already working to reduce the number of uninsured, and expanding it to cover more people who we know need the help.

This approach makes so much sense that even the conservative Health Insurance Association of America—the organization that helped to defeat universal coverage—has offered its support. In addition, our bill has four Republicans as original cosponsors. With this bipartisan bill we have a real opportunity to stop talking about expanding health coverage, and start acting.

By Ms. COLLINS (for herself, Mr. DURBIN, and Mrs. FEINSTEIN):

S. 2924. A bill to strengthen the enforcement of Federal statutes relating to false identification, and for other purposes; to the Committee on the Judiciary.

THE INTERNET FALSE IDENTIFICATION PREVENTION ACT OF 2000

Ms. COLLINS. Mr. President, today, along with my colleague from Illinois, Senator DURBIN, I am introducing legislation to stem the proliferation of web sites that distribute counterfeit identification documents and credentials over the Internet.

In May, the Senate Permanent Subcommittee on Investigations, which I chair, held hearings on a disturbing new trend—the use of the Internet to manufacture and market counterfeit identification documents and credentials. Our investigation revealed the widespread availability on the Internet of a variety of fake ID documents or computer templates that allow individuals to manufacture authentic looking IDs in the seclusion of their own homes.

The Internet False Identification Prevention Act of 2000 will strengthen current law to prevent the distribution of false identification documents over the Internet and make it easier for Federal officials to prosecute this criminal activity.

The high quality of the counterfeit identification documents that can be obtained via the Internet is simply astounding. With very little difficulty, my staff was able to use Internet materials to manufacture convincing IDs that would allow me to pass as a member of our Armed Forces, as a reporter, as a student at Boston University, or as a licensed driver in Florida, Michigan, and Wyoming—to name just a few of the identities that I could assume, using these phony IDs. We found it was very easy to manufacture IDs that were indistinguishable from the real documents.

For example, using the Internet, my staff created this counterfeit Connecticut driver's license, which is virtually identical to an authentic license issued by the Connecticut Department of Motor Vehicles. Just like the real Connecticut license, this fake with my picture on it, includes a signature written over the picture—which is supposed to be a security feature. It includes an adjacent ''shadow picture,'' and it includes the bar code and the State seal for the State of Connecticut.

Each of these sophisticated features was added to the license by the State of Connecticut in order to make it more difficult to counterfeit. Yet the Internet scam artists have been able to keep up with the technology, and every time a State adds another security feature it has been easily duplicated.

Unfortunately, some web sites sell fake IDs complete with State seals, holograms, and bar codes to replicate a license virtually indistinguishable from the real thing. Thus, technology now allows web site operators to copy authentic IDs with an extraordinary level of sophistication and then distribute and mass produce these fraudulent documents for their customers.

The web sites investigated by my subcommittee offered a vast and varied product line, ranging from the driver's licenses that I already showed to military identification cards to Federal agency credentials, including those of the FBI and the CIA.

Other sites offered to produce Social Security cards, birth certificates, diplomas, and press credentials. In short, one can find almost any kind of identification document that one wants on the Internet.

The General Accounting Office and the FBI have both confirmed the findings of the subcommittee's investigation of this dangerous new trend. The GAO used counterfeit credentials and badges readily available for purchase via the Internet to breach the security at 19 Federal buildings and two commercial airports. GAO's success in doing so demonstrates that the Internet and computer technology allow

nearly anyone to create convincing identification cards and credentials.

The FBI has also focused on the potential of misuse of official identification, and just last month executive search warrants at the homes of several individuals who had been selling Federal law enforcement badges over the Internet.

Obviously, this is very serious. It allows someone to use a law enforcement badge to gain access to secure areas and perhaps to commit harm. For example, the FBI is investigating a very disturbing incident where someone allegedly displayed phony FBI credentials to gain access to an individual's hotel room and then allegedly later kidnaped and murdered that individual.

The Internet is a revolutionary tool of commerce and communications that benefits us all, but many of the Internet's greatest attributes also further its use for criminal purposes. While the manufacture of false IDs by criminals is certainly nothing new, the Internet allows those specializing in the sale of counterfeit IDs to reach a far broader market of potential buyers than they ever could by standing on the street corner in a shady part of town. They can sell their products with virtual anonymity through the use of e-mail services and free web hosting services and by providing false information when registering their domain names. Similarly, the Internet allows criminals to obtain fake IDs in the privacy of their own homes, substantially diminishing the risk of apprehension that attends purchasing counterfeit documents on the street.

Because this is a relatively new phenomenon, there are no good data on the size of the false ID industry or the growth it has experienced as a result of the Internet, but the testimony at our hearing indicates that the Internet is increasingly becoming the source of choice for criminals to obtain false IDs.

The subcommittee's investigation found that some web site operators apparently have made hundreds of thousands of dollars through the sale of phony identification documents. One web site operator told a State law enforcement official that he sold approximately 1,000 fake IDs each month and generated about $600,000 in annual sales.

Identify theft is a growing problem that these Internet sites facilitate. Fake IDs, however, also facilitate a broad array of criminal conduct. We found that some Internet sites were used to obtain counterfeit identification documents for the purpose of committing other crimes, ranging from very serious offenses, such as identify theft and bank fraud, ranging to the more common problem of teenagers using phony IDs to buy alcohol.

The legislation which Senator DURBIN and I are introducing today is designed to address the problem of counterfeit IDs in several ways. The central features of our legislation are provisions that modernize existing law to address the widespread availability of false identification documents on the Internet.

First, the legislation supplements current Federal law against false identification to modernize it for the Internet age. The primary law prohibiting the use and distribution of false identification documents was enacted in 1982. Advances in computer technology and the use of the Internet have rendered that law inadequate. This bill will clarify that the current law prohibits the sale or distribution of false identification documents through computer files and templates which our investigation found are the vehicles of choice for manufacturing false IDs in the Internet age.

Second, the legislation will make it easier to prosecute those criminals who manufacture, distribute, or sell counterfeit identification documents by ending the practices of easily removable disclaimers as part of an attempt to shield the illegal conduct from prosecution through a bogus claim of novelty.

What we found is that a lot of these web sites have these disclaimers, in an attempt to get around the law, saying that these can only be used for entertainment or novelty purposes. No longer will it be acceptable to provide computer templates of government-issued identification cards containing an easily removable layer saying it is not a government document.

I will give an example. this is a driver's license from Oklahoma. It is a fake ID which my staff obtained via the Internet. It is enclosed in a plastic pouch that says ''Not a Government Document'' in red print across it, but it was very easily removed. All one had to do, with a snip of the scissors, was cut the pouch, and then the ID is easily removed and the disclaimer is gone. That is the kind of technique that a lot of times these web site operators use to get around the letter of the law. Under my bill, it will no longer be acceptable to sell a false identification document in this fashion.

Finally, my legislation seeks to encourage more aggressive law enforcement by dedicating investigative and prosecutorial resources to this emerging problem. The bill establishes a multiagency task force that will concentrate the investigative and prosecutorial resources of several agencies with responsibility for enforcing laws that criminalize the manufacture, sale, and distribution of counterfeit identification documents.

Our investigation established that Federal law enforcement officials have not devoted the necessary resources and attention to this serious problem. by prosecuting the purveyors of false identification materials, I believe that ultimately we can reduce end-use crime that often depends on the availability of counterfeit identification. For example, the convicted felon who testified at our hearings said that he would not have been able to commit bank fraud had he not been able to easily and quickly obtain high-quality fraudulent identification documents via the Internet. I am confident that if Federal law enforcement officials prosecute the most blatant violation of the law, the false ID industry on the Internet will wither in short order.

By strengthening the law and by focusing our prosecutorial efforts, I believe we can curb the widespread availability of false IDs that the Internet facilitates. The Director of the U.S. Secret Service testified at our hearing that the use of such fraudulent documents and credentials almost always accompanies the serious financial crimes they investigate. Thus, my hope is that the legislation we are introducing today will produce a stronger law that will help deter and prevent criminal activity, not only in the manufacture of false IDs but in other areas as well.

By Mr. THURMOND:

S. 2925. A bill to amend the Public Health Service Act to establish an Office of Men's Health; to the Committee on Health, Education, Labor, and Pensions.

MEN'S HEALTH ACT OF 2000

Mr. THURMOND. Mr. President, I am pleased to rise today to introduce the Men's Health Act of 2000. This legislation will establish an Office of Men's Health within the Department of Health and Human Services to monitor, coordinate, and improve men's health in America.

Mr. President, there is an ongoing, increasing and predominantly silent crisis in the health and well-being of men. Due to a lack of awareness, poor health education, and culturally induced behavior patterns in their work and personal lives, men's health and well-being are deteriorating steadily. Heart disease, stroke, and various cancers continue to be major areas of concern as we look to enhance the quality and duration of men's lives. Improved education and preventive screening are imperative to meet this objective.

Mr. President, as a lifelong advocate of regular medical exams, daily exercise and a balanced diet, I feel strongly that an Office of Men's Health should be established to help improve the overall health of America's male population.

This legislation is identical to a bill introduced earlier this year in the House of Representatives. I invite my colleagues to join me in supporting this measure. I ask unanimous consent that a copy of the bill appear in the CONGRESSIONAL RECORD immediately following my remarks.

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

S. 2925

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 ''Men's Health Act of 2000''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) There is a silent health crisis affecting the health and well-being of America's men.

(2) This health crisis is of particular concern to men, but is also a concern for women, and especially to those who have fathers, husbands, sons, and brothers.

(3) Men's health is likewise a concern for employers who lose productive employees as well as pay the costs of medical care, and is a concern to State government and society which absorb the enormous costs of premature death and disability, including the costs of caring for dependents left behind.

(4) The life expectancy gap between men and women has steadily increased from 1 year in 1920 to 7 years in 1990.

(5) Almost twice as many men than women die from heart disease, and 28.5 percent of all men die as a result of stroke.

(6) In 1995, blood pressure of black males was 356 percent higher than that of white males, and the death rate for stroke was 97 percent higher for black males than for white males.

(7) The incidence of stroke among men is 19 percent higher than for women.

(8) Significantly more men than women are diagnosed with AIDS each year.

(9) Fifty percent more men than women die of cancer.

(10) Although the incidence of depression is higher in women, the rate of life-threatening depression is higher in men, with men representing 80 percent of all suicide cases, and with men 43 times more likely to be admitted to psychiatric hospitals than women.

(11) Prostate cancer is the most frequently diagnosed cancer in the United States among men, accounting for 36 percent of all cancer cases.

(12) An estimated 180,000 men will be newly diagnosed with prostate cancer this year alone, of which 37,000 will die.

(13) Prostate cancer rates increase sharply with age, and more than 75 percent of such cases are diagnosed in men age 65 and older.

(14) The incidence of prostate cancer and the resulting mortality rate in African American men is twice that in white men.

(15) Studies show that men are at least 25 percent less likely than women to visit a doctor, and are significantly less likely to have regular physician check-ups and obtain preventive screening tests for serious diseases.

(16) Appropriate use of tests such as prostate specific antigen (PSA) exams and blood pressure, blood sugar, and cholesterol screens, in conjunction with clinical exams and self-testing, can result in the early detection of many problems and in increased survival rates.

(17) Educating men, their families, and health care providers about the importance of early detection of male health problems can result in reducing rates of mortality for male-specific diseases, as well as improve the health of America's men and its overall economic well-being.

(18) Recent scientific studies have shown that regular medical exams, preventive screenings, regular exercise, and healthy eating habits can help save lives.

(19) Establishing an Office of Men's Health is needed to investigate these findings and take such further actions as may be needed to promote men's health.

SEC. 3. ESTABLISHMENT OF OFFICE MEN'S HEALTH.

Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.) is amended by adding at the end the following section:

''OFFICE OF MEN'S HEALTH

''SEC. 1711. The Secretary shall establish within the Department of Health and Human Services an office to be known as the Office of Men's Health, which shall be headed by a director appointed by the Secretary. The Secretary, acting through the Director of the Office, shall coordinate and promote the status of men's health in the United States.''.

By Mr. BINGAMAN:

S. 2926. A bill a amend title II of the Social Security Act to provide that an individual's entitlement to any benefit thereunder shall continue through the month of his or her death (without affecting any other person's entitlement to benefits for that month) and that such individuals' benefit shall be payable for such month only to the extent proportionate to the number of days in such month preceding the date of such individual's death; to the Committee on Finance.

THE SOCIAL SECURITY FAMILY RELIEF ACT

Mr. BINGAMAN. Mr. President, I rise today to introduce the Social Security Family Relief Act, which is legislation designed to both revise current Social Security law and assist families living in New Mexico and across the United States.

For those of my colleagues who are not familiar with this issue, at present the Social Security Administration pays benefits in advance, and, thus, a check an individual receives from Social Security Administration during the month is calculated and paid in anticipation that the individual will be alive the entire month in which a payment was received.

However, if a person dies during that month, the payment must be reimbursed in full to the Social Security Administration. If a person dies on the 5th of the month, or the 15th of the month, or the 25th of the month, none of this matters. If they die, they are no longer entitled to any benefits for that month, period. Furthermore, if a surviving spouse or family member uses a check received from the Social Security Administration for that month in which a family member had died, they must send it back—in full—to the Social Security Administration.

Let me make this clear that this is not just a problem in the abstract. Indeed, the introduction of this bill is prompted by a very real experience faced by a family living in New Mexico. In this case, a constituent had a close relative pass away on December 31, 1999. The last day of the month. Not knowing it ran contrary to Social Security law, the family used the relative's last Social Security check to pay her final expenses. Only after these activities had occurred did they receive a letter from the Social Security Administration stating that they would have to return the check. Not just partial payment, but in full. No recognition on the part of the Social Security Administration that this person was alive for the entire month. No recognition on the part of the Social Security Administration that this person had expenses that had to be paid for after they had died. No recognition on the part of the Social Security Administration that the surviving relatives had their own bills to pay, and that this additional expense imposed a burden on them that was difficult to manage.

My constituents found this to absurd. Why, they asked, should they have to return a check for a relative that was alive, was accumulating expenses while she was alive, and deserved the money that was provided to her? Why, they asked, should they be required to pay for the relative's expenses when money should be available? Why should their emotional suffering be made all the more distressful by the addition of financial obligations not of their own making?

I think these are good questions, and it is logical that Congress address them directly and in a manner that solves the problem at hand. From what I can see, they are right. Individuals that have worked over the years and have paid into the Social Security Trust Fund all that time, these folks have earned Social Security benefits and should receive them in full for the period that they are alive. As such, Social Security law should be written in such a way that allows the surviving spouse or family member to use the final check to take care of the remaining expenses, whether they be utilities, or mortgages, or car payments, or health care, or whatever needs to be taken care of.

But although my constituents are sometimes critical of the Social Security Administration on this issue, in fairness that agency did not create this problem, Congress did. We wrote the law, and the Social Security Administration merely implements it. Any responsibility for what is happening belongs to us. We need to fix the law so the Social Security Administration can do its job better.

It is my understanding that this issue has been discussed in the past by a number of Senators, but the revisions have gone nowhere because some felt it would impose an administrative burden on the Social Security Administration. I find this argument to be unconvincing as we clearly find a way to calculate complex equations that ultimately benefit that agency. There are those that now argue that tracking down appropriate beneficiaries would be difficult. But I find this to be quite unconvincing as well—after all, we do it already when someone dies. Surely there is a way to make the changes necessary. Surely the technology and expertise already exists. Surely it is time to stop making excuses and do what is right for Americans and their families.

The legislation I am introducing today is easy to understand. The legislation says, quite simply, that an individual's entitlement to Social Security benefits shall continue through the month of his or her death, and after

that individual's death, the entitlement shall be calculated in a manner proportionate to the days he or she was still alive. In other words, we are using a method of pro-rating to calculate what portion of the entitlement that individual will receive for the last month. Then, instead of being asked to return that final check, the surviving spouse or appropriate surviving family members will receive a check, which can then be used to settle the decedent's remaining expenses. I think this is a perfectly fair and reasonable approach to solving the problem at hand. And I think it is long overdue.

It is my understanding that another bill addressing this problem has been introduced in the Senate by my colleague Senator MIKULSKI. Furthermore, she has introduced this legislation for several years in a row. I commend her for her awareness of this problem and her ongoing efforts to fix it.

That said, it is also my understanding that her bill as written calculates these entitlement benefits on a half-month basis. In other words, if you die before the 15th, you get benefits for a half a month. If you die after the 15th, you are entitled to benefits for the entire month. To be honest, I see no obvious rationale for addressing the problem in this way, and I find a prorate strategy to be far more compelling. But this said, I look forward to working with her and her co-sponsors to repair the problem. We clearly have the same concerns.

Mr. President, let me state in conclusion that this legislation represents only a partial fix of the current Social Security system. There is no doubt in my mind that much more needs to be done. We have talked about the issues far too long, and it is time to make a serious effort to make the Social Security solvent and effective. If had my way, this effort would begin tomorrow. But since it is not, this legislation can be considered one small but very important step on the path to reform.

Mr. President, I ask unanimous consent that a copy of the legislation be included in the RECORD at the conclusion of my statement.

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

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

S. 2926

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 ''Social Security Family Relief Act''.

SEC. 2. CONTINUATION OF BENEFITS THROUGH MONTH OF BENEFICIARY'S DEATH.

(a) OLD-AGE INSURANCE BENEFITS.—Section 202(a) of the Social Security Act (42 U.S.C. 402(a)) is amended by striking ''the month preceding'' in the matter following subparagraph (B).

(b) WIFE'S INSURANCE BENEFITS.—

(1) IN GENERAL.—Section 202(b)(1) of such Act (42 U.S.C. 402(b)(1)) is amended—

(A) by striking ''and ending with the month'' in the matter immediately following clause (ii) and inserting ''and ending with the month in which she dies or (if earlier) with the month'';

(B) by striking subparagraph (E); and

(C) by redesignating subparagraphs (F) through (K) as subparagraphs (E) through (J).

(2) CONFORMING AMENDMENTS.—Section 202(b)(5)(B) of such Act (42 U.S.C. 402(b)(5)(B)) is amended by striking ''(E), (F), (H), or (J)'' and inserting ''(E), (G), or (I)''.

(c) HUSBAND'S INSURANCE BENEFITS.—

(1) IN GENERAL.—Section 202(c)(1) of such Act (42 U.S.C. 402(c)(1)) is amended—

(A) by striking ''and ending with the month'' in the matter immediately following clause (ii) and inserting ''and ending with the month in which he dies or (if earlier) with the month'';

(B) by striking subparagraph (E); and

(C) by redesignating subparagraphs (F) through (K) as subparagraphs (E) through (J), respectively.

(2) CONFORMING AMENDMENTS.—Section 202(c)(5)(B) of such Act (42 U.S.C. 402(c)(5)(B)) is amended by striking ''(E), (F), (H), or (J)'' and inserting ''(E), (G), or (I)'', respectively.

(d) CHILD'S INSURANCE BENEFITS.—Section 202(d)(1) of such Act (42 U.S.C. 402(d)(1)) is amended—

(1) by striking ''and ending with the month'' in the matter immediately preceding subparagraph (D) and inserting ''and ending with the month in which such child dies or (if earlier) with the month''; and

(2) by striking ''dies, or'' in subparagraph (D).

(e) WIDOW'S INSURANCE BENEFITS.—Section 202(e)(1) of such Act (42 U.S.C. 402(e)(1)) is amended by striking ''ending with the month preceding the first month in which any of the following occurs: she remarries, dies,'' in the matter following subparagraph (F) and inserting ''ending with the month in which she dies or (if earlier) with the month preceding the first month in which she remarries or''.

(f) WIDOWER'S INSURANCE BENEFITS.—Section 202(f)(1) of such Act (42 U.S.C. 402(f)(1)) is amended by striking ''ending with the month preceding the first month in which any of the following occurs: he remarries, dies,'' in the matter following subparagraph (F) and inserting ''ending with the month in which he dies or (if earlier) with the month preceding the first month in which he remarries''.

(g) MOTHER'S AND FATHER'S INSURANCE BENEFITS.—Section 202(g)(1) of such Act (42 U.S.C. 402(g)(1)) is amended—

(1) by inserting ''with the month in which he or she dies or (if earlier)'' after ''and ending'' in the matter following subparagraph (F); and

(2) by striking ''he or she remarries, or he or she dies'' and inserting ''or he or she remarries''.

(h) PARENT'S INSURANCE BENEFITS.—Section 202(h)(1) of such Act (42 U.S.C. 402(h)(1)) is amended by striking ''ending with the month preceding the first month in which any of the following occurs: such parent dies, marries,'' in the matter following subparagraph (E) and inserting ''ending with the month in which such parent dies or (if earlier) with the month preceding the first month in which such parent marries, or such parent''.

(i) DISABILITY INSURANCE BENEFITS.—Section 223(a)(1) of such Act (42 U.S.C. 423(a)(1)) is amended by striking ''ending with the month preceding whichever of the following months is the earliest: the month in which he dies,'' in the matter following subparagraph (D) and inserting the following: ''ending with the month in which he dies or (if earlier) with the month preceding the earlier of'' and by striking the comma after ''216(l))''.

(j) BENEFITS AT AGE 72 FOR CERTAIN UNINSURED INDIVIDUALS.—Section 228(a) of such Act (42 U.S.C. 428(a)) is amended by striking ''the month preceding'' in the matter following paragraph (4).

SEC. 3. COMPUTATION AND PAYMENT OF LAST MONTHLY PAYMENT.

(a) OLD-AGE AND SURVIVORS INSURANCE BENEFITS.—Section 202 of the Social Security Act (42 U.S.C. 402) is amended by adding at the end the following new subsection:

''Last Payment of Monthly Insurance Benefit Terminated by Death

''(y) The amount of any individual's monthly insurance benefit under this section paid for the month in which the individual dies shall be an amount equal to—

''(1) the amount of such benefit (as determined without regard to this subsection), multiplied by

''(2) a fraction—

''(A) the numerator of which is the number of days in such month preceding the date of such individual's death, and

''(B) the denominator of which is the number of days in such month,

rounded, if not a multiple of $1, to the next lower multiple of $1. This subsection shall apply with respect to such benefit after all other adjustments with respect to such benefit provided by this title have been made. Payment of such benefit for such month shall be made as provided in section 204(d).''.

(b) DISABILITY INSURANCE BENEFITS.—Section 223 of such Act (42 U.S.C. 423) is amended by adding at the end the following new subsection:

''Last Payment of Benefit Terminated by Death

''(j) The amount of any individual's monthly benefit under this section paid for the month in which the individual dies shall be an amount equal to—

''(1) the amount of such benefit (as determined without regard to this subsection), multiplied by

''(2) a fraction—

''(A) the numerator of which is the number of days in such month preceding the date of such individual's death, and

''(B) the denominator of which is the number of days in such month,

rounded, if not a multiple of $1, to the next lower multiple of $1. This subsection shall apply with respect to such benefit after all other adjustments with respect to such benefit provided by this title have been made. Payment of such benefit for such month shall be made as provided in section 204(d).''.

(c) BENEFITS AT AGE 72 FOR CERTAIN UNINSURED INDIVIDUALS.—Section 228 of such Act (42 U.S.C. 428) is amended by adding at the end the following new subsection:

''Last Payment of Benefit Terminated by Death

''(i) The amount of any individual's monthly benefit under this section paid for the month in which the individual dies shall be an amount equal to—

''(1) the amount of such benefit (as determined without regard to this subsection), multiplied by

''(2) a fraction—

''(A) the numerator of which is the number of days in such month preceding the date of such individual's death, and

''(B) the denominator of which is the number of days in such month,

rounded, if not a multiple of $1, to the next lower multiple of $1. This subsection shall apply with respect to such benefit after all other adjustments with respect to such benefit provided by this title have been made.

Payment of such benefit for such month shall be made as provided in section 204(d).''.

SEC. 4. DISREGARD OF BENEFIT FOR MONTH OF DEATH UNDER FAMILY MAXIMUM PROVISIONS.

Section 203(a) of the Social Security Act (42 U.S.C. 403(a)) is amended by adding at the end the following new paragraph:

''(10) Notwithstanding any other provision of this Act, in applying the preceding provisions of this subsection (and determining maximum family benefits under column V of the table in or deemed to be in section 215(a) as in effect in December 1978) with respect to the month in which the insured individual's death occurs, the benefit payable to such individual for that month shall be disregarded.''.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to deaths occurring after the month in which this Act is enacted.

By Mr. FEINGOLD:

S. 2927. A bill to ensure that the incarceration of inmates is not provided by private contractors or vendors and that persons charged or convicted of an offense against the United States shall be housed in facilities managed and maintained by Federal, State, or local governments; to the Committee on the Judiciary.

THE PUBLIC SAFETY ACT

Mr. FEINGOLD. Mr. President, sending inmates to prisons built and run by prviate companies has become a popular way to deal with overcrowded prisons, but in recent years this practice has been appropriately criticized. As reports of escapes, riots, prisoner violence, and abuse by staff in private prisons increase, many have questioned the wisdom and propriety of private companies carrying out this essential state function. After considering safety, cost, and accountability issues, it is clear that private companies should not be doing this public work. Government and only government, whether it's federal, state, or local, should operate prisons. That is why I rise today to introduce a bill that will restore responsibility for housing prisoners to the state and federal government, where it belongs. An identical bill was introduced in the House of Representatives by Congressman TED STRICKLAND, where it has received broad bi-partisan support and currently has 141 cosponsors.

Private prison companies, and proponents of their use, claim that they save taxpayers money. They claim private companies can do the government's business more efficiently, but this has never been confirmed. In fact, two government studies show that it is far from clear whether private prisons save taxpayer money. One study, completed by the GAO, stated that it could not conclude whether or not privatization saved money. The second study, completed by the Federal Bureau of Prisons in 1998, concluded that there is no strong evidence to show states save money by using private prisons.

More importantly, private prison companies are motivated by one goal: making a profit. Decisions by these companies are driven by the desire to make a profit and, in turn, please officers and shareholders. This profit motive in the context of housing criminals is wrong. It is at cross-purposes with the government's goal of punishing and rehabilitating criminals.

So what happens when a private company runs a prison? The prisons have promised to save taxpayers money, so they cut costs. This invariably results in unqualified, low paid employees, poor facilities and living conditions, and an inadequate number of educational and rehabilitative programs. Recent episodes of escape, violence, and prisoner abuse demonstrate what happens when corners are cut.

At the Northeast Ohio Correctional facility, a private prison in Youngstown, Ohio, 20 inmates were stabbed, two of them fatally, within a 10-month period. After management claimed they had addressed the problems, six inmates, four convicted of homicide, escaped by cutting through two razor wire fences in the middle of the afternoon.

At a private prison in Whiteville, Tennessee, which houses many inmates from my home state of Wisconsin, there has been a hostage situation, an assault of a guard, and a coverup to hide physical abuse of inmates by prison guards. A security report at the same Tennessee prison found unsecured razors, inmates obstructing views into their cells by covering up windows, and an inmate using a computer lab strictly labeled, ''staff only'' without any supervision.

At a private prison in Sayre, Oklahoma, a dangerous inmate uprising jeopardized the security and control of the facility. As a result, the state of Oklahoma removed all its inmates from the facility and questioned its safety. Because the prison gets paid based on the number of inmates, however, the prison continued to request, and other states sent, hundreds of inmates to be housed there.

Earlier this year the Justice Department filed a lawsuit against the Wackenhut Corrections Corporation, the second largest private prison company in the United States, charging that in one of its juvenile prisons, conditions were ''dangerous and life threatening.'' A group of experts who toured the prison reported that many of the juveniles were short of food, had lost weight, and did not have shoes or blankets. The Department of Justice lawsuit also alleges that inmates did not receive adequate mental health care or educational programming. In addition to the poor conditions and lack of training, the guards physically abused the boys and threw gas grenades into their barracks. Some juvenile inmates even tried to commit suicide or deliberately injure themselves so they would be sent to the infirmary to avoid abuse by the guards.

Mr. President, the profit motive clearly has a dangerous and harmful effect on the security of private prisons, but the profit motive also shortchanges inmates of the rehabilitation, education, and training that they need. Private prisons get paid based on the number of inmates they house. This means the more inmates they accept and the fewer services they provide, the more money they make. A high crime rate means more business and eliminates any motivation to provide job training, education, and other rehabilitative programs. These allegations of abuse and the negative effects of the profit motive are especially troubling because they have a disparate impact on the minority community, which has been incarcerated disproportionately in recent years particularly with the rise of mandatory minimum sentences for drug offenses.

Another issue of concern is accountability for dispensing one of the strongest punishments our society can impose. Incarceration requires a government to exercise its coercive police powers over individuals, including the authority to take away a person's freedom and to use force. This authority to use force should not be delegated to a private company that is not accountable to the people. This premise was reinforced by the Supreme Court in Richardson v. McKnight, which held that private prison personnel are not covered by the qualified immunity that shields state and local correctional officers. This means that a state or local government could be held liable for the actions of a private corporation.

Mr. President, the legislation I introduce today, the Public Safety Act, addresses these concerns. It restores control and management of prisons to the government. It makes federal grants under Title II of the Crime Control Act of 1994 contingent upon states agreeing not to contract with any private companies to provide core correctional services related to transportation or incarceration of inmates. The legislation was carefully crafted to apply only to core correctional services meaning that private companies can still provide auxiliary services such as food or clothing.

Mr. President, let us restore safety and security to the many Americans who work in prisons. Let us protect the communities that support prisons. And let us ensure rehabilitation and safety for the individuals, including young boys and girls, who are housed there. This bill returns to the government the function of being the sole administrator of incarceration as punishment in our society. I urge my colleagues to join me as cosponsors of the Public Safety Act.

I ask that the text of the bill be placed in the RECORD following this statement.

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

S. 2927

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Public Safety Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The issues of safety, liability, accountability, and cost are the paramount issues in running corrections facilities.

(2) In recent years, the privatization of facilities for persons previously incarcerated by governmental entities has resulted in frequent escapes by violent criminals, riots resulting in extensive damage, prisoner violence, and incidents of prisoner abuse by staff.

(3) In some instances, the courts have prohibited the transfer of additional convicts to private prisons because of the danger to prisoners and the community.

(4) Frequent escapes and riots at private facilities result in expensive law enforcement costs for State and local governments.

(5) The need to make profits creates incentives for private contractors to underfund mechanisms that provide for the security of the facility and the safety of the inmates, corrections staff, and neighboring community.

(6) The 1997 Supreme Court ruling in Richardson v. McKnight that the qualified immunity that shields State and local correctional officers does not apply to private prison personnel, and therefore exposes State and local governments to liability for the actions of private corporations.

(7) Additional liability issues arise when inmates are transferred outside the jurisdiction of the contracting State.

(8) Studies on private correctional facilities have been unable to demonstrate any significant cost savings in the privatization of corrections facilities.

(9) The imposition of punishment on errant citizens through incarceration requires State and local governments to exercise their coercive police powers over individuals. These powers, including the authority to use force over a private citizen, should not be delegated to another private party.

SEC. 3. ELIGIBILITY FOR GRANTS.

(a) IN GENERAL.—To be eligible to receive a grant under subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994, an applicant shall provide assurances to the Attorney General that if selected to receive funds under such subtitle the applicant shall not contract with a private contractor or vendor to provide core correctional services related to the transportation or the incarceration of an inmate.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to grant funds received after the date of enactment of this Act.

(c) EFFECT ON EXISTING CONTRACTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsection (a) shall not apply to a contract in effect on the date of the enactment of this Act between a grantee and a private contractor or vendor to provide core correctional services related to correctional facilities or the incarceration of inmates.

(2) RENEWALS AND EXTENSIONS.—Subsection (a) shall apply to renewals or extensions of an existing contract entered into after the date of the enactment of this Act.

(d) DEFINITION.—For purposes of this section, the term ''core correctional service'' means the safeguarding, protecting, and disciplining of persons charged or convicted of an offense.

SEC. 4. ENHANCING PUBLIC SAFETY AND SECURITY IN THE DUTIES OF THE BUREAU OF PRISONS.

Section 4042(a) of title 18, United States Code, is amended—

(1) by redesignating paragraph (5) as paragraph (7);

(2) by striking ''and'' at the end of paragraph (4); and

(3) by inserting after paragraph (4) the following:

''(5) provide that any penal or correctional facility or institution except for nonprofit community correctional confinement, such as halfway houses, confining any person convicted of offenses against the United States, shall be under the direction of the Director of the Bureau of Prisons and shall be managed and maintained by employees of Federal, State, or local governments;

''(6) provide that the transportation, housing, safeguarding, protection, and disciplining of any person charged with or convicted of any offense against the United States, except such persons in community correctional confinement such as halfway houses, will be conducted and carried out by individuals who are employees of Federal, State, or local governments; and''.

By Mr. MCCAIN (for himself, Mr. KERRY, Mr. ABRAHAM, and Mrs. BOXER):

S. 2928. A bill to protect the privacy of consumers who use the Internet; to the Committee on Commerce, Science, and Transportation.

THE CONSUMER INTERNET PRIVACY ENHANCEMENT ACT

Mr. MCCAIN. Mr. President, I am pleased to join my colleagues from Massachusetts, Michigan, and California to introduce the Consumer Internet Privacy Enhancement Act. The purpose of this legislation is simple. We want to ensure that commercial websites inform consumers about how their personal information is treated, and give consumers meaningful choices about the use of that information. While the purpose of this legislation is simple, the task my colleagues and I are seeking to accomplish is complex and difficult.

The Internet is a tremendous medium spurring the world's economy and allowing people to communicate in ways that were unimaginable a few short years ago. The Internet revolution is transforming our lives and our economy at an incredible pace. Like any other technological revolution it promises great opportunities and, it presents new concerns and fears.

Chief among those concerns is the ability of the Internet to further erode individual privacy. Since the beginning of commerce, business has sought to learn more about consumers. The ability of the internet to aid business in the collection, storage, transfer, and analysis of information about a consumer's habits is unprecedented. While this technology can allow business to better target goods and services, it also has increased consumer fears about the collection and use of personally identifiable information.

Since 1998, the Federal Trade Commission has examined this issue in a series of reports to Congress. The FTC and privacy organizations formed by industry identified ''four fair information practices'' which should be utilized by websites that collect personally identifiable information. In simple terms, these practices are notice of what information is collected and how it is used; choice as to how that information is used; access by the user to information collected about them; and appropriate measures to ensure the security of the information.

Over the last three years industry has worked diligently to develop and implement privacy policies utilizing the four fair information practices. While industry has made progress in providing consumers with some form of notice of their information practices, there is much work to be done to improve the depth and clarity of privacy policies.

The legislation we introduce today should not be viewed as a failure on the part of industry to address privacy. Instead industry's efforts over the past few years have driven the development of standards which serve as the model for this legislation. Our objective is to provide for enforceable standards to ensure that all websites provide consumers with clear and conspicuous notice and meaningful choices about how their information is used.

Currently, some websites have privacy policies that are confusing and make it difficult for consumers to restrict the use of information. During a recent hearing before the Senate Commerce Committee, the Chairman of the Federal Trade Commission—a former dean of Georgetown Law School—expressed his own difficulties in understanding some privacy policies.

Privacy is harmed not enhanced when consumers are lost in a fog of legalese. Some current privacy policies confuse and contradict rather than provide clear and conspicuous notice of a consumer's rights.

The bill my colleagues and I introduce today attempts to end some of this confusion by providing for enforceable standards that will both protect consumers and allow for the continued growth of e-commerce. Specifically, the bill would require websites to provide clear and conspicuous notice of their information practices. It also requires websites to provide consumers with an easy method to limit the use and disclosure of information.

The provisions of the bill are enforceable by the FTC. States Attorneys General could also bring suits in federal court under the Act using a mechanism similar to the Telemarketing Sales Rule. We also propose a civil penalty of $22,000 per violation with a maximum fine of $500,000. Currently, the FTC can only seek civil penalties if an individual or business is under an order for past behavior.

The legislation also preempts state law to ensure that the law governing the collection of personally identifiable information is uniform. Finally, the bill would direct the National Academy of Sciences to conduct a study of privacy to examine the collection of personal information in the offline-world as well as methods to provide consumers with access to information collected by them.

Despite our best efforts I recognize this bill does not address all of the

issues affecting online privacy. As I said earlier, this is a complex and difficult issue. Other related concerns that should be addressed will continue to arise as we consider this measure. For example, the sale of data during bankruptcy, the use of software also known as spyware that can transfer personal information while online without the user's consent or knowledge, and the government's use and dissemination of personally identifiable information online.

Additionally, other new ways to help resolve the issue of online privacy will also arise as we consider this measure. These include the deployment of technology that will enable consumers to protect their privacy is one issue we should expect to address. Another issue is the use of verifiable assessment procedures to ensure that websites are following their posted privacy policies.

The discovery of new issues and new solutions as we move through this process will serve to highlight the difficulty and complexity of dealing with this issue. It is not my intention to rush to judgment on these matters. Instead, I firmly believe the best way to protect consumers and provide for the continued growth of e-commerce is to give privacy careful and thoughtful deliberation before we act.

Mr. President, it is clear that businesses should inform consumers in a clear and conspicuous manner about how they treat personal information and give consumers meaningful choices as to how that information is used. While some of us may disagree on the manner in which we meet this goal, we all agree that it must be done. I look forward to working with my colleagues and addressing their concerns as we move through the legislative process.

Mr. President, I ask unanimous consent to print the full text of the bill in the RECORD.

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

S. 2928

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 ''Consumer Internet Privacy Enhancement Act''.

SEC. 2. COLLECTION OF PERSONALLY IDENTIFIABLE INFORMATION.

(a) IN GENERAL.—It is unlawful for a commercial website operator to collect personally identifiable information online from a user of that website unless the operator provides—

(1) notice to the user on the website in accordance with the requirements of subsection (b); and

(2) an opportunity to that user to limit the use for marketing purposes, or disclosure to third parties of personally identifiable information collected that is—

(A) not related to provision of the products or services provided by the website; or

(B) not required to be disclosed by law.

(b) NOTICE.—

(1) IN GENERAL.—For purposes of subsection (a), notice consists of a statement that informs a user of a website of the following:

(A) The identity of the operator of the website and of any third party the operator knowingly permits to collect personally identifiable information from users through the website, including the provision of an electronic means of going to a website operated by any such third party.

(B) A list of the types of personally identifiable information that may be collected online by the operator and the categories of information the operator may collect in connection with the user's visit to the website.

(C) A description of how the operator uses such information, including a statement as to whether the information may be sold, distributed, disclosed, or otherwise made available to third parties for marketing purposes.

(D) A description of the categories of potential recipients of any such personally identifiable information.

(E) Whether the user is required to provide personally identifiable information in order to use the website and any other consequences of failure to provide that information.

(F) A general description of what steps the operator takes to protect the security of personally identifiable information collected online by that operator.

(G) A description of the means by which a user may elect not to have the user's personally identifiable information used by the operator for marketing purposes or sold, distributed, disclosed, or otherwise made available to a third party, except for—

(i) information related to the provision of the product or service provided by the website; or

(ii) information required to be disclosed by law.

(H) The address or telephone number at which the user may contact the website operator about its information practices and also an electronic means of contacting the operator.

(2) FORM OF NOTICE.—The notice required by subsection (a) shall be clear, conspicuous, and easily understood.

(3) OPPORTUNITY TO LIMIT DISCLOSURE.—The opportunity provided to users to limit use and disclosure of personally identifiable information shall be easy to use, easily accessible, and shall be available online.

(c) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by a commercial website operator in interstate or foreign commerce in connection with an activity or action described in this Act that is inconsistent with, or more restrictive than, the treatment of that activity or action under this section.

(d) SAFE HARBOR.—A commercial website operator may not be held to have violated any provision of this Act if it complies with self-regulatory guidelines that—

(1) are issued by seal programs or representatives of the marketing or online industries or by any other person; and

(2) are approved by the Commission as containing all the requirements set forth in subsection (b).

SEC. 3. ENFORCEMENT.

(a) IN GENERAL.—The violation of section 2(a) or (b) shall be treated as a violation of a rule defining an unfair or deceptive act or practice in or affecting commerce proscribed by section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57(a)(1)(B)).

(b) ENFORCEMENT BY CERTAIN OTHER AGENCIES.— Compliance with section 2(a) or (b) shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of section 2(a) or (b) is deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under section 2(a) or (b), any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating section 2(a) or (b) in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any entity that violates any provision of that title is subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of that title.

(e) RELATIONSHIP TO OTHER LAWS.—

(1) COMMISSION AUTHORITY.—Nothing contained in this Act shall be construed to limit the authority of the Commission under any other provision of law.

(2) COMMUNICATIONS ACT.—Nothing in section 2(a) or (b) requires an operator of a website to take any action that is inconsistent with the requirements of section 222 or 631 of the Communications Act of 1934 (47 U.S.C. 222 or 551, respectively).

(3) OTHER ACTS.—Nothing in this Act is intended to affect any provision of, or any amendment made by—

(A) the Children's Online Privacy Protection Act of 1998;

(B) the Gramm-Leach-Bliley Act; or

(C) the Health Insurance Portability and Accountability Act of 1996.

(f) CIVIL PENALTY.—In addition to any other penalty applicable to a violation of section 2(a), there is hereby imposed a civil penalty of $22,000 for each such violation. In the event of a continuing violation, each day on which the violation continues shall be considered as a separate violation for purposes of this subsection. The maximum penalty under this subsection for a related series of violations is $500,000. For purposes of this subsection, the violation of an order issued by the Commission under this Act shall not be considered to be a violation of section 2(a) of this Act.

SEC. 4. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates section 2(a) or (b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(C) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this Act shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of section 2(a) or (b) no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that rule.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 5. STUDY OF ONLINE PRIVACY.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Commission shall execute a contract with the National Research Council of the National Academy of Sciences for a study of privacy that will examine causes for concern about privacy in the information age and tools and strategies for responding to those concerns.

(b) SCOPE.—The study required by subsection (a) shall—

(1) survey the risks to, and benefits associated with the use of, personal information associated with information technology, including actual and potential issues related to trends in technology;

(2) examine the costs and benefits involved in the collection and use of personal information;

(3) examine the differences, if any, between the collection and use of personal information by the online industry and the collection and use of personal information by other businesses;

(4) examine the costs, risks, and benefits of providing consumer access to information collected online, and examine approaches to providing such access;

(5) examine the security of personal information collected online;

(6) examine such other matters relating to the collection, use, and protection of personal information online as the Council and the Commission consider appropriate; and

(7) examine efforts being made by industry to provide notice, choice, access, and security.

(c) RECOMMENDATIONS.—Within 12 months after the Commission's request under subsection (a), the Council shall complete the study and submit a report to the Congress, including recommendations for private and public sector actions including self-regulation, laws, regulations, or special agreements.

(d) AGENCY COOPERATION.—The head of each Federal department or agency shall, at the request of the Commission or the Council, cooperate as fully as possible with the Council in its activities in carrying out the study.

(e) FUNDING.—The Commission is authorized to be obligate not more than $1,000,000 to carry out this section from funds appropriated to the Commission.

SEC. 6. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(2) COMMERCIAL WEBSITE OPERATOR.—The term ''operator of a commercial website''—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any nonprofit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COLLECT.—The term ''collect'' means the gathering of personally identifiable information about a user of an Internet service, online service, or commercial website by or on behalf of the provider or operator of that service or website by any means, direct or indirect, active or passive, including—

(A) an online request for such information by the provider or operator, regardless of how the information is transmitted to the provider or operator;

(B) the use of an online service to gather the information; or

(C) tracking or use of any identifying code linked to a user of such a service or website, including the use of cookies.

(4) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(5) PERSONALLY IDENTIFIABLE INFORMATION.—The term ''personally identifiable information'' means individually identifiable information about an individual collected online, including—

(A) a first and last name, whether given at birth or adoption, assumed, or legally changed;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number; or

(F) unique identifying information that an Internet service provider or operator of a commercial website collects and combines with any information described in the preceding subparagraphs of this paragraph.

(6) ONLINE.—The term ''online'' refers to any activity regulated by this Act or by section 2710 of title 18, United States Code, that is effected by active or passive use of an Internet connection, regardless of the medium by or through which that connection is established.

(7) THIRD PARTY.—The term ''third party'', when used in reference to a commercial website operator, means any person other than the operator.

Mr. KERRY. Mr. President, I am pleased to join Senators MCCAIN, BOXER and ABRAHAM in announcing that today we will be introducing a bill that takes a positive, balanced approach to the issue of Internet privacy. There can be no doubt that consumers have a legitimate expectation of privacy on the Internet. Our bill protects that interest. At the same time, consumers want an Internet that is free. For that to happen, the Internet, like television, must be supported by advertising. Our bill will allow companies to continue to advertise, ensuring that we

don't have a subscription-based Internet, which would limit everyone's online activities and contribute to a digital divide.

If we recognize that the economy of the Internet calls for advertising, we must also recognize that it won't attract consumers if they believe their privacy is being violated. Finding this fine balance of permitting enough free flow of information to allow ads to work and protecting consumers' privacy is going to be critical if the Internet is going to reach its full potential. And I believe this bill strikes the right balance.

I think all of the bill's cosponsors were hopeful that self-regulation of Internet privacy would work. And I think self-regulation still has an important role to play. But it seems that now it is up to Congress to establish a floor for Internet privacy. I have no doubt that many innovative high tech companies and advertisers will go beyond the regulations for notice and choice we provide here. A number of companies in my home state of Massachusetts already do, providing consumers with anonymity when they go online. I applaud and encourage those efforts and am certain that if Congress enacts this bill, they will continue.

But technology and innovation won't address all the concerns people have about Internet privacy. Congress has the responsibility to ensure that core privacy principles are the norm throughout the online world. We need to respond to the consumers who don't shop on the Internet because they are concerned about their privacy. This is necessary not only for the sake of the consumers, but for every online business that wants to grow and attract customers.

The bill that we are introducing today will encourage those skeptical consumers to go online. This legislation will require Web sites to clearly and conspicuously disclose their privacy policies. People deserve to know what information may be collected and how it may be used so that they can make an informed decision before they navigate around or shop on a particular Web site. They shouldn't have to click five times and need to translate legalese before they know what a site will do with their personal information. Requiring disclosure has the added benefit of providing the FTC with an enforcement mechanism. If a Web site fails to comply with its posted disclosure policy, the FTC can bring an action against it for unfair or deceptive acts. This is the bare minimum of what I believe consumers deserve and expect, and I don't think this would have any unintended or negative consequences on e-commerce.

In addition, this bill addresses the core principle of choice by requiring Web sites to offer consumers an easy to use method to prevent Web sites from using personally identifiable information for marketing purposes and to prevent them from selling that information to third parties. This bill empowers consumers and lets them make informed decisions that are right for them.

By ensuring consumers have the right to full disclosure and the right to not have their personally identifiable information sold or disclosed, this bill addresses the most fundamental concerns many people have about online privacy. But I believe there are still a number of important questions that we need to answer. The first is whether there is a difference between privacy in the offline and online worlds.

Most of us hardly think about it when we go to the supermarket, but when Safeway or Giant scans my discount card or my credit card, it has a record of exactly who I am and what I bought. Should my preferences at the supermarket be any more or less protected than the choices I make online?

Likewise, catalog companies compile and use offline information to make marketing decisions. These companies rent lists compiled by list brokers. The list brokers obtain marketing data and names from the public domain and governments, credit bureaus, financial institutions, credit card companies, retail establishments, and other cataloguers and mass mailers.

On the other hand, when I go to the shopping mall and look at five different sweaters but don't buy any of them, no one has a record of that. If I do the same thing online, technology can record how long I linger over an item, even if I don't buy it. Likewise, I can pick up any book in a book store and pay in cash and no one will ever know my reading preferences. That type of anonymity can be completely lost online.

This bill requires the National Research Council to study the issue of online versus offline privacy, and make a recommendation if there is a need for additional legislation in either area.

Likewise, this bill requires the Council to study the issue of access. While there is general agreement that consumers should have access to information they provided to a Web site, we still don't know whether it's necessary or proper for consumers to have access to all of the information gathered about an individual. Should consumers have access to click-stream data or so-called derived data by which a company uses compiled information to make a marketing decision about the consumer? And if we decide consumers need some access to this type of information, is it technology feasible? Will there be unforeseen or unintended consequences such as an increased risk of security breaches? Will there be less, rather than more privacy due to the necessary coupling of names and data? I don't we are ready to regulate until we have some consensus on this issue.

Finally, it is important to add that this bill in no way limits what Congress has done or hopefully will do with respect to a person's health or financial information. When sensitive information is collected, it is even more important that stringent privacy protections are in place. I have supported a number of legislative efforts that would go far to protect this type of information.

Mr. ABRAHAM. Mr. President, today I rise to join with the Senator from Arizona, the Senator from Massachusetts, and the Senator from California in introducing the Consumer Privacy Enhancement Act. This legislation will provide Americans with some basic—but critically important—protections for their personal information when they are online.

Privacy has always been a very serious issue to American citizens. It is a concept enshrined in our Bill of Rights. As persons from all walks of life become increasingly reliant on computers and the Internet to perform everyday tasks, it is incumbent upon policymakers to ensure that adequate privacy protections exist for consumers. We must ensure that our laws evolve along with technology and continue to provide effective privacy protection for consumers surfing the World Wide Web and using the Internet for commercial activities.

The American people are letting it be known that they have mounting concerns about their vulnerability in this digital age. They are very concerned about the advent of this new high-tech era we've entered and the new threats it potentially poses to our personal privacy. And I believe there is a consensus building in Congress to begin to tackle the question of ensuring adequate privacy protections for individuals using the Internet.

Whether we can find a similar consensus on a particular legislative proposal remains to be seen. However, I think it is imperative that we begin to address this topic now and not simply wait until Congress reconvenes next year before we take the issue up. So I have joined my colleagues here in introducing legislation that I think accomplishes several important objectives.

The most important provision, I believe, is its most elemental concept: We require that before consumers are asked to provide personal information about themselves, they must be given an opportunity to review the website's privacy policy in order to learn how their information will be utilized. While many websites have privacy policies, including the vast majority of those websites receiving the most traffic, there are still many websites out there that do not offer privacy policies or adequate protections for consumers.

In addition, many of the privacy policies that do exist are very lengthy and often quite confusing to consumers. There are pages and pages of ambiguous legalese and often seemingly contradictory claims about how protected your information truly is. So our bill also calls on the Federal Trade Commission to ensure that privacy policies

are ''clear, conspicuous, and easily understood,'' and that any consent mechanisms shall be ''easy to use, easily accessible, and shall be available online.''

Finally, this legislation recognizes the importance of allowing the Internet industry to continue to promote greater self-regulation and to develop new technology means for to continue to evolve and to help us address legitimate consumer privacy concerns. There have been several initiatives undertaken by industry leaders to get websites to develop and post privacy policies and to give consumers the option of when to provide information and for what uses. This legislation is designed to allow such efforts to continue and to provide for technological advances in the area of privacy to benefit consumers. For instance, Ford and other companies have been participating in the Privacy Leadership Initiative whereby companies engaged online are working to establish industry guidelines and protocols for protecting consumers privacy. Nothing we do here today should inhibit such industry efforts.

So with those critical features addressed, I believe the legislation we introduce today will be an important stepping stone along the path of ensuring that Americans can be confident of having their personal information will be protected when they go online.

I urge my colleagues to review this legislation and to support our efforts to protect consumers against unwarranted intrusions into their personal privacy when they are using their computers and surfing the Internet.

I yield the floor.

By Mrs. FEINSTEIN (for herself, Mr. HOLLINGS, and Mr. INOUYE):

S. 2929. A bill to establish a demonstration project to increase teacher salaries and employee benefits for teachers who enter into contracts with local educational agencies to serve as master teachers; to the Committee on Health, Education, Labor, and Pensions.

MASTER TEACHER LEGISLATION

Mrs. FEINSTEIN. Mr. President, today Senators HOLLINGS, INOUYE, and I are introducing a bill to create a demonstration grant program to help school districts create master teacher positions.

Our bill authorizes $50 million for a five-year demonstration program under which the Secretary of Education would award competitive grants to school districts to create master teacher positions. Federal funds would be equally matched by states and local governments so that $100 million total would be available. Under the bill, 5,000 master teacher positions could be created, or 100 per State, if each master teacher were paid $20,000 on top of the current average teacher's salary.

As defined in this amendment, a master teacher is one who is credentialed; has a least five years of teaching experience; is judged to be an excellent teacher by administrators and teachers who are knowledgeable about the individual's performance; and is currently teaching; and enters into a contract and agrees to serve at least five more years.

The master teacher would help other teachers to improve instruction, strengthen other teachers' skills, mentor lesser experienced teachers, develop curriculum, and provide other professional development.

The intent of this bill is for districts to pay each master teacher up to $20,000 on top of his or her regular salary. Nationally, the average teacher salary is $40,582. In California, it is $44,585. Elementary school principals receive $64,653 on average nationally and $72,385 in California. The thrust of the master teacher concept in this bill is to pay teachers a salary closer to that of an administrator to keep good teachers in teaching.

The bill requires State and/or local districts to match federal funds dollar for dollar. It requires the U.S. Department of Education to give priority to school districts with a high proportion of economically disadvantaged students and to ensure that grants are awarded to a wide range of districts in terms of the size and location of the school district, the ethnic and economic composition of students, and the experience of the districts' teachers.

There are several reasons we need this bill.

NEW TEACHERS NEED SUPPORT

First, new teachers face overwhelming responsibilities and challenges in their first year, but in the real world, they get little guidance. When first-year teachers enter the classroom, there is typically little help available to them, in a year that will have a profound impact on the rest of their professional career. They are ''out there alone,'' virtually isolated in their classroom, thrown into an unfamiliar school and classroom with a room full of new faces. By the current sink-or-swim method, new teachers often find themselves ill equipped to deal with the educational and disciplinary tasks of their first year.

In California, 23 percent of teachers in kindergarten through the third grade are novices. Furthermore, we have 30,000 inexperienced teachers on emergency credentials in California, over ten percent of our teaching workforce.

A new teacher can get experienced guidance from a master teacher who is paired with the new teacher. The master teacher can help plan lessons, improve instructional methods, and deal with discipline problems. ''If you're [a master teacher] teaching a class, then you can say, 'last week I handled a discipline problem this way.' It's much more credible.'' said Carl O'Connell, a New York mentor teacher.

ENHANCING THE TEACHING PROFESSION

Second, master teacher programs can bring more prestige to teaching as a profession, by increasing the teacher's salary, by rewarding experience, and by giving teachers opportunities to supervise others. A master teacher designation is a way to recognize outstanding ability and performance. A master teacher position can give teachers a professional goal, a higher level to pursue. A 1996 report by the National Commission for Teaching and America's Future said that creating new career paths for teachers is one of the best ways to give educators the respect they deserve and to ensure that proven teaching methods spread quickly and broadly.

In one survey of teachers which asked which factors make teachers stay in teaching, 79 percent of teachers said that respect for the teaching profession is needed in order to retain qualified teachers. Eighty percent said that formal mentoring programs for beginning teachers is key (Scholastic/Chief State School Officers' Teacher Voices Survey, 2000). Over 70 percent of teachers said that more planning time with peers is needed to keep teachers in the classroom. This amendment should help.

IMPROVING RETENTION, REDUCING TURNOVER

Because of the higher pay and enhanced prestige, a master teacher program can help to recruit and retain teachers. Mentor systems provide new teachers with a support network, someone to turn to. Studies indicate higher retention rates among new teachers who participate in mentoring programs. According to Yvonne Gold of California State University-Long Beach, 25 percent of beginning teachers do not teach more than two years and nearly 40 percent leave in the first five years. In the Rochester, New York, system, the teacher retention rate was nearly double the national average five years after establishing a mentoring program.

As Jay Matthews wrote in the May 16 Washington Post, programs like this ''can provide a large boost to the profession's image for a relatively small amount of money.'' These programs can keep good teachers in the classroom, instead of losing them to school administration or industry. Larkspur, California, School Superintendent Barbara Wilson says she is ''witnessing a steady exodus to dotcom and other, more lucrative industries.'' (San Francisco Chronicle, March 26, 2000).

Higher salaries and prestige for master teachers could deter the drain from the classrooms.

HOLDING TEACHERS ACCOUNTABLE

Another reason for this amendment is that teacher mentoring programs can make teacher performance more accountable. A master teacher can help novice teachers improve their teaching and get better student achievement. ''Teachers cannot be held accountable for knowledge based, client-oriented decisions if they do not have access to knowledge, as well as opportunities for consultation and evaluation of their work,'' said Adam Urbanski, President of the Rochester, New York, Teachers

Association. He went on: ''Unsatisfactory teacher performance often stems from inadequate and incompetent supervision. Administrators often lack the training and the resources to supervise teachers and improve the performance of those who are in serious trouble.''

Good teachers are key to learning. Lower math test scores have been correlated with the percentage of math teachers on emergency permits and higher math test scores were linked both to the teachers' qualifications and to their years of teaching experience, according to ''Professional Development for Teachers, 2000.''

CALIFORNIA WOULD BENEFIT

This bill could be very helpful in California where one-fifth of our teachers will leave the profession in three years, according to an article in the February 9, 2000, Los Angeles Times.

California will need 300,000 new teachers by 2010. ''More students to teach, smaller classes, teachers leaving or retiring means that California school districts are now having to hire a record 26,000 new teachers each year,'' says the report, ''Teaching and California's Future, 2000.'' California's enrollment is growing at three times the national rate. With these kinds of demands, understaffing often leads to under qualified and new teachers entering the classroom. We have to do all we can to attract and retain good teachers.

EXAMPLES OF MASTER TEACHER PROGRAMS

California has instituted several programs along these lines. California has a program to help beginning teachers. It has grown from $5 million (supporting 1,100 new teachers in 1992) to nearly $72 million (serving 23,000 new teachers in 1999–2000). But even with this increase, the program still does not serve all new teachers,'' according to the report, Teaching and California's Future, 2000.

The Rochester City, New York, school system has a Peer Assistance and Review Program, begun by the schools and the Rochester Teacher Association. The Rochester program is working. ''The evaluation is absolutely spectacular. The program has been a terrific success. It has been deemed a success by mentors, by the panel, by the district, by the union, and, most importantly, by the interns themselves,'' reported the newspaper, New York Teacher.

Delaware provides mentors for beginning teachers. ''Not only are beginning teachers receiving the support they need, but the mentoring program is also developing networks among teachers within districts and across the state, and the mentors have 'a new enthusiasm' for teaching,'' as reported in ''Promising Practices'' in 1998.

Columbus, Ohio, schools instituted a Peer Assessment and Review program similar to Rochester's. It has two components: the intern program for all newly hired teachers and the intervention program for teachers who are having difficulties in the classroom teaching. According to the State Education Agency, ''the district has a lower rate of attrition than similar districts because of PAR.'' (Promising Practices, 1998).

The funds provided in this bill can supplement and expand existing State programs and help other States start new programs.

STUDENTS ARE THE WINNERS

The true beneficiaries of master teacher programs are the students and that is, or course, our fundamental goal. As stated in Rochester's teaching manual, the goal is ''to improve student outcomes by developing and maintaining the highest quality of teaching, providing teachers with career options that do not require them to leave teaching to assume additional responsibilities and leadership roles.''

I believe this bill can begin to provide teachers the real professional support they need, can attract and retain teachers and can bring to the profession the prestige it deserves.

I urge my colleagues to join us in support of this bill.

By Mr. MURKOWSKI:

S. 2931. A bill to make improvements to the Arctic Research and Policy Act of 1984; to the Committee on Government Affairs.

IMPROVEMENTS TO THE ARCTIC RESEARCH AND POLICY ACT OF 1984

Mr. MURKOWSKI. Mr. President, today I rise to introduce legislation to improve the operation of the Arctic Research and Policy Act. We have about 15 years of experience with this Act, and the time has come to make some modifications to reflect the experience we have gained over that time.

The most important feature of this bill is contained in Section 4. This section authorizes the Arctic Research Commission, a Presidential Commission, to make grants for scientific research. Currently, the Commission can make recommendations and set priorities, but it cannot make grants. Our experience with the Act and the Commission has shown us that research needs that do not fit neatly in a single agency do not get funded, even if they are compelling priorities.

One example is a proposed Arctic contamination initiative that was developed a few years ago after we discovered that pollutants from the Former Soviet Union—including radionuclides, heavy metals and persistent organic pollutants—were working their way into the Arctic environment. It became clear that the job of monitoring and evaluating the threat was too big for any single agency. The Interior Department, given its vast land management responsibilities in Alaska, was interested. The Commerce Department, given the jurisdiction over fisheries issues, was interested. The Department of Health and Human Services, given its concern about the health of Alaska's indigenous peoples, was interested. The only agency that didn't seem interested in the problem, strangely enough, was the EPA, which at the time was in the process of dismantling its Arctic Contaminants program.

Unfortunately, because the job was too big for any single agency, it was difficult to get the level of interagency cooperation necessary for a coordinated program. Moreover, agencies were unwilling to make a significant budgetary commitment to a program that wasn't under their exclusive control. If the Arctic Research Commission, which recognized the need, had some funding of its own to leverage agency participation and help to coordinate the effort, we would know far more about the Arctic contaminants problem than we do today.

Another example is the compelling need to understand the Bering Sea ecosystem. Over the past 20 years we have seen significant shifts in some of the populations comprising this ecosystem. King crab populations have declined sharply. Pollock populations have increased sharply. Steller sea lion populations have declined as have many types of sea birds. Scientists cannot tell us whether these population shifts are due to abiotic factors such as climate change, biotic factors such as predator-prey relationships, or some combination of both. Because the nation depends on this area for a significant portion of all its seafood, this is not an issue without stakeholders. Despite the chorus of interests and federal agencies that have said research is needed, a coordinated effort has not yet occurred. If the Arctic Research Commission, which recognized this need early on, had some funding of its own to leverage agency participation and help to coordinate the effort, we would know far more about the Bering Sea ecosystem than we do today.

This bill also makes a number of other minor changes in the Act:

Section 2 allows the Chairperson of the Commission to receive compensation for up to 120 days per year rather than the 90 days per year currently allowed by the Act. The Chairperson has a major role to play in interacting with the Legislative and Executive branches of the government, representing the Commission to non-governmental organizations, in interacting with the State of Alaska, and serving in international fora. In the past, chairpersons have been unable to fully discharge their responsibilities in the 90 day limit specified in the Act.

Section 3 authorizes the Commission to award an annual award not to exceed $1,000 to recognize either outstanding research or outstanding efforts in support of research in the Arctic. The ability to give modest awards will bring recognition to outstanding efforts in Arctic Research which, in turn, will help to stimulate research in the Arctic region. This section also specifies that a current or former Commission member is not eligible to receive the award.

Section 5 authorizes official representative and reception activities. Because the Commission is not authorized to use fund for these kinds of activities, the Commission has experienced embarrassment when they were unable to reciprocate after their foreign counterparts hosted a reception or lunch on their behalf. Under this provision, the Commission may spend not more than two tenths of one percent of its budget for representation and reception activities in each fiscal year.

Mr. President, the Arctic Research and Policy Act and the Arctic Research Commission has worked well over the past 15 years. It can work even better with these modest changes. I look forward to working with my colleagues to enact this bill as soon as possible.

By Mr. NICKLES:

S. 2933. A bill to amend provisions of the Energy Policy Act of 1992 relating to remedial action of uranium and thorium processing sites; to the Committee on Energy and Natural Resources.

TO AMEND PROVISIONS OF THE ENERGY POLICY ACT OF 1992

Mr. NICKLES. Mr. President, I rise today to introduce a bill to amend provisions of the Energy Policy Act of 1992 relating to remedial action of active uranium and thorium processing sites. On October 24, 1992, President Bush signed the National Energy Policy Act of 1992 (EPACT) into law. Title X of EPACT authorized the Department of Energy to reimburse uranium and thorium processing licensees for the portion of the costs incurred in the remediation of mill tailings, groundwater and other by-product material generated as a result of sales to the federal government pursuant to the Atomic Energy Commission's procurement program.

The Title X reimbursement program has worked very well. The licensees have completed much of the surface reclamation at the Title X sites. However, increasingly stringent remediation standards and groundwater decontamination programs have significantly increased the cost and time necessary to complete remediation at many sites. Under current law, in order for a licensee to be eligible to recover the federal share of remediation costs incurred subsequent to December 31, 2002, the licensee must describe and quantify all costs expected to be incurred throughout the remainder of the site's cleanup in a plan for subsequent remedial action. This plan must be submitted to the Department of Energy before December 31, 2001 and approved prior to December 31, 2002.

This bill would amend Title X to extend the date, from 2002 to 2007, through which licensees can submit claims for reimbursement under the procedures now in place and extend the date until December 31, 2007 that licensees must submit their plans for subsequent remedial action to the Department of Energy. This legislation does not seek any increase in the existing authorization. It merely provides the time necessary to prepare the plans on a more informed basis and avoid the unintended hardship which would likely result from the 2002 deadline.

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

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

S. 2933

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

SECTION 1. REMEDIAL ACTION AT ACTIVE URANIUM AND THORIUM PROCESSING SITES.

Section 1001(b) of the Energy Policy Act of 1992 (42 U.S.C. 2296a(b)) is amended—

(1) in paragraph (1)(B)—

(A) in clause (i), by striking ''2002'' and inserting ''2007''; and

(B) in clause (ii), by striking ''placed in escrow not later than December 31, 2002,'' and inserting ''incurred by a licensee after December 31, 2007,''; and

(2) in paragraph (2)(E)(i), by striking ''July 31, 2005'' and inserting ''December 31, 2008''.

By Mr. TORRICELLI:

S. 2934. A bill to provide for the assessment of an increased civil penalty in a case in which a person or entity that is the subject of a civil environmental enforcement action has previously violated an environmental law or in a case in which a violation of an environmental law results in a catastrophic event; to the Committee on Environment and Public Works.

THE ZERO TOLERANCE FOR REPEAT POLLUTERS ACT OF 2000

Mr. TORRICELLI. Mr. President, I rise today to draw attention to the increased number of environmental enforcement actions brought against repeat violators in the United States.

In 1970, many of America's rivers and lakes were dying, our city skylines were disappearing behind a shroud of smog, and toxic waste threatened countless communities. Today, after a generation of environmental safeguards, our rivers and lakes are becoming safe for fishing and swimming again. Millions more Americans enjoy clean air and safe drinking water, and many of our worst toxic dumps have been cleaned. Yet more remains to be done before we can truly say our environment is a healthy environment.

Indeed, in 1997 alone, over 11,000 environmental enforcement actions had to be taken at the State and Federal levels. Sadly, it is also becoming much more common for the defendants in these actions to be repeat violators. For instance, in 1994, a chemical company in New Jersey was fined $6,000 for environmental violations. Just four years later, the same chemical company was again cited for an environmental crime—releasing cresol into the air. Unfortunately, this time 53 children and 5 adults had to be hospitalized and the EPA had to evacuate the local community.

Incidents such as this are becoming all too common. Under current law, the penalties for repeat environmental violators, or parties responsible for environmental catastrophes resulting in serious injury, are too low. Indeed, paltry fines are insufficient deterrents for large corporations or parties that repeatedly commit environmental crimes. Between 1994 and 1998, New Jersey had 774 repeat violators—more than any other State in the nation. This lack of deterrence has serious repercussions for the environment and public health.

To provide a real safeguard against these repeat violators, today I will introduce the ''Zero Tolerance for Repeat Polluters Act of 2000.'' This legislation will create stiffer penalties for repeat violators of environmental safeguards and provides penalties that will more accurately reflect the costs to public health and the environment of catastrophic events. The bill also gives the EPA emergency order and civil action authority to address imminent and substantial endangerments of health and environment and creates a new EPA trust fund into which recovered funds can be used to address other significant threats.

Repeat environmental polluters that negligently endanger the public with their actions or inaction will not be tolerated. No individual or business should be able to endanger the public's health and safety with only the threat of a slap on the wrist hanging over them. The ''Zero Tolerance for Repeat Polluters Act of 2000'' goes a long way towards ensuring that public health and the environment are truly protected for future generations.

By Mr. GRAHAM (for himself, Mr. GRASSLEY, Ms. MIKULSKI, Mr. BAYH, Mr. BREAUX, Ms. COLLINS, and Mr. AKAKA):

S. 2935. A bill to amend the Employee Retirement Income Security Act of 1974, the Internal Revenue Code of 1986, and the Public Health Service Act to increase Americans' access to long term health care, and for other purposes; to the Committee on Finance.

THE OMNIBUS LONG-TERM CARE ACT OF 2000

Mr. GRAHAM. Mr. President, it is with great pleasure that I rise today to introduce the Omnibus Long-term Care Act of 2000 with my colleagues Senators GRASSLEY, MIKULSKI, BAYH, BREAUX, COLLINS, and AKAKA.

Americans in need of long-term care now face a fragmented and inadequate system of state and federal programs. This is no longer acceptable. Millions are struggling today to meet their long-term care needs, and these numbers will grow dramatically as the country ages. While Medicare reform is important, we will have accomplished little if we address seniors' acute care needs, but then leave them to suffer in poverty when they require long-term care.

I am pleased to introduce bipartisan legislation that demonstrates the Senate's commitment to addressing this issue in a comprehensive way. The Omnibus Long-term Care Act of 2000 will

help millions of seniors and their caregivers who are struggling in our communities, while also encouraging all Americans to better plan for their own retirements.

Many seniors move to Florida with plans of a comfortable retirement, but all too often, these hopes are never realized. A stroke or Alzheimer's Disease strikes and a family is quickly overwhelmed by their long-term care costs and responsibilities. To complicate matters, many spouses of disabled seniors are frail themselves, and so find it increasingly difficult to meet the needs of their loved ones.

Caregiving is also a huge concern for the millions of Americans in the sandwich generation, those who are caring both for their children and their parents, while also balancing work obligations. Almost one-third of all caregivers is juggling employment and caregiver responsibilities, and of this group, two-thirds have conflicts that require them to quit work, cut hours, or turn down promotions.

It is clear that too many Americans are now being forced to sacrifice their health and their careers to care for their loved ones. To help, this bill: provides the disabled or their caregivers with a $3,000 long-term care tax credit; implements the National Family Caregiver Support Program, which will provide caregivers with information and services to help them meet their responsibilities; increases Social Services Block Grant funding for community-based long-term care services; and ensures that seniors can return to their nursing home after hospitalization.

This bill can also avert the long-term care crisis that will result if we do nothing to prepare for the aging of the Baby Boomers. Millions who are struggling to care for their parents today will soon need long-term care themselves. Baby Boomers had a higher divorce rate and fewer children than today's seniors, so they will not have the same support network that today's retirees enjoy.

With more seniors needing more paid help in the future, costs will skyrocket. According to the Congressional Budget Office, individual out-of-pocket costs for long-term care could nearly double from $43 billion today to $82 billion in 2020, and government's costs could increase from $73 billion to $125 billion in the same period. It is clear that future retirees and the government cannot afford business as usual.

We must ask all Americans to take more responsibility for their own long-term care needs. To help bring this about, this bill: offers a tax deduction for the premiums of long-term care insurance policies; provides long-term care insurance to federal employees; authorizes a national public information campaign to educate employers and employees about the benefits of long-term care coverage; mandates a federal survey to determine whether cities and counties are ''elder-ready;'' calls for studies to determine how best to meet Americans' future long-term care needs; and includes a Sense of the Senate affirming the body's commitment to ensuring seniors' physical, emotional, and financial well-being in the new century.

The long-term care crisis we face demonstrates that we have neglected this issue for far too long. But we must act now. The large number of seniors and their caregivers who are suffering in our communities today and the future needs of the Baby Boomers require it. A big problem requires a big solution, and this bill helps protect seniors today and in the future.

All of the cosponsors of this legislation have championed the need to meet seniors' long-term care needs. The fact that we have all come together in a bipartisan manner demonstrates that the Senate is committed to addressing this issue in a meaningful way. I look forward to working with my colleagues and the many organizations that support this bill to make comprehensive long-term care reform a reality.

Ms. MIKULSKI. Mr. President I rise as a proud original cosponsor of the Omnibus Long-Term Care Act of 2000. I am very pleased to join Senators GRAHAM, GRASSLEY, BAYH, COLLINS, BREAUX, and AKAKA to introduce this bipartisan legislation that provides a comprehensive approach to the long-term care of our nation's citizens. I am committed to finding long-term solutions to the long-term care problem in our country.

I like this bill because it meets the day-to-day needs of Marylanders and the long-range needs of our country. At least 5.8 million Americans aged 65 and older currently need long-term care. While this legislation has many important provisions, I would like to highlight three of its features: the National Family Caregiver Support Program, long-term car insurance for federal employees, and the ''return to home'' provision.

First, this bill would establish the National Family Caregiver Support Program. I am proud to have sponsored and cosponsored this legislation previously in this Congress. This program will provide respite care, training, counseling, support services, information and assistance to some of the millions of Americans who care for older individuals and adult children with disabilities. In fact, eighty percent of all long-term care services are provided by family and friends. This program has strong bipartisan support, will get behind our nation's families, and give help to those who practice self-help.

As Ranking Member of the Subcommittee on Aging, I am pleased to report that last week the Health, Education, Labor, and Pensions Committee unanimously approved a bipartisan bill to reauthorize the Older Americans Act (OAA). This bill included the caregiver support program which is strongly supported by the entire aging community. As I work with Senators JEFFORDS, KENNEDY, and DEWINE and our colleagues in the House to pass the OAA reauthorization in September, I want to strongly urge fellow appropriators in the House and Senate to fund these vital caregiver support services as close as possible to the full funding level of $125 million. Millions of Americans are waiting for Congress to act.

Second, I think it is important that this bill includes the Long-Term Care Security Act. This bill would enable federal and military workers, retirees, and their families to purchase long-term care insurance at group rates (projected to be 15–20 percent below the private market). It would create a model that private employers can use to establish their own long-term care insurance programs. As our nation's largest employer, the federal government can be a model for employers around the country whose workforce will be facing the same long-term care needs. Starting with the nation's largest employer also raises awareness and education about long-term care options.

Yesterday, the Senate passed the Long-Term Care Security Act (H.R. 4040). I am proud to be the lead Democratic sponsor of the Senate companion to this bill, S. 2420, because it gives people choices, flexibility, and security. Families will have an additional option available to them as they look at their long-term care choices. This provision would also help reduce reliance on federal programs, like Medicaid, so the American taxpayer benefits.

This legislation also provides people with flexibility because it allows them to receive care in different types of settings. They may choose to be cared for in the home by a family caregiver—or they may need a higher level of care that nursing homes and home health care services provide. Different plan reimbursement options will ensure maximum flexibility that meet the unique health care needs of the beneficiary.

Long-term care insurance also provides families with some security. Family members will not be burdened by trying to figure out how to finance health care needs—and beneficiaries will be able to make informed decisions about their future.

Finally, I am pleased that the bill we have introduced includes bipartisan legislation that I have previously sponsored, the Seniors' Access to Continuing Care Act (S. 1142). This legislation protects seniors' access to treatment in the setting of their choice and ensures that seniors who reside in continuing care communities, and nursing and other facilities have the right to return to that facility after a hospitalization, even if the insurer does not have a contract with the resident's facility.

Across the country seniors in managed care plans have discovered too late that after a hospital stay, they may be forced to return to a facility in the plan's provider network and not to the continuing care retirement community or skilled nursing facility

where they live. No senior should have to face this problem. In Maryland alone, there are over 12,000 residents in 40 continuing care retirement communities and 24,000 residents in over 200 licensed nursing facilities. I have visited many of these facilities and heard from residents and operators about this serious and unexpected problem.

Residents choose and pay for facilities like continuing care retirement communities (CCRC's) for the continuum of care, safety, security, and peace of mind. Hospitalization is traumatic. Friends, family, and familiar staff and faces are crucial to a speedy recovery. Where you return after a hospital stay should be based on humanity and choice, not the managed care company's bottom line.

Specifically, the Seniors' Access to Continuing Care Act protects residents of CCRC's and nursing facilities by: enabling them to return to their facility after a hospitalization; and requiring the resident's insurer or managed care organization (MCO) to cover the cost of the care, even if the insurer does not have a contract with the resident's facility. Certain conditions must be met.

This legislation also requires an insurer or MCO to pay for a service to one of its beneficiaries, without a prior hospital stay, if the service is necessary to prevent a hospitalization of the beneficiary and the service is provided as an additional benefit. Lastly, the bill requires an insurer or MCO to provide coverage to a beneficiary for services provided at a facility in which the beneficiary's spouse already resides, even if the facility is not under contract with the MCO. Certain requirements must be met. These provisions are an important part of our safety net for seniors.

I want to salute the strong leadership of the other cosponsors of this legislation who have authored various provisions of this comprehensive bill that we have joined together to introduce today. I know that all the cosponsors are sincerely committed, as I am, to addressing the challenges facing our aging population. I look forward to working with all of them to enact this important legislation.

Mr. AKAKA. Mr. President, it is with great pleasure that I cosponsor the Omnibus Long-term Care Act of 2000, introduced by Senator GRAHAM. The cosponsors of this legislation are well-known for their commitment to encouraging all Americans to prepare for their own long-term needs.

Many Americans mistakenly believe that Medicare and their regular health insurance programs will pay for long-term care. They do not. Although Medicare provides some long-term care support, an individual generally must ''spend-down'' his or her income and assets to qualify for coverage.

More and more Americans are requiring long-term care. About 6.4 million Americans, aged 65 or older, require some long-term care due to illness or disability. Over five million children and adults under the age of 65 also require long-term care because of health conditions from birth or a chronic illness developed later in life. Only 12 percent receive care in nursing homes or other institutional settings.

The need for long-term care is great. In 20 years, one in six Americans will be age 65 or older. By the year 2040, the number of Americans age 85 years or older will more than triple to over 12 million. The cost of nursing home care now exceeds $40,000 per a year in most parts of the country, and home care visits for nursing or physical therapy runs about $100 per visit. In 1996, over $107 billion was spent on nursing homes and home health care. However, this figure does not take into account that over 80 percent of all long-term care services are provided by family and friends.

In my own state of Hawaii, 13.2 percent of the population is 65 years and older. Although Hawaii enjoys one of the highest life expectancies—79 years, compared to a national average of 75 years—the state's rapidly aging population will greatly impact available resources for long-term care, both institutional and from non-institutional sources. Hawaii's long-term care facilities are operating at full capacity. According to the Hawaii State Department of Health, the average occupancy rate peaked at 97.8 percent in 1994. But occupancy remains high. By 1997, the average occupancy dropped to 90 percent.

These statistics point to the overriding need to help American families provide dignified and appropriate care to their parents and relatives. We know that the demand for long-term care will increase with each passing year, and that federal, state, and local resources cannot cover the expected costs. Nursing home costs are expected to reach $97,000 by the year 2030.

What Congress can do, however, it make long-term care insurance available to a broad segment of the population. As the ranking minority member of the Subcommittee on Federal Services, I co-chaired a hearing on long-term care insurance on May 16, 2000. We heard testimony on S. 2420, legislation to authorize the Office of Personnel Management to contract with one or more insurance carriers for long-term care insurance for federal and military personnel and their families. As a cosponsor of that bill, I am pleased that just last night, the Senate passed our measure after substituting the text of S. 2420 under H.R. 4040, the House long-term care bill for the federal family. The bill, as amended, also includes provisions of S. 1232, the Federal Erroneous Retirement Coverage Corrections Act, which I cosponsored with Senator COCHRAN last year. These provisions will provide relief to the estimated 20,000 federal employees who, through no fault of their own, found themselves in the wrong retirement system. H.R. 4040, as amended, offer a model for the private sector. I am delighted that similar legislation providing long-term care insurance for federal employees and military personnel is included in Senator GRAHAM's bill, and I welcome the opportunity to join with him in helping Americans meet their long-term care needs in a dignified manner.

The bill introduced today provides a comprehensive effort to address our citizens' long-term care needs. Among its provisions are the authorization of a phased-in tax deduction for the premiums of qualified long-term care insurance, implementation of the National Family Caregiver Support Program, restoration of $2.38 billion authorization for the Social Services Block Grant, and creation of a national public information campaign.

Mr. President, I am pleased to be an original sponsor of this bill.

By Mr. ROBB (for himself, Mr. DASCHLE, Mr. BAUCUS, Mr. BREAUX, Mr. DODD, Mr. DORGAN, Mr. JOHNSON, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. LEAHY, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. REID, Mr. ROCKEFELLER, Mr. SCHUMER, Mr. TORRICELLI, Mr. HARKIN, and Mr. BAYH):

S. 2936. A bill to provide incentives for new markets and community development, and for other purposes; to the Committee on Finance.

CREATING NEW MARKETS AND EMPOWERING AMERICA ACT OF 2000

Mr. ROBB. Mr. President, I rise today to introduce the Creating New Markets and Empowering America Act of 2000, which is designed to strengthen and revitalize low and moderate income communities across America.

Because we made some tough choices to balance our budget, we have the first federal surplus since Lyndon Johnson was President. And now is the time to give some back, particularly to those who have missed out on so much of our economic prosperity. This legislation would pump new capital into our nation's inner cities and isolated rural communities—areas that have had a difficult time building up from within.

The legislation contains three ''New Markets'' initiatives designed to attract and expand new capital into low to moderate income areas. First, a New Markets Tax Credit would infuse $15 billion in investments over the next 7 years through a 30 percent tax credit for businesses who provide capital to lower income communities. Secondly, the bill authorizes the designation of America's Private Investment Companies (APIC's) which would receive federal matching funds for private investments made in lower income areas. This provision would allow $1 billion in federal low-cost loans to match $500 million in private investment. Thirdly, the bill would create a new class of venture capital funds to assist with the operation and administration of ongoing businesses in lower income areas, who have growth potential, so they can continue to expand.

The bill also requires mandatory funding for Round II Empowerment Zones (EZ's) and Enterprise Communities (EC's) and creates a new set of Round III EZ's.

Mr. President, the mandatory funding of Round II Empowerment Zones is critically important to the citizens of Norfolk and Portsmouth, Virginia. The Federal Government made a commitment to these two communities—they need and deserve the funding—and I am determined to get the check in the mail to them. With this legislation, the Norfolk-Portsmouth Empowerment Zone would be guaranteed the remaining $94 million it was promised when it competed for the Empowerment Zone designation.

The legislation I'm introducing today also creates 40 Renewal Communities—which reflect the agreement between President Clinton and Speaker HASTERT—along with a host of tax provisions to expand and revitalize housing.

Very important to my home state of Virginia, this bill contains legislation I introduced earlier this year (S. 2445) to assist communities affected by job loss due to trade. The Assistance in Development for Communities Act (AID for Communities Act) both assists communities in developing a plan to retool their economies and offers financial assistance and tax incentives to help communities implement those plans.

Mr. President, the AID for Communities Act is immensely important to the people of Martinsville, Virginia—who have suffered economic devastation from the recent closing of a Tultex plant. This bill would give the citizens of Martinsville the urgent assistance they need to strengthen their economy and create a more vibrant future for all who live there.

Finally, Mr. President, this legislation includes two new initiatives to help religious and other community organizations better participate in federal grant programs. Specifically, it requires the Substance Abuse and Mental Health Services Administration to provide assistance in a manner similar to HUD's Office of Community and Faith-Based Organizations to assist faith-based and community organizations in applying for federal grant funds to provide substance abuse treatment. It would also require the IRS to provide guidance and make information available to assist religious and community organizations in establishing tax-exempt entities that can be used to operate social services.

Many of these organizations are unfamiliar with the process necessary to set up a tax-exempt organization and are, therefore, unable to participate in federal grant programs. This provision would provide them with the necessary information and assistance.

Mr. President, the ''Creating New Markets and Empowering America Act of 2000'' will spur economic growth in low to moderate income communities across our nation. As such, it will improve the lives of countless Americans. I urge my colleagues to support this important legislation.

Mr. BAUCUS. Mr. President, I rise today to cosponsor the Creating New Markets and Empowering America Act of 2000. We are living in a time of unprecedented prosperity. However this prosperity has not reached every American equally. The boom on Wall Street has not reached Main Street in many regions of our nation. The problem is quite simple. Many of our lower income communities are unable to attract the investment capital that is allowing more affluent areas to flourish. As the United States economy continues to grow it has become more and more apparent that attracting capital to these communities is one of the largest challenges facing the private sector and all levels of government.

It is important to keep in mind that this is not just an urban problem. Many rural communities, especially those that rely on agriculture, are watching their jobs disappear with nothing on the horizon in the form of new business or industry to offer much hope. My home state of Montana is facing this economic turmoil right now. A state that was built on agriculture, mining, and timber has watched these industries diminish to the point that Montana is now 50th in per-capita income relative to other states—dead last.

We often hear the phrase ''digital divide.'' Well, Montana is standing on the edge of an economic divide, but we are not quitters. Montana has much to offer. We have an unparalleled quality of life, a highly-educated work force, a burgeoning high-tech sector, and top-notch schools. In many respects, we are right on the cusp of an economic upswing. However, we are having an extremely difficult time attracting the investment capital that we need to become a partner in the Internet mainstream, create good paying jobs, and truly turn the economic corner.

This past June over the course of two days, I convened a Montana Economic Development Summit that brought together not only our state's leaders and decision makers, but also outside experts in various disciplines in an effort to build a road map for improving Montana's economy. We covered many issues, but primarily focused on high-tech, business development, and marketing and trade. We tackled tough questions such as how we retain and support our current businesses and also attract new businesses that truly fit with Montanans and their values. Three points came up time and again. First, the need for and inability to get the necessary investment capital. We simply do not have the population or resources available that larger states enjoy. Second, our window of opportunity is closing. Time moves faster than it used to and if we don't act quickly the world will move right past us. Third, and most importantly, any action or strategy that we take must come from begin locally. Economic development initiatives must be bottom-up and not top-down or they just will not work.

It is for these three reasons that I am cosponsoring this legislation. The New Markets proposals are a quick and efficient way to leverage the necessary investment in lower-income communities through private/public partnerships. And it will give these communities the tools they need to map their own economic destiny and create the better paying jobs that are so desperately needed.

Two portions illustrate the private/public partnership. On the public side, the Trade Adjustment Assistance provision will enhance the ability of each community to be proactive in crafting a long-term strategy for economic development. This is crucial for communities and regions in rural areas that are natural resource dependent and have suffered severe employment losses in the past decade. For the private sector, the New Markets tax credit will create opportunity by providing a tangible incentive for companies to take a serious look at areas of the country that are currently being ignored.

In closing, this legislation will provide the necessary ingredients for revitalizing America's less fortunate rural areas. It will help target investment to these communities and it will allow them the flexibility to build their economies on their terms and their ability. I commend my colleague from Virginia, Senator ROBB, for introducing such proactive legislation that addresses several of the most urgent issues facing economically troubled areas. Finally, I urge my colleagues to work together and pass this legislation so that states like Montana can begin their long climb back up to economic stability and prosperity.

Mr. KERRY. Mr. President, today I join Senator ROBB and 16 other colleagues to introduce comprehensive legislation aimed at spurring economic development and person empowerment in our inner cities and isolated rural areas. Our economy is booming, and has been for most of the 90s, yet there are still individuals and families who are struggling.

What we've tried to do is develop economic incentives that will encourage business development and remove barriers that make it hard for entrepreneurs, community organizations and individuals to build healthy communities.

Among the many important initiatives in this bill is my new markets legislation that I introduced last September, S. 1594, the Community Development and Venture Capital Act, which passed the Senate Committee on Small Business today, and as part of the Clinton/Hastert package in the House yesterday. It also includes full funding for Round II of Empowerment Zones.

The Community Development and Venture Capital Act has three parts: a

venture capital program to funnel investment money into distressed communities; Senator WELLSTONE's program to expand the number of venture capital firms and professionals who are devoted to investing in such communities; and a mentoring program to link established, successful businesses with small businesses owners in stagnant or deteriorating communities in order to facilitate the learning curve.

The venture capital program is modeled after the Small Business Administration's successful Small Business Investment Company program. As SBA Administrator Alvarez pointed out just last week in a Small Business Committee hearing, the SBIC program has been so successful that it has generated more than $19 billion in investments in more than 13,000 businesses since 1992. And, in the past five years, the SBIC participating securities program has returned $224 million in profits, virtually paying for itself for the past nine years.

As successful as that program is, it does not sufficiently reach areas of our country that need economic development the most. One, out of the total $4.2 billion that SBICs invested last year, only 1.6 percent were deals of less than $1 million dollars in LMI areas. Two, only $1.1 million of that $4.2 billion went to LMI investments in rural areas. Three, in 1999, 85 percent of SBIC deals were $10 million and more.

In broader terms, the economy is booming. Since 1993, almost 21 million jobs have been created. Since 1992, unemployment has shrunk from 7.5 percent to 4 percent. In the past two years, we've paid down the debt $140 billion, and CBO currently projects a surplus of $176 billion. Some estimates even say more than $2 trillion. In spite of these impressive numbers, one out of five children grows up in poverty and there are pockets of America where unemployment is as high as 14 percent.

We can make a difference by investing in a new industry of community development venture capital funds that target investment capital and business expertise into low- and moderate-income areas to develop and expand local businesses that create jobs and alleviate economic distress. The existing 25 or 30 community development venture capital funds have set out to demonstrate that the same model of business development that has driven economic expansion in Silicon Valley and Route 128 Massachusetts can also make a powerful difference in areas like the inner-city areas of Boston's Roxbury or New York's East Harlem, or the rural desolation of Kentucky's Appalachia or Mississippi's Delta region.

Federal Reserve Board Chairman Alan Greenspan says ''Credit alone is not the answer. Businesses must have equity capital before they are considered viable candidates for debt financing.'' He emphasizes that this is particularly important in lower-income communities.

What I'm trying to do as Ranking Member of the Small Business Committee, and have been working with the SBA to achieve, is expand investment in our neediest communities by building on the economic activity created by loans. I think one of the most effective ways to do that is to spur venture capital investment in our neediest communities. I am very glad that Senator ROBB and my other colleagues agreed to include this powerful economic development plan in this legislation.

Switching to another provision in this bill, this legislation builds on the President's and Speaker's agreement by securing full, mandatory funding for Massachusett's Empowerment Zone. As I said earlier, this passed the full House yesterday by a vote of 394 to 27. Full, mandatory funding is important because, so far, the money has dribbled in—only $6.6 million of the $100 million authorized over ten years—and made it impossible for the city to implement a plan for economic self-sufficiency. Some 80 public and private entities, from universities to technology companies to banks to local government, showed incredible community spirit and committed to matching the EZ money, eight to one. Let me say it another way—these groups agreed to match the $100 million in Federal Empowerment Zone money with $800 million. Yet, regrettably, in spite of this incredible alliance, the city of Boston has not been able to tap into that leveraged money and implement the strategic plan because Congress hasn't held up its part of the bargain. I am extremely pleased that we were able to work together and find a way to provide full, steady funding to these zones. That money means education, daycare, transportation and basic health care in areas—in Massachusetts that includes 57,000 residents who live in Roxbury, Dorchester and Mattipan—where almost 50 percent of the children are living in poverty and nearly half the residents over 25 don't even have a high school diploma

Mr. President, I thank my colleagues for their work on this important legislation.

Mr. LEAHY. Mr. President, I rise today to give my support to the Creating New Markets and Empowering America Act of 2000. In a time of unprecedented economic prosperity, there are too many communities in this nation that are beleaguered by crumbling infrastructures and stagnant economies. This legislation will help attract capital, produce much-needed housing, and encourage private investment to communities most in need.

I am proud to join in cosponsoring this legislation and would like to thank Senator ROBB for all his hard work in crafting this bill. Of particular importance to my home state of Vermont are increases in the Low Income Housing Tax Credit and Private Activity Bond cap.

Vermont is currently in the middle of an affordable housing crisis. Production has stalled and demand has risen. In Chittenden County, one of Vermont's most populated areas, residents face a rental vacancy rate of less than one percent. Housing costs are so expensive, middle income families are being forced into hotels, college dorms, homeless shelters, or left out on the street. Sadly, this is a situation that is being repeated nationwide.

As funding for other federal housing assistance programs has diminished, states depend more and more on the LIHTC and private activity bonds to finance affordable housing projects. The LIHTC has been extremely successful since its enactment as part of the Tax Reform Act of 1986. Today, the LIHTC is one of the primary tools that states have to attract private investment in affordable rental housing. In Vermont, the LIHTC has made possible the production, rehabilitation, and preservation of over 2,600 affordable apartments since 1987. Unfortunately this credit has not been increased since its creation nearly fourteen years ago. Today, the demand for tax credits far exceeds their availability. This year in Vermont, over $2.5 million in credits were requested but only $718,000 were available.

I am pleased that this bill raises the annual per capita allocation of tax credits from $1.25 to $1.75 and indexes the credit to inflation. In addition to the increased per capita allocation, I hope to work a small state minimum. Such a floor would help to ensure that small states like Vermont have access to the resources they need to provide affordable housing for every resident in need.

Private activity bonds also play an important role in providing affordable housing for Vermonters. In 1986 the Federal Tax Reform Act limited the amount of tax-exempt bonds that each state could issue to no more than $50 per capita. There has not been an inflation adjustment to the cap since its inception. The Vermont Housing Finance Agency (VHFA) has issued over $1.25 billion in private activity bonds since 1974, bonds which have helped make the dream of home ownership a reality for over 20,425 Vermont households. I am pleased that this bill includes a cap increase from $50 to $75 per capita which will help Vermont's finance agencies continue this success.

Again, I am proud to be a cosponsor of this bill which will offer many households, businesses and communities new opportunities as we enter the 21st century. I urge my colleagues to join me in support of this legislation.

By Mr. DOMENICI (for himself, Mr. WYDEN, Mr. GRASSLEY, and Mr. KERREY):

S. 2937. A bill to amend title XVIII of the Social Security Act to improve access to Medicare+Choice plans through an increase in the annual Medicare+Choice capitation rates and for other purposes; to the Committee on Finance.

THE MEDICARE GEOGRAPHIC FAIR PAYMENT ACT OF 2000

Mr. DOMENICI. Mr. President, I rise today with some very distinguished colleagues from both sides of the aisle—Senator WYDEN, who is here, and Senator GRASSLEY, who is not here—who are cosponsors of this measure, along with Senator BOB KERREY of Nebraska.

Mr. President, let me suggest for Senators' staff who are looking at this to look alphabetically. You will find how much is being reimbursed in your cities for the Medicare+Choice reimbursement. Look at it, and you will see how the HMOs are reimbursed to provide this rather good, fair, and competitive coverage to the senior citizens. You will be astounded. Many people think New York is covered. They are getting a very high rate of reimbursement because they started high. But look at some of the cities in New York. You will find that New York has a number of cities that are under $450. We reimburse them on the high level—as high as $800.

The bill we are introducing today we are going to call the Medicare Geographic Fair Payment Act. Week after week, the Federal Government deducts a portion of everyone's paycheck to support the Medicare program. After our seniors have retired and begin to take advantage of the program they have supported for so many years, I think it is fair that they continue to have a choice.

Right now they have a choice. But the choice is really not for all seniors because we made a decision when we put in the Medicare+Choice Program, which was really an alternative that seniors could choose. We made a decision as to how we would reimburse the provider. That decision was made based upon, as I understand from my good friend, Senator WYDEN—allegedly based on what they needed to get the job done to get the program going.

I don't intend to be critical, but in many instances those who had not been frugal, had not been careful about costs, got high reimbursements. But if you lived in Senator WYDEN's State or New Mexico, where they were being extremely frugal in what they charged for the services, they got a very low rate.

It is unfortunate, but for Staten Island the rates of reimbursement are $814; $794 for Dade County—I am not complaining; I am stating a dollar amount—$702 for New Orleans; and $661 for Los Angeles.

Senator WYDEN, perhaps, could intervene and tell me what it is in Portland.

Mr. WYDEN. $445.

Mr. DOMENICI. $445; Albuquerque is $430, $15 under Oregon. That is all the government will give as reimbursement if you decide to get into the HMO business with hospitals and everybody else joining together, if you are going to furnish this service. Remember, there are some places getting $800-plus.

I am not here to take away anything from anyone. That is how our amendment is different. We are not trying to take the pie, leave it the same size, and say those who are getting more money have to cut back. Rural areas are even lower and are expected to provide the same level of benefits or nearly half the reimbursement.

There were seniors who had a marvelous Medicare+Choice Program. Why was it good? It was good because for a reasonable cost they were getting prescription drugs, which you don't get under Medicare, and the whole package was new benefits. Some of them got dental insurance, which they don't get. Some of them got a number of different things they don't get under Medicare, for a premium they could afford.

These programs are being closed down every day we delay. Thousands of seniors are getting notices. They had a good program, but they won't have it in January. I want everybody to know if there are going to be any entitlement bills getting out of here on anything that is even close to Medicare, this is an amendment that will be on there—or something better. This amendment says by January 1st of this year, the rates are raised. They are these low rates we are talking about. Very simply, under this bill, we will change the rates.

It is pretty easy for everybody to understand. This is not a complicated bill. What we are doing is saying for those metropolitan areas which are 250,000 or more, the minimum reimbursement will be $525. If we can't get that through here to preserve some of these plans where seniors are just falling off the log, desperately getting their notices, and raising it to $525, then I don't know what is fair around here anymore. For all the rural counties, we have raised the minimum to $475.

My friend, Senator WYDEN, can talk about his State and about his observations. Clearly, he has been asking everybody around here, including the Budget Committee, to have hearings on this great disparity which he calls penalizing efficiency.

The truth of the matter is in my home city and in my State of New Mexico, what is happening, the HMO companies can no longer stay in business. Seniors are getting notified. In fact, we don't have a lot of people under this program—15,000 are going to get knocked off the program right now, very soon. If you think they are not going to meetings, they met with Heather Wilson, one of our representatives, and 400 people showed up because they read in the newspaper she was holding a meeting and they already got their notices: Come January, find a new plan. They are asking: Why? The plan is good. It is very good for me. I have been paying all my life. Why are you taking this away?

I ask Senators to take a look. In my case, we will get $34 million in additional reimbursements during the first year and $170 out of this bill. Incidentally, this bill will cost $700 million the first year. I say to the thousands of seniors who may be able to keep their insurance and be under this kind of program, that is a pretty good bargain. Over 5 years, it will cost $3.7 billion.

It also includes a third provision which I ask Senators to look at. It is the product of some very wise thinking by Senator Grassley. It should have been separately called the GRASSLEY bill, but it is packaged in this as our third title. It says essentially hospitals will hereinafter be reimbursed on labor costs—on what the actual cost is, not on what the stated cost is. That makes the payment to hospitals go up substantially. My small State will go up about $6.5 million over the year. I don't know what it would be in a State such as Ohio, but it would be rather substantial.

I have extensive research, with cities alphabetically listed. Just look for your city and see what the reimbursement rate is. If it is under $525, we will take it to $525. If there are rural counties that are not in these lists, call home and ask what some of the counties are getting reimbursed. Raising it to $475 will help an awful lot of people. Is it enough? I don't know. I want to get something done. My friend wants to get something done, as do my two cosponsors. I assume in a couple of days or a week we will have a lot more Senators, bipartisan, asking to be on this.

I remind everyone, the total cost of doing a bit of fairness to seniors and ending discrimination by region is going to be $700 million in the first year and $3.7 over 5. We have been talking about astronomical numbers for Medicare reform, prescription drugs. I don't know where we will end up. I hope in the heat of this political 6 weeks we don't do anything major, because it will be wrong, but clearly we have to do something.

Come January 1, if we don't put money into this reimbursement program, I think my friend, who has followed this carefully, will say hundreds of thousands of seniors will be denied the option to buy coverage which they think is rather good in many cases, including prescription drugs, for which they only have to pay $50 extra. They can't get that anywhere else. They got extensive coverage of items in their health care needs that are not covered anywhere.

I very much thank the Senators who are cosponsoring, Senators WYDEN, GRASSLEY, and BOB KERREY of Nebraska. We will have more.

Mr. President, I ask unanimous consent that the bill and additional material be printed in the RECORD.

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

S. 2937

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 ''Medicare Geographic Fair Payment Act of 2000''.

SEC. 2. IMPROVED ACCESS TO MEDICARE+CHOICE PLANS THROUGH AN INCREASE IN THE ANNUAL MEDICARE+CHOICE CAPITATION RATES.

Section 1853(c)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1395w–23(c)(1)(B)(ii)) is amended—

(1) by striking ''(ii) For a succeeding year'' and inserting ''(ii)(I) Subject to subclause (II), for a succeeding year''; and

(2) by adding at the end the following new subclause:

''(II) For 2001 for any area in any Metropolitan Statistical Area with a population of more than 250,000, $525 (and for any area outside such an area, $475).''.

SEC. 3. REQUIREMENT THAT THE ACTUAL PROPORTION OF A HOSPITAL'S COSTS ATTRIBUTABLE TO WAGES AND WAGE-RELATED COSTS BE WAGE ADJUSTED.

(a) IN GENERAL.—The first sentence of section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)) is amended by striking '', (as estimated by the Secretary from time to time) of hospitals' costs'' and inserting ''of each hospital's costs (based on the most recent data available to the Secretary with respect to the hospital)''.

(b) SPECIAL RULE FOR HOSPITALS LOCATED IN PUERTO RICO.—Section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)) is amended by adding at the end the following new sentence: ''In the case of a hospital located in Puerto Rico, the first sentence of this subparagraph shall be applied as in effect on the day before the date of enactment of the Geographic Adjustment Fairness Act of 2000.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to discharges occurring on or after January 1, 2001.

TABLE 1.—AVERAGE MEDICARE+CHOICE PAYMENT RATES PER AGED BENEFICIARY, PER MONTH, PER COUNTY IN METROPOLITAN STATISTICAL AREAS AND PRIMARY METROPOLITAN STATISTICAL AREAS, FY 2000

Population [1]	Metropolitan statistical area	State and county name	2000 payment rate
2	Akron, OH PMSA	OH Summit	$569.96
		OH Portage	517.50
2	Albany-Schenectady-Troy, NY MSA	NY Rensselaer	451.95
		NY Albany	426.70
		NY Saratoga	426.15
		NY Montgomery	415.97
		NY Schenectady	414.50
		NY Schoharie	408.51
2	Albuquerque, NM MSA	NM Bernalillo	430.44
		NM Sandoval	402.64
		NM Valencia	401.61
2	Allentown-Bethlehem-Easton, PA MSA	PA Northampton	550.07
		PA Carbon	530.57
		PA Lehigh	520.68
2	Ann Arbor, MI PMSA	MI Washtenaw	557.62
		MI Livingston	535.35
		MI Lenawee	492.06
2	Appleton-Oshkosh-Neehan, WI MSA	WI Calumet	401.61
		WI Outagamie	401.61
		WI Winnebago	401.61
1	Atlanta, GA MSA	GA Clayton	639.17
		GA Douglas	631.97
		GA Coweta	612.58
		GA Henry	578.76
		GA Newton	572.05
		GA Fulton	569.09
		GA Walton	562.39
		GA Gwinnett	560.30
		GA Forsyth	560.28
		GA Paulding	552.37
		GA Cobb	552.00
		GA Barrow	549.34
		GA De Kalb	549.32
		GA Carroll	538.55
		GA Cherokee	536.79
		GA Pickens	532.62
		GA Fayette	531.71
		GA Rockdale	528.77
		GA Spalding	491.23
		GA Bartow	457.53
2	Atlantic-Cape May, NJ PMSA	NJ Cape May	575.01
		NJ Atlantic	564.89
2	Augusta-Aiken, GA–SC MSA	GA McDuffie	506.13
		GA Columbia	480.21
		GA Richmond	474.28
		SC Aiken	472.78
		SC Edgefield	401.61
2	Austin-San Marcos, TX MSA	TX Travis	457.95
		TX Caldwell	449.43
		TX Bastrop	437.16
		TX Hays	429.58
		TX Williamson	411.43
2	Bakersfield, CA MSA	CA Kern	549.94
1	Baltimore, MD PMSA	MD Baltimore City	671.43
		MD Anne Arundel	596.99
		MD Howard	575.83
		MD Baltimore	573.77
		MD Harford	567.54
		MD Carroll	519.96
		MD Queen Annes	468.85
2	Baton Rouge, LA MSA	LA Ascension	701.89
		LA Livingston	669.57
		LA E. Baton Rouge	574.48
		LA W. Baton Rouge	569.45
2	Beaumont-Port Arthur, TX MSA	TX Jefferson	635.70
		TX Orange	628.21
		TX Hardin	580.77
1	Bergen-Passaic, NJ PMSA	NJ Bergen	559.77
		NJ Passaic	537.18
2	Biloxi-Gulfport-Pascagoula, MS MSA	MS Jackson	630.08
		MS Hancock	612.91
		MS Harrison	596.61
2	Binghamton, NY MSA	NY Broome	415.83
		NY Tioga	403.34
2	Birmingham, AL MSA	AL Shelby	686.53
		AL Blount	575.59
		AL St. Clair	570.54
		AL Jefferson	557.62
2	Boise City, ID MSA	ID Ada	401.61
		ID Canyon	401.61
1	Boston, MA-NH PMSA	MA Suffolk	676.30
		MA Norfolk	628.81
		MA Middlesex	604.17
		MA Plymouth	566.16
		MA Essex	542.07
		NH Rockingham	479.31
2	Bridgeport, CT PMSA	CT Fairfield	546.20
2	Brownsville-Harlingen-San Benito, TX MSA	TX Cameron	439.76
1	Buffalo-Niagara Falls, NY MSA	NY Niagara	458.37

TABLE 1.—AVERAGE MEDICARE+CHOICE PAYMENT RATES PER AGED BENEFICIARY, PER MONTH, PER COUNTY IN METROPOLITAN STATISTICAL AREAS AND PRIMARY METROPOLITAN STATISTICAL AREAS, FY 2000—Continued

Population [1]	Metropolitan statistical area	State and county name	2000 payment rate
		NY Erie	444.70
2	Canton-Massillon, OH MSA	OH Stark	439.09
		OH Carroll	425.34
2	Charleston, WV MSA	WV Kanawha	485.94
		WV Putnam	459.31
2	Charleston-North Charleston, SC MSA	SC Charleston	480.38
		SC Berkeley	455.71
		SC Dorchester	429.44
1	Charlotte-Gastnia-Rockhill, NC–SC MSA	NC Cabarrus	459.94
		NC Gaston	456.16
		NC Mecklenburg	433.27
		NC Union	433.15
		NC Lincoln	431.34
		SC York	430.89
		NC Rowan	429.39
2	Chattanooga, TN–GA MSA	TN Marion	689.49
		GA Walker	533.01
		TN Hamilton	526.68
		GA Catoosa	503.89
		GA Dade	497.19
1	Chicago, IL PMSA	IL Cook	593.51
		IL Will	523.73
		IL Grundy	519.32
		IL Du Page	509.42
		IL Lake	507.05
		IL Kane	482.60
		IL Mc Henry	466.26
		IL Kendall	444.33
		IL De Kalb	415.25
1	Cincinnati, OH–KY–IN PMSA	OH Hamilton	505.97
		OH Clermont	505.91
		KY Boone	502.28
		KY Kenton	483.13
		KY Campbell	479.25
		OH Brown	473.04
		IN Ohio	471.63
		IN Dearborn	469.59
		KY Grant	469.13
		OH Warren	468.11
		KY Gallatin	457.05
		KY Pendleton	422.65
1	Cleveland-Lorain-Elyria, OH PMSA	OH Cuyahoga	575.59
		OH Lorain	522.63
		OH Medina	511.38
		OH Lake	506.72
		OH Ashtabula	503.62
		OH Geauga	484.81
2	Colorado Spring, CO MSA	CO El Paso	472.16
2	Columbia, SC MSA	SC Lexington	429.22
		SC Richland	406.65
2	Columbus, GA–AL MSA	GA Chattahoochee	486.30
		AL Russell	450.62
		GA Muscogee	430.84
		GA Harris	401.61
1	Columbus, OH MSA	OH Madison	511.41
		OH Franklin	496.33
		OH Fairfield	461.07
		OH Pickaway	453.38
		OH Delaware	450.01
		OH Licking	434.03
2	Corpus Christi, TX MSA	TX Nueces	515.88
		TX San Patricio	501.62
1	Dallas, TX PMSA	TX Denton	557.79
		TX Collin	547.45
		TX Dallas	545.56
		TX Rockwall	511.05
		TX Kaufman	510.50
		TX Henderson	507.26
		TX Ellis	489.89
		TX Hunt	484.39
2	Davenport-Moline-Rock Island, IA–AL MSA	IA Scott	420.23
		IL Rock Island	416.48
		IL Henry	401.72
2	Daytona Beach, FL MSA	FL Volusia	481.63
		FL Flagler	432.48
2	Dayton-Springfield, OH MSA	OH Montgomery	497.25
		OH Clark	487.66
		OH Miami	461.54
		OH Greene	438.27
1	Denver, CO PMSA	CO Denver	534.62
		CO Adams	513.59
		CO Arapahoe	484.26
		CO Jefferson	475.87
		CO Douglas	452.51
2	Des Moines, IA MSA	IA Polk	443.74
		IA Warren	405.72
		IA Dallas	401.61
1	Detroit, MI PMSA	MI Wayne	677.77
		MI Oakland	639.26
		MI Macomb	628.03
		MI Monroe	567.21
		MI Lapeer	541.44
		MI St. Clair	513.96
2	Dutchess County, NY PMSA	NY Dutchess	485.41
2	El Paso, TX MSA	TX El Paso	481.85
2	Erie, PA MSA	PA Erie	461.47
2	Eugene-Springfield, OR MSA	OR Lane	424.21
2	Evansville-Henderson, IN-KY MSA	KY Henderson	487.38
		IN Posey	455.23
		IN Warrick	441.91
		IN Vanderburgh	439.14
2	Fayetteville, NC MSA	NC Cumberland	420.50
2	Flint, MI PMSA	MI Genesee	654.33
1	Fort Lauderdale, FL PMSA	FL Broward	690.17
2	Fort Myers-Cape Coral, FL MSA	FL Lee	516.74
2	Fort Pierce-Port St. Lucie, FL MSA	FL St. Lucie	582.27
		MI FL Martin	536.70
2	Fort Wayne, IN MSA	IN Adams	405.10
		IN Allen	403.97

TABLE 1.—AVERAGE MEDICARE+CHOICE PAYMENT RATES PER AGED BENEFICIARY, PER MONTH, PER COUNTY IN METROPOLITAN STATISTICAL AREAS AND PRIMARY METROPOLITAN STATISTICAL AREAS, FY 2000—Continued

Population [1]	Metropolitan statistical area	State and county name	2000 payment rate
		IN Whitley	403.29
		IN De Kalb	401.61
		IN Huntington	401.61
		IN Wells	401.61
1	Fort Worth-Arlington, TX PMSA	TX Tarrant	529.17
		TX Johnson	502.06
		TX Hood	492.86
		TX Parker	488.76
2	Fresno, CA MSA	CA Madera	473.12
		CA Fresno	438.04
2	Gary, IN PMSA	IN Lake	564.82
		IN Porter	514.53
2	Grand Rapids-Muskegon-Holland, MI MSA	MI Allegan	445.34
		MI Muskegon	443.96
		MI Kent	423.54
		MI Ottawa	401.61
1	Grnsboro-Winston-Salem-HI PT, NC MSA	NC Davie	461.90
		NC Davidson	436.36
		NC Guilford	434.67
		NC Forsyth	434.28
		NC Stokes	417.35
		NC Yadkin	415.82
		NC Alamance	415.23
		NC Randolph	414.23
2	Greenville-Spartanburg-Anderson, SC MSA	SC Cherokee	466.06
		SC Anderson	409.97
		SC Greenville	405.47
		SC Pickens	401.61
		SC Spartanburg	401.61
2	Hamilton-Middletown, OH PMSA	OH Butler	480.01
2	Harrisburg-Lebanon-Carlisle, PA MSA	PA Dauphin	511.84
		PA Perry	508.55
		PA Cumberland	454.13
		PA Lebanon	420.60
1	Hartford, CT MSA	CT Tolland	541.27
		CT Hartford	525.95
		CT Litchfield	511.80
		CT Windham	505.42
		CT Middlesex	482.64
2	Hickory-Morganton-Lenoir, NC MSA	NC Alexander	451.10
		NC Burke	437.35
		NC Caldwell	429.74
		NC Catawba	408.16
2	Honolulu, HI MSA	HI Honolulu	451.71
1	Houston, TX PMSA	TX Liberty	719.28
		TX Chambers	719.23
		TX Montgomery	706.08
		TX Harris	631.59
		TX Waller	527.01
		TX Fort Bend	521.77
2	Huntington-Ashland, WV-KY-OH MSA	KY Boyd	499.45
		KY Greenup	487.07
		OH Lawrence	483.34
		KY Carter	434.54
		WV Wayne	428.33
		WV Cabell	427.27
2	Huntsville, AL MSA	AL Limestone	464.15
		AL Madison	454.59
1	Indianapolis, IN MSA	IN Marion	506.06
		IN Madison	492.95
		IN Hendricks	487.01
		IN Hamilton	478.86
		IN Shelby	477.17
		IN Morgan	470.63
		IN Hancock	469.54
		IN Boone	462.42
		IN Johnson	442.74
2	Jackson, MS MSA	MS Madison	446.48
		MS Rankin	445.23
		MS Hinds	442.96
2	Jacksonville, FL MSA	FL Duval	558.61
		FL Nassau	534.03
		FL St. Johns	503.27
		FL Clay	494.78
2	Jersey City, NJ PMSA	NJ Hudson	572.80
2	Johnson City-Kingsport-Bristol, TN–VA MSA	TN Unicol	486.65
		TN Hawkins	475.81
		VA Scott	475.48
		TN Washington	460.53
		TN Sullivan	451.21
		VA Bristol City	445.38
		TN Carter	419.53
		VA Washington	401.61
2	Kalamazoo-Battle Creek, MI MSA	MI Calhoun	497.87
		MI Van Buren	468.21
		MI Kalamazoo	457.00
1	Kansas City, MO–KS MSA	KS Wyandotte	539.21
		MO Jackson	535.72
		MO Ray	521.98
		MO Clay	519.84
		KS Johnson	506.41
		KS Leavenworth	503.12
		KS Miami	494.24
		MO Platte	493.90
		MO Lafayette	486.11
		MO Cass	479.90
		MO Clinton	428.27
2	Killeen-Temple, TX MSA	TX Coryell	415.61
		TX Bell	407.33
2	Knoxville, TN MSA	TN Loudon	506.47
		TN Knox	484.18
		TN Anderson	460.95
		TN Union	453.63
		TN Blount	446.59
		TN Sevier	439.09
2	Lafayette, LA MSA	LA Lafayette	512.01
		LA St. Landry	492.02
		LA Acadia	463.22
		LA St. Martin	460.29

TABLE 1.—AVERAGE MEDICARE+CHOICE PAYMENT RATES PER AGED BENEFICIARY, PER MONTH, PER COUNTY IN METROPOLITAN STATISTICAL AREAS AND PRIMARY METROPOLITAN STATISTICAL AREAS, FY 2000—Continued

Population [1]	Metropolitan statistical area	State and county name	2000 payment rate
2	Lakeland-Winter Haven, FL MSA	FL Polk	437.74
2	Lancaster, PA MSA	PA Lancaster	416.00
2	Lansing-East Lansing, MI MSA	MI Ingham	519.79
		MI Eaton	495.86
		MI Clinton	473.56
2	Las Vegas, NV–AZ MSA	NV Clark	554.90
		AZ Mohave	522.27
		NV Nye	513.76
2	Lexington, KY MSA	KY Madison	459.32
		KY Bourdon	445.13
		KY Scott	417.38
		KY Fayette	413.37
		KY Clark	413.34
		KY Jessamine	407.65
		KY Woodford	401.61
2	Little Rock-N. Little Rock, AR MSA	AR Pulaski	498.44
		AR Saline	488.13
		AR Lonoke	472.87
		AR Faulkner	462.94
1	Los Angeles-Long Beach, CA PMSA	CA Los Angeles	660.65
2	Louisville, KY–IN MSA	KY Bullitt	546.27
		KY Oldham	509.91
		IN Clark	506.02
		KY Jefferson	499.44
		IN Floyd	495.70
		IN Scott	476.68
		IN Harrison	454.42
2	Macon, GA MSA	GA Houston	548.86
		GA Bibb	518.70
		GA Jones	488.31
		GA Peach	470.78
		GA Twiggs	461.55
2	Madison, WI MSA	WI Dane	421.05
2	McAllen-Edinburg-Mission, TX MSA	TX Hidalgo	437.02
2	Melbourne-Titusvlle-Palm Bay, FL MSA	FL Brevard	527.54
1	Memphis, TN–AR–MS MSA	TN Shelby	491.67
		MS De Soto	490.50
		TN Tipton	479.39
		TN Fayette	476.86
		AR Crittenden	472.60
1	Miami, FL PMSA	FL Dade	794.02
1	Middlesex-Somerset-Hunterdon, NJ PMSA	NJ Middlesex	558.12
		NJ Hunterdon	516.24
		NJ Somerset	491.08
1	Milwaukee-Waukesha, WI PMSA	WI Milwaukee	470.57
		WI Waukesha	435.85
		WI Ozaukee	424.93
		WI Washington	411.74
1	Minneapolis-St. Paul, MN-WI MSA	MN Ramsey	470.65
		MN Hennepin	457.66
		MN Anoka	453.31
		MN Chisago	443.66
		MN Dakota	438.75
		MN Washington	427.94
		MN Carver	420.00
		MN Isanti	416.79
		MN Wright	405.57
		MN Scott	401.61
		MN Sherburne	401.61
		WI Pierce	401.61
		WI St. Croix	401.61
2	Mobile, AL MSA	AL Mobile	561.50
		AL Baldwin	485.76
2	Modesto, CA MSA	CA Stanislaus	509.26
2	Monmouth-Ocean, NJ PMSA	NJ Monmouth	542.02
		NJ Ocean	534.05
2	Montgomery, AL MSA	AL Montgomery	483.38
		AL Autauga	481.43
		AL Elmore	480.94
2	Nashville, TN MSA	TN Wilson	630.43
		TN Davidson	547.87
		TN Williamson	538.17
		TN Cheatham	537.65
		TN Sumner	529.86
		TN Robertson	527.44
		TN Rutherford	494.76
		TN Dickson	491.06
1	Nassau-Suffolk, NY PMSA	NY Nassau	622.51
		NY Suffolk	592.30
2	New Haven-Meriden, CT PMSA	CT New Haven	528.19
2	New London-Norwich, CT-RI MSA	CT New London	492.51
1	New Orleans, LA MSA	LA Plaquemines	772.26
		LA St. Bernard	763.90
		LA St. Charles	675.95
		LA Jefferson	674.13
		LA St. Tammany	669.91
		LA St. John Baptist	668.62
		LA Orleans	651.27
		LA St. James	589.96
1	New York, NY PMSA	NY Richmond	814.32
		NY Bronx	772.81
		NY New York	756.77
		NY Kings	748.55
		NY Queens	699.17
		NY Rockland	630.25
		NY Putnam	628.30
		NY Westchester	608.47
1	Newark, NJ PMSA	NJ Essex	578.68
		NJ Warren	568.99
		NJ Union	545.04
		NJ Morris	525.78
		NJ Sussex	511.04
2	Newburgh, NY–PA PMSA	NY Orange	524.02
		PA Pike	500.29
1	Norfolk-Va Beach-Newport News, VA–NC MSA	VA Chesapeake City	484.88
		VA Williamsburg City	479.54
		VA Suffolk City	476.74
		VA Norfolk City	470.52

TABLE 1.—AVERAGE MEDICARE+CHOICE PAYMENT RATES PER AGED BENEFICIARY, PER MONTH, PER COUNTY IN METROPOLITAN STATISTICAL AREAS AND PRIMARY METROPOLITAN STATISTICAL AREAS, FY 2000—Continued

Population [1]	Metropolitan statistical area	State and county name	2000 payment rate
		VA Portsmouth City	470.52
		VA Virginia Beach City	463.75
		VA Isle Of Wight	461.15
		VA Poquoson	458.58
		NC Currituck	455.80
		VA James City	446.91
		VA Hampton City	443.76
		VA York	430.15
		VA Newport News City	423.90
		VA Gloucester	414.28
		VA Mathews	405.39
1	Oakland, CA PMSA	CA Contra Costa	629.07
		CA Alameda	617.69
2	Oklahoma City, OK MSA	OK Oklahoma	472.85
		OK Cleveland	469.40
		OK Canadian	461.36
		OK Mcclain	453.93
		OK Logan	431.02
		OK Pottawatomie	401.61
2	Omaha, NE–IA MSA	NE Douglas	471.42
		IA Pottawattamie	458.62
		NE Sarpy	428.48
		NE Cass	420.07
		NE Washington	411.08
1	Orange County, CA PMSA	CA Orange	609.63
1	Orlando, FL MSA	FL Osceola	595.95
		FL Orange	553.31
		FL Seminole	536.05
		FL Lake	489.82
2	Pensacola, FL MSA	FL Santa Rosa	503.69
		FL Escambia	502.10
2	Peoria-Pekin, IL MSA	IL Tazewell	421.61
		IL Peoria	414.60
		IL Woodford	401.61
1	Philadelphia, PA-NJ PMSA	PA Philadelphia	747.35
		PA Delaware	626.24
		PA Bucks	610.87
		NJ Camden	593.47
		NJ Gloucester	591.58
		NJ Salem	584.62
		PA Chester	553.66
		NJ Burlington	552.60
		PA Montgomery	548.59
1	Phoenix-Mesa, AZ MSA	AZ Pinal	551.74
		AZ Maricopa	524.36
1	Pittsburgh, PA MSA	PA Allegheny	632.02
		PA Fayette	619.07
		PA Westmoreland	594.10
		PA Washington	590.58
		PA Beaver	544.52
		PA Butler	542.33
1	Portland-Vancouver, OR-WA PMSA	OR Washington	460.95
		OR Columbia	452.07
		OR Multnomah	445.25
		OR Clackamas	438.74
		WA Clark	433.86
		OR Yamhill	425.86
1	Providence-Fall River-Warwck, RI-MA MSA	RI Kent	519.29
		RI Washington	512.79
		MA Bristol	501.50
		RI Providence	498.70
		RI Newport	484.96
		RI Bristol	473.50
2	Provo-Orem, UT MSA	UT Utah	427.96
2	Raleigh-Durham-Chapel Hill, NC MSA	NC Orange	480.56
		NC Johnson	475.66
		NC Wake	464.96
		NC Franklin	452.16
		NC Durham	441.05
		NC Chatham	437.33
2	Reading, PA MSA	PA Berks	452.56
2	Reno, NV MSA	NV Washoe	492.94
2	Richmond-Petersburg, VA MSA	NA New Kent	522.64
		VA Charles City	508.84
		VA Hanover	490.45
		VA Richmond City	488.94
		VA Prince George	483.13
		VA Petersburg City	479.97
		VA Dinwiddie	477.64
		VA Hopewell City	475.67
		VA Powhatan	467.99
		VA Chesterfield	463.81
		VA Henrico	463.29
		VA Colonial Heights City	449.40
		VA Goochland	445.19
1	Riverside-San Bernardino, CA PMSA	CA San Bernardino	565.55
		CA Riverside	553.64
1	Rochester, NY MSA	NY Monroe	449.04
		NY Genesee	435.80
		NY Livingston	429.12
		NY Orleans	417.78
		NY Wayne	415.82
		NY Ontario	405.78
2	Rockford, IL MSA	IL Boone	406.73
		IL Ogle	401.61
		IL Winnebago	401.61
1	Sacramento, CA PMSA	CA Sacramento	545.65
		CA Placer	527.72
		CA El Dorado	515.35
2	Saginaw-Bay City-Midland, MI USA	MI Saginaw	488.38
		MI Bay	488.15
		MI Midland	468.12
2	Salem, OR PMSA	OR Marion	401.61
		OR Polk	401.61
2	Salinas, CA MSA	CA Monterey	542.83
1	Salt Lake City-Ogden, UT MSA	UT Salt Lake	418.00
		UT Davis	415.88
		UT Weber	407.27
1	San Antonio, TX MSA	TX Bear	512.11

TABLE 1.—AVERAGE MEDICARE+CHOICE PAYMENT RATES PER AGED BENEFICIARY, PER MONTH, PER COUNTY IN METROPOLITAN STATISTICAL AREAS AND PRIMARY METROPOLITAN STATISTICAL AREAS, FY 2000—Continued

Population [1]	Metropolitan statistical area	State and county name	2000 payment rate
		TX Wilson	432.60
		TX Guadalupe	417.56
		TX Comal	415.47
1	San Diego, CA MSA	CA San Diego	563.76
1	San Francisco, CA PMSA	CA San Francisco	571.60
		CA Marin	563.18
		CA San Mateo	518.73
1	San Joae, CA PMSA	CA Santa Clara	543.23
2	Santa Rosa, CA PMSA	CA Sonoma	531.59
2	Sarasota-Bradenton, FL MSA	FL Sarasota	500.10
		FL Manatee	476.27
2	Savannah, GA MSA	GA Bryan	607.83
		GA Effingham	551.72
		GA Chatam	534.76
2	Scranton-Wilkes-Barre-Hazleton, PA MSA	PA Lackawanna	529.65
		PA Luzerne	511.96
		PA Wyoming	504.41
		PA Columbia	463.56
1	Seattle-Bellevue-Everett, WA PMSA	WA King	482.58
		WA Snohomish	465.44
		WA Island	429.61
2	Shreveport-Bossier City, LA MSA	LA Webster	498.03
		LA Bossier	489.39
		LA Caddo	485.94
2	Spokane, WA MSA	WA Spokane	467.75
2	Springfield, MA MSA	MA Hampdon	479.61
		MA Franklin	467.86
		MA Hampshire	462.21
2	Springfield, MO MSA	MO Greene	420.15
		MO Christian	414.31
		MO Webster	410.20
1	St. Louis, MO–IL MSA	MO St. Louis City	575.17
		MO Jefferson	527.45
		MO Warren	527.07
		MO Lincoln	524.23
		MO St. Charles	501.12
		MO St. Louis	500.86
		IL St. Clair	500.06
		IL Clinton	499.07
		IL Madison	482.50
		MO Franklin	440.86
		MO Crawford	436.38
		IL Jersey	435.63
		IL Monroe	425.58
2	Santa-Barbara-Santa Maria-Lompoc, CA MSA	CA Santa Barbara	455.77
2	Stockton-Lodi, CA MSA	CA San Joaquin	495.62
2	Syracuse, NY MSA	NY Cayuga	434.08
		NY Oswego	418.50
		NY Onondaga	417.97]
		NY Madison	410.00
2	Tacoma, WA PMSA	WA Pierce	456.83
2	Tampa-St. Petersburg-Clearwater, FL MSA	FL Pasco	572.46
		FL Hernando	542.69
		FL Pinellas	533.00
		FL Hillsborough	521.34
2	Toledo, OH MSA	OH Lucas	605.01
		OH Wood	498.46
		OH Fulton	476.56
2	Trenton, NJ PMSA	NJ Mercer	590.38
2	Tucson, AZ MSA	AZ Pima	499.04
2	Tulsa, OK MSA	OK Wagoner	518.50
		OK Rogers	484.50
		OK Creek	467.80
		OK Tulsa	467.54
		OK Osage	445.45
2	Utica-Rome, NY MSA	NY Oneida	405.03
		NY Herkimer	401.61
2	Vallejo-Fairfield-NAPA, CA PMSA	CA Napa	596.07
		CA Solano	552.60
2	Ventura, CA PMSA	CA Ventura	545.69
2	Visalia-Tulare-Porterville, CA MSA	CA Tulare	452.57
1	Washington, DC–MD–VA–WV PMSA	MD Prince Georges	639.21
		DC The District	619.89
		MD Charles	599.55
		MD Montgomery	535.62
		MD Calvert	517.03
		VA Alexandria City	501.57
		VA Arlington	501.02
		VA Falls Church City	497.85
		VA Manassas Park City	497.04
		VA Prince William	493.46
		VA Stafford	489.44
		VA Fredericksburg City	488.13
		VA Spotsylvania	484.82
		MD Frederick	477.87
		VA Fairfax City	473.73
		VA King George	471.99
		VA Loudoun	468.81
		VA Fauquier	462.06
		VA Fairfax	460.45
		VA Culpeper	450.19
		VA Manassas City	445.63
		VA Warren	442.67
		WV Berkeley	438.86
		WV Jefferson	426.32
		VA Clarke	409.66
2	West Palm Beach-Boca Raton, FL MSA	FL Palm Beach	600.62
2	Wichita, KS MSA	KS Sedgwick	480.50
		KS Butler	427.72
		KS Harvey	403.67
2	Wilmington-Newark, DE–MD PMSA	MD Cecil	548.76
		DE New Castle	547.20
2	Worcester, MA–CT PMSA	MA Worcester	559.24
2	York, PA MSA	PA York	421.90
2	Youngstown-Warren, OH MSA	OH Trumbull	565.28
		OH Mahoning	508.37
		OH Columbiana	478.90

[1] 1=greater than 1 million; 2=250,000 to 1 million.

Source: Table prepared by the Congressional Research Service using data from the Health Care Financing Administration.

Note: A Metropolitan Statististical Area is a city with 50,000 or more enhabitants, or a Census Bureau-defined urban area of at least 50,000 inhabitants, and a total metropolitan population of at least 100,000 (75,000 in New England). This study specifically examines MSAs that contain 250,000 or more enhabitants. If an MSA has a population of over 1 million and the population can be separated into component parts, then the primary component part is desginated the Primary Metropolitan Statistical Area (PMSA). For more information see, [http://www.census.gov/population/www/estimates/aboutmetro.html].

Mr. WYDEN. Mr. President, before he leaves the floor, I thank the chairman of the Budget Committee for the opportunity to be involved in this issue. I think the chairman has said it very well. In effect, what he has done is make the case for why the bill we are proposing is absolutely essential to modernize the Medicare program.

If there is one principle that Medicare is going to have to stand for in the 21st century, it is that we must change this system which now literally rewards waste and penalizes frugality.

Medicare has an HMO reimbursement system today which is, even by beltway standards, perverse. It sends the message if you are really inefficient, if you have not taken the steps that Colorado and Oregon and other States have taken, don't worry about it, don't go out and make the tough choices about introducing competition to your community. The Federal Government will just keep sending you big checks.

I think it is absolutely key, especially given the fact that close to a million seniors are going to lose their HMO coverage this year—close to a million seniors will lose their coverage this year—that we pass this bipartisan legislation. I think the chairman is right. I think by the end of the next couple of days, we will have many other colleagues from both political parties here. I see my friend, Senator SMITH of Oregon, has come into the Chamber. He and I have worked on this issue since he has come to the Senate as part of our bipartisan agenda for Oregon. I am going to talk for a few minutes to try to elaborate on some of the themes Chairman DOMENICI has so eloquently addressed.

As we have seen in Oregon and New Mexico and so many other States, the present HMO reimbursement system is literally driving HMO plans out of the program and leaving seniors across this country petrified about their future health care in their communities. What senior after senior asks at this point is how can it be that since they pay the same amount for hospitalization and outpatient services, if they live in Pendleton or they live in Portland, they pay the same amount for outpatient and hospitalization services as seniors in other parts of the country yet the Federal Government does not send an equal payment to folks in Pendleton and Portland? As Chairman DOMENICI has very specifically and eloquently described, they send dramatically different payments to communities across this country. So you can have communities, for example, on the east coast, that literally get twice the reimbursement of communities in Oregon and New Mexico.

We hear about it very bluntly from our constituents. You can have a senior in Pendleton or Coos Bay call up their cousin in one of the cities back East and ask their cousin about Medicare, how it is going.

The senior back East says: You know, it goes great. I get prescription drugs for only a few dollars a month. I also get dental coverage. I get free hearing aids. How is it going for you there in Coos Bay or Pendleton or Albuquerque, NM? How is Medicare going for you?

That senior in Albuquerque or Pendleton or Portland wants to throw the telephone through the living room window because they don't get that prescription drug coverage, hearing aids, or dental coverage because the reimbursement is as low as Chairman DOMENICI has described.

The Congress was supposed to have begun, several years ago, a bipartisan effort to change this. The system was called a blended rate. In effect, over the next few years, we would move to a national system, so instead of driving some of these high-cost areas down precipitously, we would move low-cost areas up over the next few years. Unfortunately, that system has been delayed. It has been delayed, in my view, in a fashion that has made for many plans saying they can no longer afford to stay in business; certainly no longer afford to offer some of those benefits such as prescription drugs, which are so important to seniors.

That is why Chairman DOMENICI and I and Senator GRASSLEY and Senator KERREY and I know many of our colleagues are going to join in a bipartisan effort, first, to establish a minimum payment floor for urban counties; second, to boost the rural counties where, again, these programs have barely been able to survive as a result of low reimbursement rates; and, third, to address the concerns with respect to wages that Senator GRASSLEY has so eloquently described. But I am of the view that if this Congress is to modernize the Medicare program, the essence of such a modernization effort is to create more options and more choices. That will not be possible if you perpetuate an HMO reimbursement system that day after day after day penalizes frugality and rewards waste.

For those who really want to get into the details of this subject, the system is known as the AAPCC, the average adjusted per capita cost. The way it has worked, the HMOs are reimbursed by the Federal Government through a system that historically has looked at average local costs of various procedures, such as a heart bypass in Pendleton or cataract operation in Portland—and then you calculate a formula for reimbursing these HMOs, using a percentage of the fee-for-service costs for health care in the area.

But at the end of the day, the message is, if you are wasteful, don't worry about it. If you are inefficient, the Federal Government is going to say maybe that is not ideal, but we will just send you a check to reflect the fact that you are not taking steps to hold down your costs and we are not going to give you any consequences as a result.

That makes no sense to Senator DOMENICI and me and our cosponsors. I know it makes no sense to the Presiding Officer because he and I have talked about this innumerable times. We tried to boost reimbursement rates for the people of Oregon. We have to change the Medicare program to eliminate the discrimination against communities that control costs while offering good quality care.

Our bipartisan legislation is not just a one-time infusion of money. We structured it so that money becomes part of a base for future increases, which in my view helps to jump-start what Congress intended several years ago by passing legislation to promote a nationwide blended rate.

We all understand that at present, as we look to the last days of the session, with the budget surplus, it is going to be possible to use a portion of that surplus, after we have helped pay down the debt, after hopefully there is a targeted tax cut; at that point, we will have some dollars to take the steps to better meet the health care needs of older people and also jump start the modernization of the Medicare program.

Our legislation, I hope, will be part of that effort. I think Chairman DOMENICI and Senator GRASSLEY, among our cosponsors, are very likely to be in the room at the end of the day when that legislation is being offered. I and others are going to do our best to support those efforts in the Budget Committee. I know the Presiding Officer and I have used every opportunity to raise these issues, and we are going to continue to do so.

Our State has been a pioneer in the health care reform area. We are proud of the fact that we are the first State in the country to have made tough choices about health care priorities through the Oregon health plan. We are proud of the fact that we have been able to introduce more choices and more competition to the health care system and, as a result, seniors in our State are able to get more for their health care dollar.

It is not right for older people in Oregon, New Mexico, Iowa, and in other States where they have done the heavy lifting and they have taken steps to hold down their costs, to be discriminated against by the Federal Government.

This bipartisan legislation, in my view, is going to help keep HMOs that are currently in the program in the program, and it will begin the process of bringing back to Medicare some of those we have lost because they have been discriminated against in the past with respect to reimbursement and they could not keep their doors open.

We will be talking about this legislation frequently in the last few days of this Congress and in the fall, and I believe passing this legislation, as we look at that final budget bill that is sure to be part of our fall debates, that this is one of the best ways we can target dollars that need to be spent carefully so as to maximize the values of what we are getting in health care for older people.

Mr. President, I yield the floor.

Mr. VOINOVICH. Mr. President, I could not help but hear the words of Senator WYDEN and Senator DOMENICI about the terrible situation we have across this country today in regard to HMOs dropping senior citizens off the Medicare Plus Choice Program.

While I was Governor of the State of Ohio, we had several instances where people were thrown off the rolls of their HMO and forced to be without any kind of supplemental insurance or prescription drug benefits. It is a growing epidemic today in the United States of America. I want to go on record in support of the legislation of Senator WYDEN and Senator DOMENICI. In fact, earlier today I asked Senator DOMENICI if I could be a cosponsor of this legislation.

It is important to point out that some of the on-budget surplus that we now have in the year 2000 and the projected $102 billion in 2001 is generated by the fact that projected Medicare costs are coming in far below what they anticipated because of the formula that was adopted in 1997. It seems to me we ought to look at the situation as it really is, increase the reimbursement to those HMOs so individuals can stay in those programs, and so they don't have to buy Medigap insurance to cover out-of-pocket expenses and prescription drugs.

It seems to me it should be our responsibility to make sure those who are now covered remain covered and not be thrown out on the street. I have read so often: Don't worry about those people, somebody else will pick them up, or they can go to fee for service. When they go to fee for service, they don't get their 20 percent out-of-pocket paid for, nor does Medicare pick up prescription drugs.

It is time for this Congress to step in and change the system, increase the reimbursement, keep those individuals who are on Medicare Plus Choice Programs so they can maintain coverage for out-of-pocket expenses and maintain the prescription drug coverage they have.

Mr. GRASSLEY. Mr. President, I rise to note the introduction of the Medicare Geographic Fair Payment Act of 2000. I'm very pleased to join Senators DOMENICI, WYDEN, and KERREY in this effort. While we share the problem of low payment rates, Iowa and Nebraska are in a different situation than New Mexico and Oregon. Those two states are concerned about Medicare + Choice plans leaving, but for the most part we in Iowa are still waiting for plans to arrive. There are a number of things that have to fall into place for Medicare + Choice to become a reality in Iowa, but one of them is increasing payment rates. I want to make sure that if Congress provides any relief in Medicare + Choice this year, that low-cost areas are not forgotten. We need to make Medicare + Choice a truly national program.

There are two simple Medicare + Choice payment provisions in the bill. It would raise the minimum payment floor for all counties from the current $415 to $475 in 2001. This would primarily benefit rural and small urban areas, including the vast majority of Iowa. Secondly, it would establish a new minimum payment floor of $525 for all counties in Metropolitan Statistical Areas (MSAs) with populations exceeding 250,000. In Iowa, this would mean a substantial incentive for plans to enter the Des Moines and Quad Cities areas.

As I've said so often throughout the five-plus years that I've been working on this issue, people in low-cost states like Iowa pay the same payroll taxes as those in high-cost areas. So it's a matter of simple fairness and equity that all seniors have access to the choices in Medicare, wherever they live. The problem with Medicare + Choice has been that payment rates are based on fee-for-service payment rates in the same county; thus, cost-effective regions like ours are punished. This makes no sense. We took our first step toward breaking that unfortunate link in 1997, and I have high hopes that we will take another big step with this bill in 2000.

We in low-cost regions have to keep the fight for equity going on two fronts: Medicare + Choice payment, and traditional Medicare payment. The latter is harder for Congress to change, because we have to identify inequities in the various Medicare payment policies and fix them one by one. I thank my colleagues for including in this bill my earlier bill on the hospital wage index, which is one of those flaws in fee-for-service Medicare that cries out to be fixed.

I look forward to the Finance Committee's Medicare discussions this fall; this is the kind of legislation that merits serious consideration there.

By Mr. GRASSLEY (for himself, Mr. ROCKEFELLER, Mr. JEFFORDS, and Mrs. LINCOLN):

S. 2939. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for energy efficient appliances; to the Committee on Finance.

THE RESOURCE EFFICIENT APPLIANCE INCENTIVE ACT

Mr. GRASSLEY. Mr. President I rise today to introduce an extremely timely piece of legislation in light of the current energy crisis facing our nation. This legislation, entitled ''The Resource Efficient Appliance Incentive Act,'' will provide a valuable incentive to accelerate and expand the production and market penetration of ultra energy-efficient appliances. Senator ROCKEFELLER is joining me in this bipartisan effort, along with Senators JEFFORDS and LINCOLN.

Earlier this year, the appliance industry, the Department of Energy, and the nation's leading energy-efficiency and environmental organizations came together and agreed upon significantly higher energy efficiency standards for clothes washers to accompany the new energy efficiency standards for refrigerators that go into effect in July 2001, as well as the new criteria for achieving the voluntary ''Energy Star'' designation. This agreement is significant considering the fact that clothes washers and dryers, together with refrigerators, account for approximately 15 percent of all household energy consumed in the United States.

This legislation will provide a tax credit to assist in the development of super energy-efficient washing machines and refrigerators, and creates the incentives necessary to increase the production and sale of these appliances in the short term. Manufacturers would be eligible to claim a credit of either $50 or $100, depending on efficiency level, for each super energy-efficient washing machine produced between 2001 and 2006. Likewise, manufacturers would be eligible to claim a credit of $50 or $100, depending on efficiency level, for each super energy-efficient refrigerator produced between 2001 and 2006. It is estimated that this tax credit will increase the production and purchase of super energy-efficient washers by almost 200 percent, and the purchase of super energy-efficient refrigerators by over 285 percent.

Equally important is the long-term environmental benefits of the expanded use of these appliances. Over the life of the appliances, over 200 trillion Btus of energy will be saved. This is the equivalent of taking 2.3 million cars off the road or closing 6 coal-fired power plants for a year. In addition, the clothes washers will reduce the amount of water necessary to wash clothes by 870 billion gallons, an amount equal to the needs of every household in the city the size of Phoenix, Arizona for two years. Most importantly, the benefits to consumers over the life of the washers and refrigerators from operational savings is estimated at nearly $1 billion.

In my home state of Iowa, this legislation would result in the production of

1.5 million supper energy-efficient washers and refrigerators over the next six years, requiring over 100 new production jobs. I also expect Iowans to save $11 million in operational costs over the life span of the appliances, and 9 billion gallons of water—enough to supply drinking water for the entire state for 30 years.

Lastly, I believe the total revenue loss of this credit compares extremely favorably to the estimated benefits of almost $1 billion to consumers over the life of the super energy-efficient clothes washers and refrigerators from operational savings.

Mr. ROCKEFELLER. Mr. President, I am pleased to join my colleagues, Senators GRASSLEY, JEFFORDS, and LINCOLN, in the introduction of legislation to establish a tax credit incentive program for the production of super energy-efficient appliances. This creative proposal will result in substantial environmental benefits for the nation at a very small cost to the government.

Our bill would provide for either a $50 or $100 tax credit for the production and sale of energy efficient washing machines and refrigerators. Today, these two appliances account for approximately 15 percent of the energy consumed in a typical home, which amounts to about $21 billion in energy expenditures annually. Although most Americans may not realize it, home appliances offer the potential for major energy savings across the nation.

Recently, several energy efficiency and environmental organizations joined with the appliance industry in endorsing considerably tougher energy-efficiency standards for washing machines. These proposed standards are now under active consideration by the Department of Energy for incorporation in new regulations. The new standards will result in tremendous energy-efficiency improvements that will have very positive environmental consequences over time. But there is a cost to these new minimum standards and, as we often find, reluctance on the part of industry and the public to incur the additional costs necessary to achieve higher energy efficiencies. Home appliances can be made more efficient but it would mean greater costs to consumers. I believe there is a necessary balance between the objective of obtaining higher energy efficiencies that reduce air emissions and the higher product costs that result. This is as true with respect to the purchase of appliances as it is with respect to the automobile, electric power, and other markets. I also recognize that there are understandable limits to the costs that society is willing to bear through regulation to obtain higher energy savings that result in environmental benefits.

However, that is not necessarily the limit at which point energy savings can be achieved. While many consumers may not be willing to pay extra for more energy-efficient appliances, I believe they can be encouraged to do so through incentive programs. The legislation we are proposing today would do just that by giving manufacturers either a $50 or $100 tax credit for every super energy-efficient appliance produced prior to 2007. The idea is to give manufacturers the means by which to create the most appropriate incentives to get consumers to purchase washing machines and refrigerators that are the most energy-efficient. Through these tax credits we will accelerate the production and market penetration of leading-edge appliance technologies that create significant environmental benefits.

The expanded use of super energy-efficient appliances will have significant long-term environmental benefits. It is estimated that as a result of this legislation over 200 trillion Btus of energy will be saved over the life of the appliances manufactured with these credits. This is the equivalent of taking 2.3 million cars off the road or closing down six coal-fired power plants for a year. Energy savings of this magnitude pay significant environmental dividends. For example, it is projected that with these energy savings carbon emissions, the critical element in greenhouse gas emissions, will be reduced by over 3.1 million metric tons. In addition, the super energy-efficient washing machines will reduce the amount of water necessary to wash clothes by 870 billion gallons, or approximately the amount of water necessary to meet the needs of every household in a state the size of West Virginia for nearly 2 years.

Vice President GORE recently recommended a similar program of tax incentives for the purchase of home appliances as part of his energy savings initiatives—and I congratulate him for his leadership in this regard. I am very glad the Vice President is considering ways to balance how we produce energy savings and believe it is important that we discuss this balance of interests as part of our national dialogue to improve our energy efficiency. I am also extremely pleased this legislation is strongly supported by leading environmental organizations including the Natural Resources Defense Council, the Alliance to Save Energy, and the American Council for an Energy Efficient Economy.

The use of energy-efficient appliances is an important milestone on the road to a cleaner, lower-cost energy future. This common-sense initiative follows on the heels of other important bipartisan legislation that I am proud to have sponsored or cosponsored during this Congress to improve our nation's energy independence and the environment. During the first session of the 106th Congress, I was joined by Senators HATCH, CRAPO, and BRYAN in introducing the Alternative Fuel Promotion Act in an effort to reduce greenhouse gas emissions and lower our consumption of imported oil. Earlier this year I joined Senators JEFFORDS and HATCH on the Alternative Fuels Tax Incentives Act, which would accomplish many of the same goals.

I am especially proud to have joined with Senator BINGAMAN and six of my Democratic colleagues on the Energy Security Tax and Policy Act, a comprehensive energy policy bill that looks to improve our nation's energy independence while protecting the environment. Finally, it was my pleasure last week to join with Environment and Public Works Chairman BOB SMITH and the Ranking Democratic Member Senator BAUCUS on the Energy Efficient Building Incentives Act, which promotes the construction of buildings 30–50 percent more efficient than today's standard. As building energy use accounts for 35 percent of the air pollution emissions nationwide and $250 billion per year in energy bills, this legislation could produce a dramatic benefit for our environment, and this country's long-term energy needs.

By Mr. HATCH:

S. 2940. A bill to authorize additional assistance for international malaria control, and to provide for coordination and consultation in providing assistance under the Foreign Assistance Act of 1961 with respect to malaria, HIV, and tuberculosis; read the first time.

GLOBAL AIDS AND TUBERCULOSIS RELIEF ACT OF 2000

Mr. HATCH. Mr. President, earlier today, we approved the Helms substitute to H.R. 3519, ''Global AIDS and Tuberculosis Relief Act of 2000.'' I was pleased to support this legislation, recognizing the need for our country to support an enhanced effort to prevent and treat AIDS and tuberculosis abroad.

I was pleased to work with Chairman HELMS, Senator BIDEN, Senator FRIST, Senator SMITH of Oregon, and other members of the Senate Foreign Relations Committee as this legislation was finalized, and, indeed, I want to work closely with them on our continuing efforts to address the problems of infectious diseases in the developing world.

For the reasons I will lay out today, I believe the aid we make possible in H.R. 3519 should be expanded to embrace not only HIV/AIDS and TB, but also malaria as well. In fact, I think it essential to make sure our foreign assistance program in Africa and the developing world coordinates its activities closely among these three diseases.

With the support of Chairman HELMS, Senator BIDEN, and Senator FRIST in the Senate, and Chairman LEACH in the House of Representatives, I have drafted companion legislation to H.R. 3519 which make certain that U.S. efforts for all three diseases are well-coordinated.

Accordingly, I rise today to introduce S. 2940 the ''International Malaria Control Act of 2000''.

The World Health Organization estimates that there are 300 million to 500 million cases of malaria each year. According to the World Health Organization, more than 1 million persons are estimated to die due to malaria each year.

The problems related to malaria are often linked to the devastation of two other terrible diseases—Acquired Immunodeficiency Disease, that is AIDS, and tuberculosis. One of the unfortunate commonalities of these diseases is that they all ravage sub-Saharan Africa and other parts of the underdeveloped world.

In addition to the one million malaria related deaths per year, about 2.5 million persons die from AIDS and another 1.5 million people per year die from tuberculosis.

The measure I introduce today centers on malaria control and calls for close cooperation among federal agencies that are charged with fighting malaria, AIDS, and TB worldwide.

According to the National Institutes of Health, about 40 percent of the world's population is at risk of becoming infected. About half of those who die each year from malaria are children under nine years of age. Malaria kills one child each 30 seconds.

Although malaria is a public health problem in more than 90 countries, more than 90 percent of all malaria cases are in sub-Saharan Africa. In addition to Africa, large areas of Central and South America, Haiti and the Dominican Republic, the Indian subcontinent, Southeast Asia, and the Middle East are high risk malaria areas.

These high risk areas represent many of the world's poorest nations which complicates the battle against malaria as well as AIDS and TB.

Malaria is particularly dangerous during pregnancy. The disease causes severe anemia and is a major factor contributing to maternal deaths in malaria endemic regions. Research has found that pregnant mothers who are HIV-positive and have malaria are more likely to pass on HIV to their children.

''Airport malaria,'' the importing of malaria by international aircraft and other conveyances is becoming more common as is the importation of the disease by international travelers themselves; the United Kingdom reported 2,364 cases of malaria in 1997, all of them imported by travelers.

In the United States, of the 1,400 cases of malaria reported to the Centers for Disease Control and Prevention in 1998, the vast majority were imported. Between 1970 and 1997, the malaria infection rate in the United States increased by about 40 percent.

In Africa, the projected economic impact of malaria in 2000 exceeds $3.6 billion. Malaria accounts for 20 to 40 percent of outpatient physician visits and 10 to 15 percent of hospital visits in Africa.

Malaria is caused by a single-cell parasite that is spread to humans by mosquitoes. No vaccine is available and treatment is hampered by development of drug-resistant parasites and insecticide-resistant mosquitoes.

Our nation must play a leadership role in the development of a vaccine for malaria as well as vaccines for TB and for the causal agent of AIDS, the human immunodeficiency virus—HIV. In this regard I must commend the President for his leadership in directing, back on March 2nd, that a renewed effort be made to form new partnerships to develop and deliver vaccines to developing countries. I must also commend the Bill and Melinda Gates foundation for pledging a substantial $750 million in financial support for this new vaccine initiative.

The private sector appears to be prepared to help meet this challenge as the four largest vaccine manufacturers, Merck, American Home Products, Glaxo SmithKline Beecham, and Aventis Pharma, have all stepped to the plate in the quest for vaccines for HIV/AIDS, TB and malaria. We must all recognize that the private sector pharmaceutical industry, in close partnership with academic and government scientists, will play a key role in the development of any vaccines for these diseases.

Among the promising developments in recent months has been Secretary Shalala directing the National Institutes of Health to convene a meeting of experts from government, academia, and the private sector to address impediments to vaccine development in the private sector. Another goal of this first in a series of conferences on Vaccines for HIV/AIDS, Malaria, and Tuberculosis, held on May 22nd and 23rd, was to foster public-private partnerships.

These ongoing NIH Conferences on Vaccines for HIV/AIDS, Malaria, and Tuberculosis will address three basic questions: what are the scientific barriers to developing vaccines for malaria, TB and HIV/AIDS? What administrative, logistical and legal barriers stand in the way of malaria, TB and HIV/AIDS vaccines? And, finally, if vaccines are developed how can they best be produced and distributed around the world?

Each of these questions will be difficult to answer. Developing vaccines for malaria, TB, and HIV/AIDS will be a difficult task. While each vaccine will be different, there are commonalities such as the fact that the legal impediments and distributional issues may be very similar. Also, there is an unfortunate geographical overlap with respects to the epidemics of malaria, TB, and HIV/AIDS. Ground zero is sub-Saharan Africa.

So while the ultimate goal is to end up with three vaccines, we must be mindful that there is a close societal and scientific linkage between the tasks of developing and delivering vaccines and therapeutic treatments for those at risk of malaria, TB and HIV/AIDS worldwide.

While the greatest immediate need is clearly in Africa and in other parts of the developing world, citizens of the United States and my constituents in Utah stand to benefit from progress in the area of vaccine development.

ADDITIONAL COSPONSORS

S. 309

At the request of Mr. MCCAIN, the name of the Senator from Rhode Island (Mr. L. CHAFEE) was added as a cosponsor of S. 309, a bill to amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

S. 1227

At the request of Mr. L. CHAFEE, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1227, a bill to amend title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide States with the option to allow legal immigrant pregnant women and children to be eligible for medical assistance under the medical program, and for other purposes.

S. 1318

At the request of Mr. JEFFORDS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1318, a bill to authorize the Secretary of Housing and Urban Development to award grants to States to supplement State and local assistance for the preservation and promotion of affordable housing opportunities for low-income families.

S. 1322

At the request of Mr. DASCHLE, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1322, a bill to prohibit health insurance and employment discrimination against individuals and their family members on the basis of predictive genetic information of genetic services.

S. 1394

At the request of Mr. TORRICELLI, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1394, a bill to require the Secretary of the Treasury to mint coins in commemoration of the U.S.S. New Jersey, and for other purposes.

S. 1586

At the request of Mr. CAMPBELL, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1586, a bill to reduce the fractionated ownership of Indian Lands, and for other purposes.

S. 1732

At the request of Mr. BREAUX, the name of the Senator from Florida (Mr. MACK) was added as a cosponsor of S. 1732, a bill to amend the Internal Revenue Code of 1986 to prohibit certain allocations of S corporation stock held by an employee stock ownership plan.

S. 1990

At the request of Mr. LAUTENBERG, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1900, a bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued by Amtrak, and for other purposes.

S. 1911

At the request of Mr. BREAUX, the name of the Senator from Florida (Mr. MACK was added as a cosponsor of S. 1911, a bill to conserve Atlantic highly migratory species of fish, and for other purposes.

S. 2274

At the request of Mr. GRASSLEY, the names of the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. REID), the Senator from Georgia (Mr. CLELAND), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Washington (Mr. GORTON) were added as cosponsors 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. 2408

At the request of Mr. BINGAMAN, the names of the Senator from Maryland (Mr. SARBANES), the Senator from Alabama (Mr. SESSIONS), the Senator from Arizona (Mr. MCCAIN), and the Senator from Oregon (Mr. SMITH) 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. 2516

At the request of Mr. THURMOND, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2516, a bill to fund task forces to locate and apprehend fugitives in Federal, State, and local felony criminal cases and give administrative subpoena authority to the United States Marshals Service.

S. 2554

At the request of Mr. GREGG, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 2554, a bill to amend title XI of the Social Security Act to prohibit the display of an individual's social security number for commercial purposes without the consent of the individual.

S. 2700

At the request of Mr. L. CHAFEE, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from New Jersey (Mr. TORRICELLI), the Senator from North Dakota (Mr. DORGAN), the Senator from Kentucky (Mr. BUNNING), the Senator from New Hampshire (Mr. GREGG), the Senator from Tennessee (Mr. FRIST), and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 2700, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to promote the cleanup and reuse of brownfields, to provide financial assistance for brownfields revitalization, to enhance State response programs, and for other purposes.

S. 2703

At the request of Mr. AKAKA, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KERRY), and the Senator from Minnesota (Mr. GRAMS) were added as cosponsors of S. 2703, a bill to amend the provisions of title 39, United States Code, relating to the manner in which pay policies and schedules and fringe benefit programs for postmasters are established.

S. 2718

At the request of Mr. SMITH, of New Hampshire, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2718, a bill to amend the Internal Revenue Code of 1986 to provide incentives to introduce new technologies to reduce energy consumption in buildings.

S. 2733

At the request of Mr. SANTORUM, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2733, a bill to provide for the preservation of assisted housing for low income elderly persons, disabled persons, and other families.

S. 2793

At the request of Mr. HOLLINGS, the names of the Senator from North Carolina (Mr. HELMS) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 2793, a bill to amend the communications Act of 1934 to strengthen the limitation on holding and transfer of broadcast licenses to foreign persons, and to apply a similar limitation to holding and transfer of other telecommunications media by or to foreign governments.

S. 2807

At the request of Mr. FRIST, the name of the Senator from Virginia (Mr. WARNER) was added as cosponsor of S. 2807, a bill to amend the Social Security Act to establish a Medicare Prescription Drug and Supplemental Benefit Program and to stabilize and improve the Medicare+Choice program, and for other purposes.

S. 2829

At the request of Mr. HUTCHINSON, the name of the Senator from Vermont (Mr. JEFFORDS) was added as cosponsor of S. 2829, a bill to provide of an investigation and audit at the Department of Education.

S. 2869

At the request of Mr. HATCH, the name of the Senator from Idaho (Mr. CRAPO) was added as cosponsor of S. 2869, a bill to protect religious liberty, and for other purposes.

S. 2872

At the request of Mr. CAMPBELL, the name of the Senator from New Mexico (Mr. DOMENICI) was added as cosponsor of S. 2872, a bill to improve the cause of action for misrepresentation of Indian arts and crafts.

S. 2891

At the request of Mr. REID, the name of the Senator from Colorado (Mr. CAMPBELL) was added as cosponsor of S. 2891, a bill to establish a national policy of basic consumer fair treatment for airline passengers.

S. 2912

At the request of Mr. KENNEDY, the names of the Senator from Vermont (Mr. LEAHY), the Senator from Minnesota (Mr. WELLSTONE), and the Senator from South Dakota (Mr. DASCHLE) were added as cosponsors of S. 2912, a bill to amend the Immigration and Nationality Act to remove certain limitations on the eligibility of aliens residing in the United States to obtain lawful permanent residency status.

S. CON. RES. 123

At the request of Mr. LAUTENBERG, the name of the Senator from California (Mrs. FEINSTEIN) was added as cosponsor of S. Con. Res. 123, a concurrent resolution expressing the sense of the Congress regarding manipulation of the mass and intimidation of the independent press in the Russian Federation, expressing support for freedom of speech and the independent media in the Russian Federation, and calling on the President of the United States to express his strong concern for freedom of speech and the independent media in the Russian Federation.

S.J. RES. 48

At the request of Mr. CAMPBELL, the name of the Senator from Georgia (Mr. CLELAND) was added as cosponsor of S.J. Res. 48, a joint resolution calling upon the President to issue a proclamation recognizing the 25th anniversary of the Helsinki Final Act.

S. RES. 294

At the request of Mr. ABRAHAM, the name of the Senator from West Virginia (Mr. BYRD) was added as cosponsor of S. Res. 294, a resolution designating the month of October 2000 as ''Children's Internet Safety Month.''

S. RES. 301

At the request of Mr. THURMOND, the names of the Senator from New Mexico (Mr. DOMENICI) and the Senator from Tennessee (Mr. THOMPSON) were added as cosponsors of S. Res. 301, a resolution designating August 16, 2000, as ''National Airborne Day.''

S. RES. 304

At the request of Mr. BIDEN, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Maryland (Ms. MIKULSKI), the Senator from Virginia (Mr. ROBB), and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. Res. 304, a resolution expressing the sense of the Senate regarding the development of educational programs on veterans' contributions to the country and the designation of the week that includes Veterans Day as ''National Veterans Awareness Week'' for the presentation of such educational programs.

SENATE RESOLUTION 343—EXPRESSING THE SENSE OF THE SENATE THAT THE INTERNATIONAL RED CROSS AND RED CRESCENT MOVEMENT SHOULD RECOGNIZE AND ADMIT TO FULL MEMBERSHIP ISRAEL'S MAGEN DAVID ADOM SOCIETY WITH ITS EMBLEM, THE RED SHIELD OF DAVID; TO THE COMMITTEE ON FOREIGN RELATIONS

Mr. FITZGERALD (for himself, Mr. LIEBERMAN, Mr. HAGEL, Mr. HELMS, and Mr. LUGAR) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 343

Whereas Israel's Magen David Adom Society has since 1930 provided emergency relief to people in many countries in times of need, pain, and suffering, regardless of nationality or religious affiliation;

Whereas in the past year alone, the Magen David Adom Society has provided invaluable humanitarian services in Kosovo, Indonesia, Ethiopia, and Eritrea, as well as Greece and Turkey in the wake of the earthquakes that devastated these countries;

Whereas the American Red Cross has recognized the superb and invaluable work done by the Magen David Adom Society and considers the exclusion of the Magen David Adom Society from the International Red Cross and Red Crescent Movement ''an injustice of the highest order'';

Whereas the American Red Cross has repeatedly urged that the International Red Cross and Red Crescent Movement recognize the Magen David Adom Society as a full member, with its emblem;

Whereas the Magen David Adom Society utilizes the Red Shield of David as its emblem, in similar fashion to the utilization of the Red Cross and Red Crescent by other national societies;

Whereas the Red Cross and the Red Crescent have been recognized as protective emblems under the Statutes of the International Red Cross and Red Crescent Movement;

Whereas the International Committee of the Red Cross has ignored previous requests from the United States Congress to recognize the Magen David Adom Society;

Whereas the Statutes of the International Red Cross and Red Crescent Movement state that it ''makes no discrimination as to nationality, race, religious beliefs, class or political opinions,'' and it ''may not take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature'';

Whereas although similar national organizations of Iraq, North Korea, and Afghanistan are recognized as full members of the International Red Cross and Red Crescent Movement, the Magen David Adom Society has been denied membership since 1949;

Whereas in the six fiscal years 1994 through 1999, the United States Government provided a total of $631,000,000 to the International Committee of the Red Cross and $82,000,000 to the International Federation of Red Cross and Red Crescent Societies; and

Whereas in fiscal year 1999 alone, the United States Government provided $119,500,000 to the International Committee of the Red Cross and $7,300,000 to the International Federation of Red Cross and Red Crescent Societies: Now, therefore, be it

Resolved, That—

(1) the International Committee on the Red Cross should immediately recognize the Magen David Adom Society and the Magen David Adom Society should be granted full membership in the International Red Cross and Red Crescent Movement;

(2) the International Federation of Red Cross and Red Crescent Societies should grant full membership to the Magen David Adom Society immediately following recognition by the International Committee of the Red Cross of the Magen David Adom Society;

(3) the Magen David Adom Society should not be required to give up or diminish its use of its emblem as a condition for immediate and full membership in the International Red Cross and Red Crescent Movement; and

(4) the Red Shield of David should be accorded the same recognition under international law as the Red Cross and the Red Crescent.

Mr. FITZGERALD. Mr. President, today I am introducing a resolution expressing the sense of the Senate that the International Red Cross and Red Crescent Movement should recognize and admit to full membership Israel's Magen David Adom Society with its emblem, the Red Shield of David. I thank Senators LIEBERMAN, HAGEL, HELMS, and LUGAR for joining me as original cosponsors of this important resolution.

The International Red Cross and Red Crescent Movement is the largest humanitarian network in the world. The Movement has many components, including the International Committee of the Red Cross (the ICRC—the Swiss-based founding institution of the Movement that serves as a neutral intermediary in armed conflict areas) and the International Federation of Red Cross and Red Crescent Societies (the Federation, which groups together the Movement's 176 recognized national societies and coordinates international disaster relief and refugee assistance in non-conflict areas).

The Red Shield of David has been in use and recognized de facto since 1930 as the distinctive emblem of the medical and first aid services of the Jewish population in Palestine and, after 1948, the state of Israel. Israel signed the Geneva Conventions in 1949. The new state of Israel therefore attempted to have the Red Shield of David recognized in the Geneva Conventions as an alternative to the red cross, the red crescent, and the red lion and sun. In a secret ballot, however, Israel's request was rejected, 22 to 21. The end result was that Israel's equivalent of the Red Cross, Magen David Adom (MDA), was relegated to non-voting observer status and thereby effectively excluded from the Movement.

In rejecting the Red Shield of David, and excluding Israel's national society from the Movement, the 1949 diplomatic convention established the principle that only those already using an exceptional sign—that is, a non-Red Cross emblem—had the right to continue using it. All new national societies would have to adopt the Red Cross. However, the admission of 25 new Red Crescent societies since 1949 demonstrates the inconsistency with which this principle has been applied.

Despite MDA's exclusion from the Movement, it has continuously played an active role in disaster assistance worldwide, recently helping to rescue trapped civilians following the 1999 earthquakes in Turkey and Greece. Israeli medical teams were also among the first to assist victims of severe flooding in Mozambique this year. ICRC officials have praised MDA for its ''life-saving work'' and report they have maintained ''excellent working relations'' with the MDA for decades.

The existing Protocols of the Geneva Conventions provide for two different uses of the Movement emblem: ''protective,'' whcih is used for protective purposes in armed conflicts and requires the use of a single unique emblem, and ''indicative,'' which is used for identification purposes in non-conflict circumstances, and therefore allows for the existence of several emblems. Currently, negotiations are underway to add a possible third Protocol to the Geneva Conventions to create a new neutral emblem and allow for MDA recognition with its emblem. However, before these negotiations can translate into formal recognition, significant procedural hudles must be overcome, including super-majority votes of three bodies and ratification by member nations that could take years. Meanwhile, the American Red Cross has been pursuing other approaches that would allow for the recognition of MDA and its emblem without the introduction of a third Protocol.

The resolution I am introducing today would help facilitate the negotiating process by putting the Senate on record in support of MDA recognition at a critical time in these negotiations. The House of Representatives passed a similar resolution on May 3, 2000. The Senate, however, last announced its support of recognition of MDA and its emblem over 12 years ago.

Over the last six years, the United States Government has provided the ICRC and the Federation with $713 million. Once again, the United States Senate should urge the International Red Cross and Red Crescent Movement to recognize the Red Shield of David emblem and admit MDA for full membership in the Movement.

I urge my colleagues to support this resolution to encourage the International Red Cross and Red Crescent Movement to recognize Israel's Magen David Adom society and its emblem, the Red Shield of David.

SENATE RESOLUTION 344—EXPRESSING THE SENSE OF THE SENATE THAT THE PROPOSED MERGER OF UNITED AIRLINES AND U.S. AIRWAYS IS INCONSISTENT WITH THE PUBLIC INTEREST AND PUBLIC CONVENIENCE AND NECESSITY POLICY SET FORTH IN SECTION 40101 OF TITLE 49, UNITED STATES CODE

Mr. MCCAIN (for himself and Mr. GORTON) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 344

Whereas, in 1999 the 6 largest hub-and-spoke airlines in the United States accounted for nearly 80 percent of the revenue passenger miles flown by domestic airlines,

Whereas, according to Department of Transportation statistics, a combined United Airlines and US Airways would result in at least 20 airline hub airports in the United States where a single airline and its affiliate air carriers would carry more than 50 percent of the passenger traffic;

Whereas, the Department of Transportation and the General Accounting Office have documented that air fares are relatively higher at those airline hub airports where a single airline carries more than 50 percent of the passenger traffic;

Whereas, a combined United Airlines and US Airways would hold approximately 40 percent of the air carrier takeoff and landing slots at the 4 high density airports, even taking into account the parties' planned divestiture of slots at Ronald Reagan Washington National Airport;

Whereas, most analysts agree that a United Airlines-US Airways merger would lead to other merger in the airline industry, likely resulting in combinations that would reduce the 6 largest domestic hub-and-spoke airlines to 3 airlines;

Whereas, media reports indicate that American Airlines has made a tangible offer to purchase Northwest Airlines and that Delta Air Lines and Continental Airlines have engaged in merger negotiations;

Whereas, it would be difficult for the Department of Transportation and other responsible Federal agencies of jurisdiction to disapprove subsequent airline merger proposals if the government allows the largest domestic airline, in terms of total operating revenue and revenue passenger miles flown in 1999, United Airlines, to merge with the sixth largest airline, US Airways, making United Airlines substantially bigger than its next largest competitor;

Whereas, 3 larger domestic airlines will have substantially increased market power, and would have the ability to use that market power to drive low fare competitors out of direct competition and to thwart new airline entry into the marketplace;

Whereas, the Department of Transportation credits nearly all of the benefits of deregulation (a reported $6.3 billion in annual savings to airline passengers) to the entry and existence of low fare airline competitors in the marketplace;

Whereas, a combined United Airlines and US Airways, including their commuter airline partners, would be the only carrier offering nonstop flights between at least 26 domestic airports in 12 States;

Whereas, in 1999 United Airlines and US Airways enplaned 22 percent of all revenue passengers flown by domestic airlines;

Whereas, the transition from 6 major airlines to 3 would likely result in less competition and higher fares, giving consumers fewer choices and decreased customers service;

Whereas, it is the role of the Senate Committee on Commerce, Science, and Transportation and, more specifically the Subcommittee on Aviation, to conduct oversight of the aviation industry and to promote consumers' receiving a basic level of airline customer service;

Whereas, the Air Transport Association member air carriers agreed to an Airline Customer Service Commitment to improve the current level of customer service in the airline industry;

Whereas, in an interim oversight report, the Department of Transportation Inspector General recently concluded that the results are mixed with respect to the effectiveness of the efforts of the major airlines to implement their Airline Customer Service Commitment;

Whereas, the combination of 2 entities as large as United Airlines and US Airways could cause at least short-term disruptions in service;

Whereas, according to the Department of Transportation statistics for the month of May 2000, for the 10 major airlines, a combined United Airlines and US Airways would have had the lowest percentage of ontime flight arrivals, the highest percentage of flight operations canceled, the second highest rate of consumer complaints, and the second highest rate of mishandled baggage: Now, therefore, be it

Resolved, That—

(1) the Senate expresses concern about the proposed United Airlines-US Airways merger because of its potential to leave consumers with fewer travel options, higher fares, and lowered levels of service; and

(2) it is the sense of the Senate that the potential consumer detriments from the proposed United Airlines-US Airways merger outweigh the potential consumer benefits.

Mr. MCCAIN. Mr. President, I am pleased to be joined by the Commerce Committee Aviation Subcommittee Chairman, Senator GORTON, to introduce a Senate resolution expressing our strong reservations about the proposed merger of United Airlines and US Airways.

Through Commerce Committee deliberations, Senator GORTON and I have carefully analyzed the proposed merger, as well as its long-term consumer effects. We conclude that whatever air travelers stand to gain from the merger is outweighed by what they stand to lose.

The public interest would likely be harmed by a United Airlines-US Airways merger. First, almost all analysts agree that the merger would trigger additional consolidation in the airline industry. The six largest hub-and-spoke carriers in the country would likely become the ''big three.'' Everything else being equal, basic economic principles suggest that consumers are better served by having six competitors in a market rather than three.

Even at this preliminary date, our experience bears out the prediction of additional industry consolidation. American Airlines has already made an offer for Northwest Airlines. Delta Air Lines and Continental have reportedly engaged in merger negotiations.

Consolidation among these network carriers poses additional problems for the flying public. The likely result of fewer carriers is more single-carrier concentration at hub airports across the country. Studies by the Department of Transportation, the General Accounting Office, and others consistently conclude that air fares are relatively higher at hub airports ''dominated'' by a single carrier.

Important new entry in the airline industry would be hurt by consolidation among the major airlines. The mega-carriers would have additional resources to engage in fierce and prolonged behavior designed to drive new competitors out of the market, and to single potential entrants that they dare not compete with the incumbent.

Today, many new entrants simply choose not to enter the major airlines' hub markets because they fear they cannot survive a sustained head-to-head battle. A United-US Airways merger, and the consolidation that would ensue, would further entrench the incumbent air carriers' positions.

I admit that there are benefits associated with the proposed United-US Airways merger. The carriers, for instance, tout ''seamless'' connections to international destinations, an expanded frequent flyer program, and similar benefits that should appeal to travelers on the United-US Airways system.

United and US Airways also applaud new service to a multitude of destinations as a consequence of the merger. It is important to note, however, that what is new to United is not exactly new to the flying public, since United's ''new'' service is made up of flights that are now offered by US Airways.

Again, the point is that the anti-competitive harm posed by the proposed United-US Airways merger outweighs its benefits. And that conclusion does not even take into account the customer service problems associated with integrating the work forces of two or more major airlines.

I want to underscore that this resolution is designed to express our concerns about the proposed United-US Airways merger. It does not seek to force any federal agency or department to take any specific action with respect to the proposed merger. However, our concerns for the consumer are of such a significant nature that we are compelled to introduce this resolution.

I ask unanimous consent to have printed in the RECORD a letter from the father of airline deregulation, Prof. Alfred Kahn. His letter outlines his preliminary concerns with the proposed United-U.S. Airways merger.

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

ALFRED E. KAHN,
Ithaca, New York, June 9, 2000.

Hon. JOHN MCCAIN,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: I'm very sorry that I can't accept your invitation to testify before your Committee on June 20th, and hope that you will regard the arrival that day of

my son and his family from Australia, for a brief visit, as a sufficient reason. I particularly regret my inability to take advantage of that opportunity to renew our acquaintance.

Your Ann Choiniere has asked me to offer, as a substitute, a statement of my—as yet only provisional—opinions about the proposed merger of United Airlines and US Airways. I am happy to do so, even though, to repeat, I have by no means a settled final opinion about whether or not it should be approved.

I do urge you to give careful consideration to its possible anticompetitive effects, however. The central premise of deregulation was that competition would best serve and protect consumers; that meant vigorous enforcement of the antitrust laws rather than direct regulation would become critical in the new regime.

Primary responsibility for making this investigation rests, of course, with the antitrust agencies. It is my understanding, however, that the Antitrust Division's resources are severely strained by their other obligations, including other proceedings specifically involving the airlines; if they lack the resources to look at this latest proposed merger with great care, it seems to me that would be a case of the government being penny-wise and pound-foolish. Partly because of the possible direct effects of this merger and, perhaps even more, because of its threatening to set off a series of imitative mergers that would substantially increase the concentration of the domestic industry, there is a possible jeopardy here to the many billions of dollars that consumers have been saving each year because off the competition set off by deregulation.

It seems to me there are several levels at which to assess these possible anticompetitive effects.

1. The first goes to the question of whether there are any substantial number of particular routes on which United and US Airways are already direct competitors. In the case of the proposed merger of Continental/Northwest, the Antitrust Division identified several very important routes between their respective hubs (for example, Houston/Minneapolis-St. Paul, Houston/Detroit, Cleveland/Minneapolis-St. Paul, Cleveland/Memphis, Newark/Twin Cities) on which it appeared those airlines were the two main if not only competitors, and their merger would simply eliminate that competition. I do not know to what extent there are similar overlaps between US Airways and United.

2. In deregulating the airlines we relied very heavily on the threat of potential as well as actual competition to prevent exploitation of consumers: an important part of the rationale of deregulation was the contestability of airline markets. It seems to me highly likely that there are many routes in which United or US Airways is a potential competitor of the other. And it is my recollection that while studies of the behavior of airline fares after deregulation (notably one by Winston and Morrison and another by Gloria Hurdle, Andrew Joskow and others) demonstrated that one actual competitor in a market is worth two or three potential contesters in the bush, they nevertheless also found that the presence of a potential contester—identified as a carrier already present at one or the other end of a route—did constrain the fares incumbents could charge.

3. The likelihood that a United/US Airways merger would indeed result in suppression of this potential competition would seem to be enhanced by what I take it would be United's explanation and justification—namely, its need for a strong hub in the Northeast (commented on widely in the literature, along with attributions of a similar need to American Airlines). But if United really does feel the need for a big hub in the Northeast, this suggests that it is indeed an important potential competitor of US Airways, and that, denied the ability to acquire the hub in the easiest, noncompetitive fashion, by acquisition, it might instead feel impelled to construct a hub of its own in direct competition with US Airways; if some place within a couple of hundred miles of Pittsburgh is the needed location—observe the hubs of Continental at Cleveland and Delta at Cincinnati—then why not, say, Buffalo for United? And while I have the impression that the suppression of potential competition has not played a major role in most merger litigation, it might properly be definitive in this case, if only because, either explicitly or implicitly, United is in effect conceding the potentiality of that competition in its rationalizations of the merger itself. The stronger its argument that it does indeed require a big hub in the Northeast, the more that signifies that the alternative, if it were denied the opportunity to acquire US Airways, would be to construct a major competitive hub of its own.

4. In addition, if indeed United's acquisition of a competitive advantage by this acquisition—giving it the first claim on traffic feed from US Airways' extensive network—does increase the pressure on other carriers, particularly American to merge similarly, then it seems to me that is a possible competitive consequence of this particular merger that should additionally be taken into account in deciding whether it should be permitted.

I do hope you will undertake this important inquiry: we may be confronting a very radical consolidation of the industry, which cannot be a matter of indifference to people like you and me, who have regarded deregulation as a striking success thus far.

With warm personal regards,

Sincerely,

ALFRED E. KAHN,
Robert Julius Thorne Professor of Political Economy, Emeritus, Cornell University; Chairman, Civil Aeronautics Board 1977–78.

Mr. MCCAIN. Mr. President, I want to highlight one point Professor Kahn makes. He asserts that United's main justification for the merger is the need for a hub in the northeast. He goes on to question, however, why United doesn't create a hub in the northeast, rather than follow the path of ''least competitive resistance'' by trying to acquire on its competitors' hubs. Mr. President, I ask the same question, and urge my colleagues to join Senator GORTON and me in supporting this Senate resolution expressing our strong concerns about a United-US Airways merger.

Mr. President, I thank my friend and colleague, the distinguished chairman of the Aviation Subcommittee of the Commerce Committee who joined me in this resolution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, it is my purpose to join with the Senator from Arizona today in introducing this sense-of-the-Senate resolution. Each of us has thought long and hard about this proposed measure, as it goes to the heart of our air transport system in the United States. I believe I speak for the Senator from Arizona as well as for myself in saying this merger seems quite obviously to be beneficial both to United Airlines and to U.S. Airways. Public policy, however, does not concern itself primarily with the benefits to the companies involved in the competitive field. Public policy should concern itself with consumer interests and with the interests of the millions of Americans who use these airlines to fly from one place to another across the United States and for that matter overseas.

A merger of these two airlines would create by far the largest single airline in the United States. Inevitably, it seems to me that would lead to two more mergers, at the very least involving the other four of the largest six airlines in the United States. In fact, it would be almost impossible to mount a logical and rational defense against such mergers as those airlines would complain with real justification that they were no longer competitive with the giant created by a United-U.S. Airways merger.

From our perspective, we need to consider what the ultimate outcome of this merger would be and the impact it would have on airline passengers all across the United States. There would be a significant increase in the number of hubs overwhelmingly dominated by a single airline. There would be, in my view, a sharp decrease in the competition for airline travel in many cities across the United States. There would certainly be the legitimate desire on the part of the remaining airlines to maximize their profits. That exists at the present time. But these three mergers would vastly increase the ability of the airlines to do so in what would be distinctly a less competitive market.

I have attended hearings on this subject. I have had meetings with the CEOs of both airlines seeking to merge and with some of those who have apprehensions about that merger. I may say there are a number of ways in which my mind was changed by those meetings. My first reaction to the proposal was that the creation of one new entrant—D.C. Airlines—was little more than a sham. The hearings and my meetings indicated to me that I was almost certainly wrong in that respect, and that the proposed new owner and manager of D.C. Airlines did intend to be a real airline to provide real service. But even if we grant the potential success of that airline, the net effect on competition overall would be highly negative on the part of this merger.

I join with the chairman of the Commerce Committee in this resolution. I do not think in the ultimate analysis that this merger is in the public interest. I believe it would lessen competition among domestic airlines. I think it would not improve the way in which the airline passengers are treated, and probably, at least in the short term and perhaps in the long term, would exacerbate an already troublesome situation.

I believe we would end up with three major airlines flying roughly 80 percent of all the passengers on domestic flights in the United States, and that the net result, by a significant margin from such a merger, would not be in the public interest.

I hope this resolution becomes more formalized than it is just by the introduction by these two Members. I suspect the chairman of the Commerce Committee will bring it up in the Commerce Committee. I hope it is here for consideration by the entire Senate promptly, and it will be considered by the regulatory authorities that are dealing with the proposed merger at the present time.

AMENDMENTS SUBMITTED

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2001

LEAHY AMENDMENT NO. 4016

(Ordered to lie on the table.)

Mr. LEAHY submitted the following amendment intended to be proposed by him to the bill (H.R. 4871) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2001, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . Not later than 90 days after the date of the enactment of this Act, the Inspector General of each agency funded under this Act shall submit to the Congress a report that discloses—

(1) any agency activity related to the collection or review of singular data, or the creation of aggregate lists that include personally identifiable information, about individuals who access any Internet site of the agency; and

(2) any agency activity related to entering into agreements with third parties, including other government agencies, to collect, review, or obtain aggregate lists or singular data containing personally identifiable information relating to any individual's access or viewing habits to nongovernmental Internet sites.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2001

ALLARD AMENDMENT NO. 4017

(Ordered to lie on the table.)

Mr. ALLARD submitted an amendment intended to be proposed by him to the bill (H.R. 4733) making appropriations for energy and water development for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 66, between lines 11 and 12, insert the following:

SEC. 2___. USE OF COLORADO-BIG THOMPSON PROJECT FACILITIES FOR NONPROJECT WATER.

The Secretary of the Interior may enter into contracts with the city of Loveland, Colorado, or its Water and Power Department or any other agency, public utility, or enterprise of the city, providing for the use of facilities of the Colorado-Big Thompson Project, Colorado, under the Act of February 21, 1911 (43 U.S.C. 523), for—

(1) the impounding, storage, and carriage of nonproject water originating on the eastern slope of the Rocky Mountains for domestic, municipal, industrial, and other beneficial purposes; and

(2) the exchange of water originating on the eastern slope of the Rocky Mountains for the purposes specified in paragraph (1), using facilities associated with the Colorado-Big Thompson Project, Colorado.

WORLD BANK AIDS PREVENTION TRUST FUND ACT

HELMS (AND OTHERS) AMENDMENT NO. 4018

Mr. HELMS (for himself, Mr. BIDEN, Mr. FRIST, Mr. KERRY, Mr. SMITH of Oregon, Mrs. BOXER, and Mr. FEINGOLD) proposed an amendment to the bill (H.R. 3519) to provide for negotiations for the creation of a trust fund to be administered by the International Bank for Reconstruction and Development of the International Development Association to combat the AIDS epidemic; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Global AIDS and Tuberculosis Relief Act of 2000''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—ASSISTANCE TO COUNTRIES WITH LARGE POPULATIONS HAVING HIV/AIDS

SEC. 101. SHORT TITLE.

This title may be cited as the ''Global AIDS Research and Relief Act of 2000''.

SEC. 102. DEFINITIONS.

In this title:

(1) AIDS.—The term ''AIDS'' means the acquired immune deficiency syndrome.

(2) ASSOCIATION.—The term ''Association'' means the International Development Association.

(3) BANK.—The term ''Bank'' or ''World Bank'' means the International Bank for Reconstruction and Development.

(4) HIV.—The term ''HIV'' means the human immunodeficiency virus, the pathogen which causes AIDS.

(5) HIV/AIDS.—The term ''HIV/AIDS'' means, with respect to an individual, an individual who is infected with HIV or living with AIDS.

SEC. 103. FINDINGS AND PURPOSES.

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

(1) According to the Surgeon General of the United States, the epidemic of human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) will soon become the worst epidemic of infectious disease in recorded history, eclipsing both the bubonic plague of the 1300's and the influenza epidemic of 1918–1919 which killed more than 20,000,000 people worldwide.

(2) According to the Joint United Nations Programme on HIV/AIDS (UNAIDS), more than 34,300,000 people in the world today are living with HIV/AIDS, of which approximately 95 percent live in the developing world.

(3) UNAIDS data shows that among children age 14 and under worldwide, more than 3,800,000 have died from AIDS, more than 1,300,000 are living with the disease; and in one year alone—1999—an estimated 620,000 became infected, of which over 90 percent were babies born to HIV-positive women.

(4) Although sub-Saharan Africa has only 10 percent of the world's population, it is home to more than 24,500,000—roughly 70 percent—of the world's HIV/AIDS cases.

(5) Worldwide, there have already been an estimated 18,800,000 deaths because of HIV/AIDS, of which more than 80 percent occurred in sub-Saharan Africa.

(6) The gap between rich and poor countries in terms of transmission of HIV from mother to child has been increasing. Moreover, AIDS threatens to reverse years of steady progress of child survival in developing countries. UNAIDS believes that by the year 2010, AIDS may have increased mortality of children under 5 years of age by more than 100 percent in regions most affected by the virus.

(7) According to UNAIDS, by the end of 1999, 13,200,000 children have lost at least one parent to AIDS, including 12,100,000 children in sub-Saharan Africa, and are thus considered AIDS orphans.

(8) At current infection and growth rates for HIV/AIDS, the National Intelligence Council estimates that the number of AIDS orphans worldwide will increase dramatically, potentially increasing threefold or more in the next 10 years, contributing to economic decay, social fragmentation, and political destabilization in already volatile and strained societies. Children without care or hope are often drawn into prostitution, crime, substance abuse, or child soldiery.

(9) Donors must focus on adequate preparations for the explosion in the number of orphans and the burden they will place on families, communities, economies, and governments. Support structures and incentives for families, communities, and institutions which will provide care for children orphaned by HIV/AIDS, or for the children who are themselves afflicted by HIV/AIDS, will be essential.

(10) The 1999 annual report by the United Nations Children's Fund (UNICEF) states ''[t]he number of orphans, particularly in Africa, constitutes nothing less than an emergency, requiring an emergency response'' and that ''finding the resources needed to help stabilize the crisis and protect children is a priority that requires urgent action from the international community.''.

(11) The discovery of a relatively simple and inexpensive means of interrupting the transmission of HIV from an infected mother to the unborn child—namely with nevirapine (NVP), which costs US$4 a tablet—has created a great opportunity for an unprecedented partnership between the United States Government and the governments of Asian, African and Latin American countries to reduce mother-to-child transmission (also known as ''vertical transmission'') of HIV.

(12) According to UNAIDS, if implemented this strategy will decrease the proportion of orphans that are HIV-infected and decrease infant and child mortality rates in these developing regions.

(13) A mother-to-child antiretroviral drug strategy can be a force for social change, providing the opportunity and impetus needed to address often long-standing problems of inadequate services and the profound stigma associated with HIV-infection and the AIDS disease. Strengthening the health infrastructure to improve mother-and-child health, antenatal, delivery and postnatal services, and couples counseling generates enormous spillover effects toward combating the AIDS epidemic in developing regions.

(14) United States Census Bureau statistics show life expectancy in sub-Saharan Africa falling to around 30 years of age within a decade, the lowest in a century, and project life expectancy in 2010 to be 29 years of age in Botswana, 30 years of age in Swaziland, 33 years of age in Namibia and Zimbabwe, and 36 years of age in South Africa, Malawi, and Rwanda, in contrast to a life expectancy of 70 years of age in many of the countries without a high prevalence of AIDS.

(15) A January 2000 United States National Intelligence Estimate (NIE) report on the global infectious disease threat concluded that the economic costs of infectious diseases—especially HIV/AIDS—are already significant and could reduce GDP by as much as 20 percent or more by 2010 in some sub-Saharan African nations.

(16) According to the same NIE report, HIV prevalence among militias in Angola and the Democratic Republic of the Congo are estimated at 40 to 60 percent, and at 15 to 30 percent in Tanzania.

(17) The HIV/AIDS epidemic is of increasing concern in other regions of the world, with UNAIDS estimating that there are more than 5,600,000 cases in South and South-east Asia, that the rate of HIV infection in the Caribbean is second only to sub-Saharan Africa, and that HIV infections have doubled in just two years in the former Soviet Union.

(18) Despite the discouraging statistics on the spread of HIV/AIDS, some developing nations—such as Uganda, Senegal, and Thailand—have implemented prevention programs that have substantially curbed the rate of HIV infection.

(19) AIDS, like all diseases, knows no national boundaries, and there is no certitude that the scale of the problem in one continent can be contained within that region.

(20) Accordingly, United States financial support for medical research, education, and disease containment as a global strategy has beneficial ramifications for millions of Americans and their families who are affected by this disease, and the entire population which is potentially susceptible.

(b) PURPOSES.—The purposes of this title are to—

(1) help prevent human suffering through the prevention, diagnosis, and treatment of HIV/AIDS; and

(2) help ensure the viability of economic development, stability, and national security in the developing world by advancing research to—

(A) understand the causes associated with HIV/AIDS in developing countries; and

(B) assist in the development of an AIDS vaccine.

Subtitle A—United States Assistance

SEC. 111. ADDITIONAL ASSISTANCE AUTHORITIES TO COMBAT HIV AND AIDS.

(a) ASSISTANCE FOR PREVENTION OF HIV/AIDS AND VERTICAL TRANSMISSION.—Section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) is amended by adding at the end the following new paragraphs:

''(4)(A) Congress recognizes the growing international dilemma of children with the human immunodeficiency virus (HIV) and the merits of intervention programs aimed at this problem. Congress further recognizes that mother-to-child transmission prevention strategies can serve as a major force for change in developing regions, and it is, therefore, a major objective of the foreign assistance program to control the acquired immune deficiency syndrome (AIDS) epidemic.

''(B) The agency primarily responsible for administering this part shall—

''(i) coordinate with UNAIDS, UNICEF, WHO, national and local governments, and other organizations to develop and implement effective strategies to prevent vertical transmission of HIV; and

''(ii) coordinate with those organizations to increase intervention programs and introduce voluntary counseling and testing, antiretroviral drugs, replacement feeding, and other strategies.

''(5)(A) Congress expects the agency primarily responsible for administering this part to make the human immunodeficiency virus (HIV) and the acquired immune deficiency syndrome (AIDS) a priority in the foreign assistance program and to undertake a comprehensive, coordinated effort to combat HIV and AIDS.

''(B) Assistance described in subparagraph (A) shall include help providing—

''(i) primary prevention and education;

''(ii) voluntary testing and counseling;

''(iii) medications to prevent the transmission of HIV from mother to child; and

''(iv) care for those living with HIV or AIDS.

''(6)(A) In addition to amounts otherwise available for such purpose, there is authorized to be appropriated to the President $300,000,000 for each of the fiscal years 2001 and 2002 to carry out paragraphs (4) and (5).

''(B) Of the funds authorized to be appropriated under subparagraph (A), not less than 65 percent is authorized to be available through United States and foreign nongovernmental organizations, including private and voluntary organizations, for-profit organizations, religious affiliated organizations, educational institutions, and research facilities.

''(C)(i) Of the funds authorized to be appropriated by subparagraph (A), not less than 20 percent is authorized to be available for programs as part of a multidonor strategy to address the support and education of orphans in sub-Saharan Africa, including AIDS orphans.

''(ii) Assistance made available under this subsection, and assistance made available under chapter 4 of part II to carry out the purposes of this subsection, may be made available notwithstanding any other provision of law that restricts assistance to foreign countries.

''(D) Of the funds authorized to be appropriated under subparagraph (A), not less than 8.3 percent is authorized to be available to carry out the prevention strategies for vertical transmission referred to in paragraph (4)(A).

''(E) Of the funds authorized to be appropriated by subparagraph (A), not more than 7 percent may be used for the administrative expenses of the agency primarily responsible for carrying out this part of this Act in support of activities described in paragraphs (4) and (5).

''(F) Funds appropriated under this paragraph are authorized to remain available until expended.''.

(b) TRAINING AND TRAINING FACILITIES IN SUB-SAHARAN AFRICA.—Section 496(i)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2293(i)(2)) is amended by adding at the end the following new sentence: ''In addition, providing training and training facilities, in sub-Saharan Africa, for doctors and other health care providers, notwithstanding any provision of law that restricts assistance to foreign countries.''.

SEC. 112. VOLUNTARY CONTRIBUTION TO GLOBAL ALLIANCE FOR VACCINES AND IMMUNIZATIONS AND INTERNATIONAL AIDS VACCINE INITIATIVE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 302 of the Foreign Assistance Act of 1961 (22 U.S.C. 2222) is amended by adding at the end the following new subsections:

''(k) In addition to amounts otherwise available under this section, there is authorized to be appropriated to the President $50,000,000 for each of the fiscal years 2001 and 2002 to be available only for United States contributions to the Global Alliance for Vaccines and Immunizations.

''(l) In addition to amounts otherwise available under this section, there is authorized to be appropriated to the President $10,000,000 for each of the fiscal years 2001 and 2002 to be available only for United States contributions to the International AIDS Vaccine Initiative.''.

(b) REPORT.—At the close of fiscal year 2001, the President shall submit a report to the appropriate congressional committees on the effectiveness of the Global Alliance for Vaccines and Immunizations and the International AIDS Vaccine Initiative during that fiscal year in meeting the goals of—

(1) improving access to sustainable immunization services;

(2) expanding the use of all existing, safe, and cost-effective vaccines where they address a public health problem;

(3) accelerating the development and introduction of new vaccines and technologies;

(4) accelerating research and development efforts for vaccines needed primarily in developing countries; and

(5) making immunization coverage a centerpiece in international development efforts.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In subsection (b), the term ''appropriate congressional committees'' means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

SEC. 113. COORDINATED DONOR STRATEGY FOR SUPPORT AND EDUCATION OF ORPHANS IN SUB-SAHARAN AFRICA.

(a) STATEMENT OF POLICY.—It is in the national interest of the United States to assist in mitigating the burden that will be placed on sub-Saharan African social, economic, and political institutions as these institutions struggle with the consequences of a dramatically increasing AIDS orphan population, many of whom are themselves infected by HIV and living with AIDS. Effectively addressing that burden and its consequences in sub-Saharan Africa will require a coordinated multidonor strategy.

(b) DEVELOPMENT OF STRATEGY.—The President shall coordinate the development of a multidonor strategy to provide for the support and education of AIDS orphans and the families, communities, and institutions most affected by the HIV/AIDS epidemic in sub-Saharan Africa.

(c) DEFINITION.—In this section, the term ''HIV/AIDS'' means, with respect to an individual, an individual who is infected with the human immunodeficiency virus (HIV), the pathogen that causes the acquired immune deficiency virus (AIDS), or living with AIDS.

SEC. 114. AFRICAN CRISIS RESPONSE INITIATIVE AND HIV/AIDS TRAINING.

(a) FINDINGS.—Congress finds that—

(1) the spread of HIV/AIDS constitutes a threat to security in Africa;

(2) civil unrest and war may contribute to the spread of the disease to different parts of the continent;

(3) the percentage of soldiers in African militaries who are infected with HIV/AIDS is unknown, but estimates range in some countries as high as 40 percent; and

(4) it is in the interests of the United States to assist the countries of Africa in combating the spread of HIV/AIDS.

(b) EDUCATION ON THE PREVENTION OF THE SPREAD OF AIDS.—In undertaking education and training programs for military establishments in African countries, the United States shall ensure that classroom training under the African Crisis Response Initiative includes military-based education on the prevention of the spread of AIDS.

Subtitle B—World Bank AIDS Trust Fund

CHAPTER 1—ESTABLISHMENT OF THE FUND

SEC. 121. ESTABLISHMENT.

(a) NEGOTIATIONS FOR ESTABLISHMENT OF TRUST FUND.—The Secretary of the Treasury shall seek to enter into negotiations with the World Bank or the Association, in consultation with the Administrator of the United States Agency for International Development and other United States Government agencies, and with the member nations of the World Bank or the Association and with other interested parties, for the establishment within the World Bank of—

(1) the World Bank AIDS Trust Fund (in this subtitle referred to as the ''Trust Fund'') in accordance with the provisions of this chapter; and

(2) the Advisory Board to the Trust Fund in accordance with section 124.

(b) PURPOSE.—The purpose of the Trust Fund should be to use contributed funds to—

(1) assist in the prevention and eradication of HIV/AIDS and the care and treatment of individuals infected with HIV/AIDS; and

(2) provide support for the establishment of programs that provide health care and primary and secondary education for children orphaned by the HIV/AIDS epidemic.

(c) COMPOSITION.—

(1) IN GENERAL.—The Trust Fund should be governed by a Board of Trustees, which should be composed of representatives of the participating donor countries to the Trust Fund. Individuals appointed to the Board should have demonstrated knowledge and experience in the fields of public health, epidemiology, health care (including delivery systems), and development.

(2) UNITED STATES REPRESENTATION.—

(A) IN GENERAL.—Upon the effective date of this paragraph, there shall be a United States member of the Board of Trustees, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall have the qualifications described in paragraph (1).

(B) EFFECTIVE AND TERMINATION DATES.—

(i) EFFECTIVE DATE.—This paragraph shall take effect upon the date the Secretary of the Treasury certifies to Congress that an agreement establishing the Trust Fund and providing for a United States member of the Board of Trustees is in effect.

(ii) TERMINATION DATE.—The position established by subparagraph (A) is abolished upon the date of termination of the Trust Fund.

SEC. 122. GRANT AUTHORITIES.

(a) PROGRAM OBJECTIVES.—

(1) IN GENERAL.—In carrying out the purpose of section 121(b), the Trust Fund, acting through the Board of Trustees, should provide only grants, including grants for technical assistance to support measures to build local capacity in national and local government, civil society, and the private sector to lead and implement effective and affordable HIV/AIDS prevention, education, treatment and care services, and research and development activities, including access to affordable drugs.

(2) ACTIVITIES SUPPORTED.—Among the activities the Trust Fund should provide grants for should be—

(A) programs to promote the best practices in prevention, including health education messages that emphasize risk avoidance such as abstinence;

(B) measures to ensure a safe blood supply;

(C) voluntary HIV/AIDS testing and counseling;

(D) measures to stop mother-to-child transmission of HIV/AIDS, including through diagnosis of pregnant women, access to cost-effective treatment and counseling, and access to infant formula or other alternatives for infant feeding;

(E) programs to provide for the support and education of AIDS orphans and the families, communities, and institutions most affected by the HIV/AIDS epidemic;

(F) measures for the deterrence of gender-based violence and the provision of post-exposure prophylaxis to victims of rape and sexual assault; and

(G) incentives to promote affordable access to treatments against AIDS and related infections.

(3) IMPLEMENTATION OF PROGRAM OBJECTIVES.—In carrying out the objectives of paragraph (1), the Trust Fund should coordinate its activities with governments, civil society, nongovernmental organizations, the Joint United Nations Program on HIV/AIDS (UNAIDS), the International Partnership Against AIDS in Africa, other international organizations, the private sector, and donor agencies working to combat the HIV/AIDS crisis.

(b) PRIORITY.—In providing grants under this section, the Trust Fund should give priority to countries that have the highest HIV/AIDS prevalence rate or are at risk of having a high HIV/AIDS prevalence rate.

(c) ELIGIBLE GRANT RECIPIENTS.—Governments and nongovernmental organizations should be eligible to receive grants under this section.

(d) PROHIBITION.—The Trust Fund should not make grants for the purpose of project development associated with bilateral or multilateral bank loans.

SEC. 123. ADMINISTRATION.

(a) APPOINTMENT OF AN ADMINISTRATOR.—The Board of Trustees, in consultation with the appropriate officials of the Bank, should appoint an Administrator who should be responsible for managing the day-to-day operations of the Trust Fund.

(b) AUTHORITY TO SOLICIT AND ACCEPT CONTRIBUTIONS.—The Trust Fund should be authorized to solicit and accept contributions from governments, the private sector, and nongovernmental entities of all kinds.

(c) ACCOUNTABILITY OF FUNDS AND CRITERIA FOR PROGRAMS.—As part of the negotiations described in section 121(a), the Secretary of the Treasury shall, consistent with subsection (d)—

(1) take such actions as are necessary to ensure that the Bank or the Association will have in effect adequate procedures and standards to account for and monitor the use of funds contributed to the Trust Fund, including the cost of administering the Trust Fund; and

(2) seek agreement on the criteria that should be used to determine the programs and activities that should be assisted by the Trust Fund.

(d) SELECTION OF PROJECTS AND RECIPIENTS.—The Board of Trustees should establish—

(1) criteria for the selection of projects to receive support from the Trust Fund;

(2) standards and criteria regarding qualifications of recipients of such support;

(3) such rules and procedures as may be necessary for cost-effective management of the Trust Fund; and

(4) such rules and procedures as may be necessary to ensure transparency and accountability in the grant-making process.

(e) TRANSPARENCY OF OPERATIONS.—The Board of Trustees should ensure full and prompt public disclosure of the proposed objectives, financial organization, and operations of the Trust Fund.

SEC. 124. ADVISORY BOARD.

(a) IN GENERAL.—There should be an Advisory Board to the Trust Fund.

(b) APPOINTMENTS.—The members of the Advisory Board should be drawn from—

(1) a broad range of individuals with experience and leadership in the fields of development, health care (especially HIV/AIDS), epidemiology, medicine, biomedical research, and social sciences; and

(2) representatives of relevant United Nations agencies and nongovernmental organizations with on-the-ground experience in affected countries.

(c) RESPONSIBILITIES.—The Advisory Board should provide advice and guidance to the Board of Trustees on the development and implementation of programs and projects to be assisted by the Trust Fund and on leveraging donations to the Trust Fund.

(d) PROHIBITION ON PAYMENT OF COMPENSATION.—

(1) IN GENERAL.—Except for travel expenses (including per diem in lieu of subsistence), no member of the Advisory Board should receive compensation for services performed as a member of the Board.

(2) UNITED STATES REPRESENTATIVE.—Notwithstanding any other provision of law (including an international agreement), a representative of the United States on the Advisory Board may not accept compensation for services performed as a member of the Board, except that such representative may accept travel expenses, including per diem in lieu of subsistence, while away from the representative's home or regular place of business in the performance of services for the Board.

CHAPTER 2—REPORTS

SEC. 131. REPORTS TO CONGRESS.

(a) ANNUAL REPORTS BY TREASURY SECRETARY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter for the duration of the Trust Fund, the Secretary of the Treasury shall submit to the appropriate committees of Congress a report on the Trust Fund.

(2) REPORT ELEMENTS.—The report shall include a description of—

(A) the goals of the Trust Fund;

(B) the programs, projects, and activities, including any vaccination approaches, supported by the Trust Fund;

(C) private and governmental contributions to the Trust Fund; and

(D) the criteria that have been established, acceptable to the Secretary of the Treasury and the Administrator of the United States Agency for International Development, that would be used to determine the programs and activities that should be assisted by the Trust Fund.

(b) GAO REPORT ON TRUST FUND EFFECTIVENESS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the appropriate committees of the Congress a report evaluating the effectiveness of the Trust Fund, including—

(1) the effectiveness of the programs, projects, and activities described in subsection (a)(2)(B) in reducing the worldwide spread of AIDS; and

(2) an assessment of the merits of continued United States financial contributions to the Trust Fund.

(c) APPROPRIATE COMMITTEES DEFINED.—In subsection (a), the term ''appropriate committees'' means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations, the Committee on Banking and Financial Services, and the Committee on Appropriations of the House of Representatives.

CHAPTER 3—UNITED STATES FINANCIAL PARTICIPATION

SEC. 141. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to any other funds authorized to be appropriated for multilateral or bilateral programs related to HIV/AIDS or economic development, there is authorized to be appropriated to the Secretary of the Treasury $150,000,000 for each of the fiscal years 2001 and 2002 for payment to the Trust Fund.

(b) ALLOCATION OF FUNDS.—Of the amounts authorized to be appropriated by subsection (a) for the fiscal years 2001 and 2002, $50,000,000 are authorized to be available each such fiscal year only for programs that benefit orphans.

SEC. 142. CERTIFICATION REQUIREMENT.

(a) IN GENERAL.—Prior to the initial obligation or expenditure of funds appropriated pursuant to section 141, the Secretary of the Treasury shall certify that adequate procedures and standards have been established to ensure accountability for and monitoring of the use of funds contributed to the Trust Fund, including the cost of administering the Trust Fund.

(b) TRANSMITTAL OF CERTIFICATION.—The certification required by subsection (a), and the bases for that certification, shall be submitted by the Secretary of the Treasury to Congress.

TITLE II—INTERNATIONAL TUBERCULOSIS CONTROL

SEC. 201. SHORT TITLE.

This title may be cited as the ''International Tuberculosis Control Act of 2000''.

SEC. 202. FINDINGS.

Congress makes the following findings:

(1) Since the development of antibiotics in the 1950s, tuberculosis has been largely controlled in the United States and the Western World.

(2) Due to societal factors, including growing urban decay, inadequate health care systems, persistent poverty, overcrowding, and malnutrition, as well as medical factors, including the HIV/AIDS epidemic and the emergence of multi-drug resistant strains of tuberculosis, tuberculosis has again become a leading and growing cause of adult deaths in the developing world.

(3) According to the World Health Organization—

(A) in 1998, about 1,860,000 people worldwide died of tuberculosis-related illnesses;

(B) one-third of the world's total population is infected with tuberculosis; and

(C) tuberculosis is the world's leading killer of women between 15 and 44 years old and is a leading cause of children becoming orphans.

(4) Because of the ease of transmission of tuberculosis, its international persistence and growth pose a direct public health threat to those nations that had previously largely controlled the disease. This is complicated in the United States by the growth of the homeless population, the rate of incarceration, international travel, immigration, and HIV/AIDS.

(5) With nearly 40 percent of the tuberculosis cases in the United States attributable to foreign-born persons, tuberculosis will never be controlled in the United States until it is controlled abroad.

(6) The means exist to control tuberculosis through screening, diagnosis, treatment, patient compliance, monitoring, and ongoing review of outcomes.

(7) Efforts to control tuberculosis are complicated by several barriers, including—

(A) the labor intensive and lengthy process involved in screening, detecting, and treating the disease;

(B) a lack of funding, trained personnel, and medicine in virtually every nation with a high rate of the disease;

(C) the unique circumstances in each country, which requires the development and implementation of country-specific programs; and

(D) the risk of having a bad tuberculosis program, which is worse than having no tuberculosis program because it would significantly increase the risk of the development of more widespread drug-resistant strains of the disease.

(8) Eliminating the barriers to the international control of tuberculosis through a well-structured, comprehensive, and coordinated worldwide effort would be a significant step in dealing with the increasing public health problem posed by the disease.

SEC. 203. ASSISTANCE FOR TUBERCULOSIS PREVENTION, TREATMENT, CONTROL, AND ELIMINATION.

Section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)), as amended by section 111(a) of this Act, is further amended by adding at the end the following:

''(7)(A) Congress recognizes the growing international problem of tuberculosis and the impact its continued existence has on those nations that had previously largely controlled the disease. Congress further recognizes that the means exist to control and treat tuberculosis, and that it is therefore a major objective of the foreign assistance program to control the disease. To this end, Congress expects the agency primarily responsible for administering this part—

''(i) to coordinate with the World Health Organization, the Centers for Disease Control, the National Institutes of Health, and other organizations toward the development and implementation of a comprehensive tuberculosis control program; and

''(ii) to set as a goal the detection of at least 70 percent of the cases of infectious tuberculosis, and the cure of at least 85 percent of the cases detected, in those countries in which the agency has established development programs, by December 31, 2010.

''(B) There is authorized to be appropriated to the President, $60,000,000 for each of the fiscal years 2001 and 2002 to be used to carry out this paragraph. Funds appropriated under this subparagraph are authorized to remain available until expended.''.

TITLE III—ADMINISTRATIVE AUTHORITIES

SEC. 301. EFFECTIVE PROGRAM OVERSIGHT.

Section 635 of the Foreign Assistance Act of 1961 (22 U.S.C. 2395) is amended by adding at the end thereof the following new subsection:

''(l) The Administrator of the agency primarily responsible for administering part I may use funds made available under that part to provide program and management oversight for activities that are funded under that part and that are conducted in countries in which the agency does not have a field mission or office.''.

SEC. 302. TERMINATION EXPENSES.

Section 617 of the Foreign Assistance Act of 1961 (22 U.S.C. 2367) is amended to read as follows:

''SEC. 617. TERMINATION EXPENSES.

''(a) IN GENERAL.—Funds made available under this Act and the Arms Export Control Act, may remain available for obligation for a period not to exceed 8 months from the date of any termination of assistance under such Acts for the necessary expenses of winding up programs related to such termination and may remain available until expended. Funds obligated under the authority of such Acts prior to the effective date of the termination of assistance may remain available for expenditure for the necessary expenses of winding up programs related to such termination notwithstanding any provision of law restricting the expenditure of funds. In order to ensure the effectiveness of such assistance, such expenses for orderly termination of programs may include the obligation and expenditure of funds to complete the training or studies outside their countries of origin of students whose course of study or training program began before assistance was terminated.

''(b) LIABILITY TO CONTRACTORS.—For the purpose of making an equitable settlement of termination claims under extraordinary contractual relief standards, the President is authorized to adopt as a contract or other obligation of the United States Government, and assume (in whole or in part) any liabilities arising thereunder, any contract with a United States or third-country contractor that had been funded with assistance under such Acts prior to the termination of assistance.

''(c) TERMINATION EXPENSES.—Amounts certified as having been obligated for assistance subsequently terminated by the President, or pursuant to any provision of law, shall continue to remain available and may be reobligated to meet any necessary expenses arising from the termination of such assistance.

''(d) GUARANTY PROGRAMS.—Provisions of this or any other Act requiring the termination of assistance under this or any other Act shall not be construed to require the termination of guarantee commitments that were entered into prior to the effective date of the termination of assistance.

''(e) RELATION TO OTHER PROVISIONS.—Unless specifically made inapplicable by another provision of law, the provisions of this

section shall be applicable to the termination of assistance pursuant to any provision of law.''.

INDIAN LAND CONSOLIDATION ACT AMENDMENTS OF 2000

CAMPBELL AMENDMENT NO. 4019

Mr. DEWINE (for Mr. CAMPBELL) proposed an amendment to the bill (S. 1586) to reduce the fractionated ownership of Indian Lands, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Indian Land Consolidation Act Amendments of 2000''.

TITLE I—INDIAN LAND CONSOLIDATION

SEC. 101. FINDINGS.

Congress finds that—

(1) in the 1800's and early 1900's, the United States sought to assimilate Indian people into the surrounding non-Indian culture by allotting tribal lands to individual members of Indian tribes;

(2) as a result of the allotment Acts and related Federal policies, over 90,000,000 acres of land have passed from tribal ownership;

(3) many trust allotments were taken out of trust status, often without their owners consent;

(4) without restrictions on alienation, allotment owners were subject to exploitation and their allotments were often sold or disposed of without any tangible or enduring benefit to their owners;

(5) the trust periods for trust allotments have been extended indefinitely;

(6) because of the inheritance provisions in the original treaties or allotment Acts, the ownership of many of the trust allotments that have remained in trust status has become fractionated into hundreds or thousands of undivided interests, many of which represent 2 percent or less of the total interests;

(7) Congress has authorized the acquisition of lands in trust for individual Indians, and many of those lands have also become fractionated by subsequent inheritance;

(8) the acquisitions referred to in paragraph (7) continue to be made;

(9) the fractional interests described in this section often provide little or no return to the beneficial owners of those interests and the administrative costs borne by the United States for those interests are inordinately high;

(10) in Babbitt v. Youpee (117 S Ct. 727 (1997)), the United States Supreme Court found the application of section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) to the facts presented in that case to be unconstitutional, forcing the Department of the Interior to address the status of thousands of undivided interests in trust and restricted lands;

(11)(A) on February 19, 1999, the Secretary of Interior issued a Secretarial Order which officially reopened the probate of all estates where an interest in land was ordered to escheat to an Indian tribe pursuant to section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206); and

(B) the Secretarial Order also directed appropriate officials of the Bureau of Indian Affairs to distribute such interests ''to the rightful heirs and beneficiaries without regard to 25 U.S.C. 2206'';

(12) in the absence of comprehensive remedial legislation, the number of the fractional interests will continue to grow exponentially;

(13) the problem of the fractionation of Indian lands described in this section is the result of a policy of the Federal Government, cannot be solved by Indian tribes, and requires a solution under Federal law.

(14) any devise or inheritance of an interest in trust or restricted Indian lands is a matter of Federal law; and

(15) consistent with the Federal policy of tribal self-determination, the Federal Government should encourage the recognized tribal government that exercises jurisdiction over a reservation to establish a tribal probate code for that reservation.

SEC. 102. DECLARATION OF POLICY.

It is the policy of the United States—

(1) to prevent the further fractionation of trust allotments made to Indians;

(2) to consolidate fractional interests and ownership of those interests into usable parcels;

(3) to consolidate fractional interests in a manner that enhances tribal sovereignty;

(4) to promote tribal self-sufficiency and self-determination; and

(5) to reverse the effects of the allotment policy on Indian tribes.

SEC. 103. AMENDMENTS TO THE INDIAN LAND CONSOLIDATION ACT.

The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended—

(1) in section 202—

(A) in paragraph (1), by striking ''(1) 'tribe' '' and inserting ''(1) 'Indian tribe' or 'tribe' '';

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

''(2) 'Indian' means any person who is a member of any Indian tribe or is eligible to become a member of any Indian tribe, or any person who has been found to meet the definition of 'Indian' under a provision of Federal law if the Secretary determines that using such law's definition of Indian is consistent with the purposes of this Act;'';

(C) by striking ''and'' at the end of paragraph (3);

(D) by striking the period at the end of paragraph (4) and inserting ''; and''; and

(E) by adding at the end the following:

''(5) 'heirs of the first or second degree' means parents, children, grandchildren, grandparents, brothers and sisters of a decedent.'';

(2) in section 205—

(A) in the matter preceding paragraph (1)—

(i) by striking ''Any Indian'' and inserting ''(a) IN GENERAL.—Subject to subsection (b), any Indian'';

(ii) by striking the colon and inserting the following: ''. Interests owned by an Indian tribe in a tract may be included in the computation of the percentage of ownership of the undivided interests in that tract for purposes of determining whether the consent requirement under the preceding sentence has been met.'';

(iii) by striking '': *Provided*, That—''; and inserting the following:

''(b) CONDITIONS APPLICABLE TO PURCHASE.—Subsection (a) applies on the condition that—'';

(B) in paragraph (2)—

(i) by striking ''If,'' and inserting ''if''; and

(ii) by adding ''and'' at the end; and

(C) by striking paragraph (3) and inserting the following:

''(3) the approval of the Secretary shall be required for a land sale initiated under this section, except that such approval shall not be required with respect to a land sale transaction initiated by an Indian tribe that has in effect a land consolidation plan that has been approved by the Secretary under section 204.'';

(3) by striking section 206 and inserting the following:

''SEC. 206. TRIBAL PROBATE CODES; ACQUISITIONS OF FRACTIONAL INTERESTS BY TRIBES.

''(a) TRIBAL PROBATE CODES.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, any Indian tribe may adopt a tribal probate code to govern descent and distribution of trust or restricted lands that are—

''(A) located within that Indian tribe's reservation; or

''(B) otherwise subject to the jurisdiction of that Indian tribe.

''(2) POSSIBLE INCLUSIONS.—A tribal probate code referred to in paragraph (1) may include—

''(A) rules of intestate succession; and

''(B) other tribal probate code provisions that are consistent with Federal law and that promote the policies set forth in section 102 of the Indian Land Consolidation Act Amendments of 2000.

''(3) LIMITATIONS.—The Secretary shall not approve a tribal probate code if such code prevents an Indian person from inheriting an interest in an allotment that was originally allotted to his or her lineal ancestor.

''(b) SECRETARIAL APPROVAL.—

''(1) IN GENERAL.—Any tribal probate code enacted under subsection (a), and any amendment to such a tribal probate code, shall be subject to the approval of the Secretary.

''(2) REVIEW AND APPROVAL.—

''(A) IN GENERAL.—Each Indian tribe that adopts a tribal probate code under subsection (a) shall submit that code to the Secretary for review. Not later than 180 days after a tribal probate code is submitted to the Secretary under this paragraph, the Secretary shall review and approve or disapprove that tribal probate code.

''(B) CONSEQUENCE OF FAILURES TO APPROVE OR DISAPPROVE A TRIBAL PROBATE CODE.—If the Secretary fails to approve or disapprove a tribal probate code submitted for review under subparagraph (A) by the date specified in that subparagraph, the tribal probate code shall be deemed to have been approved by the Secretary, but only to the extent that the tribal probate code is consistent with Federal law and promotes the policies set forth in section 102 of the Indian Land Consolidation Act Amendments of 2000.

''(C) CONSISTENCY OF TRIBAL PROBATE CODE WITH ACT.—The Secretary may not approve a tribal probate code, or any amendment to such a code, under this paragraph unless the Secretary determines that the tribal probate code promotes the policies set forth in section 102 of the Indian Land Consolidation Act Amendments of 2000.

''(D) EXPLANATION.—If the Secretary disapproves a tribal probate code, or an amendment to such a code, under this paragraph, the Secretary shall include in the notice of disapproval to the Indian tribe a written explanation of the reasons for the disapproval.

''(E) AMENDMENTS.—

''(i) IN GENERAL.—Each Indian tribe that amends a tribal probate code under this paragraph shall submit the amendment to the Secretary for review and approval. Not later than 60 days after receiving an amendment under this subparagraph, the Secretary shall review and approve or disapprove the amendment.

''(ii) CONSEQUENCE OF FAILURE TO APPROVE OR DISAPPROVE AN AMENDMENT.—If the Secretary fails to approve or disapprove an amendment submitted under clause (i), the amendment shall be deemed to have been approved by the Secretary, but only to the extent that the amendment is consistent with Federal law and promotes the policies set forth in section 102 of the Indian Land Consolidation Act of 2000.

''(3) EFFECTIVE DATES.—A tribal probate code approved under paragraph (2) shall become effective on the later of—

''(A) the date specified in section 207(g)(5); or

''(B) 180 days after the date of approval.

''(4) LIMITATIONS.—

''(A) TRIBAL PROBATE CODES.—Each tribal probate code enacted under subsection (a) shall apply only to the estate of a decedent who dies on or after the effective date of the tribal probate code.

''(B) AMENDMENTS TO TRIBAL PROBATE CODES.—With respect to an amendment to a tribal probate code referred to in subparagraph (A), that amendment shall apply only to the estate of a decedent who dies on or after the effective date of the amendment.

''(5) REPEALS.—The repeal of a tribal probate code shall—

''(A) not become effective earlier than the date that is 180 days after the Secretary receives notice of the repeal; and

''(B) apply only to the estate of a decedent who dies on or after the effective date of the repeal.

''(c) AUTHORITY AVAILABLE TO INDIAN TRIBES.—

''(1) IN GENERAL.—If the owner of an interest in trust or restricted land devises an interest in such land to a non-Indian under section 207(a)(6)(A), the Indian tribe that exercises jurisdiction over the parcel of land involved may acquire such interest by paying to the Secretary the fair market value of such interest, as determined by the Secretary on the date of the decedent's death. The Secretary shall transfer such payment to the devisee.

''(2) LIMITATION.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to an interest in trust or restricted land if, while the decedent's estate is pending before the Secretary, the non-Indian devisee renounces the interest in favor of an Indian person.

''(B) RESERVATION OF LIFE ESTATE.—A non-Indian devisee described in subparagraph (A) or a non-Indian devisee described in section 207(a)(6)(B), may retain a life estate in the interest involved, including a life estate to the revenue produced from the interest. The amount of any payment required under paragraph (1) shall be reduced to reflect the value of any life estate reserved by a non-Indian devisee under this subparagraph.

''(3) PAYMENTS.—With respect to payments by an Indian tribe under paragraph (1), the Secretary shall—

''(A) upon the request of the tribe, allow a reasonable period of time, not to exceed 2 years, for the tribe to make payments of amounts due pursuant to paragraph (1); or

''(B) recognize alternative agreed upon exchanges of consideration or extended payment terms between the non-Indian devisee described in paragraph (1) and the tribe in satisfaction of the payment under paragraph (1).

''(d) USE OF PROPOSED FINDINGS BY TRIBAL JUSTICE SYSTEMS.—

''(1) TRIBAL JUSTICE SYSTEM DEFINED.—In this subsection, the term 'tribal justice system' has the meaning given that term in section 3 of the Indian Tribal Justice Act (25 U.S.C. 3602).

''(2) REGULATIONS.—The Secretary by regulation may provide for the use of findings of fact and conclusions of law, as rendered by a tribal justice system, as proposed findings of fact and conclusions of law in the adjudication of probate proceedings by the Department of the Interior.'';

(4) by striking section 207 and inserting the following:

''SEC. 207. DESCENT AND DISTRIBUTION.

''(a) TESTAMENTARY DISPOSITION.—

''(1) IN GENERAL.—Interests in trust or restricted land may be devised only to—

''(A) the decedent's Indian spouse or any other Indian person; or

''(B) the Indian tribe with jurisdiction over the land so devised.

''(2) LIFE ESTATE.—Any devise of an interest in trust or restricted land to a non-Indian shall create a life estate with respect to such interest.

''(3) REMAINDER.—

''(A) IN GENERAL.—Except where the remainder from the life estate referred to in paragraph (2) is devised to an Indian, such remainder shall descend to the decedent's Indian spouse or Indian heirs of the first or second degree pursuant to the applicable law of intestate succession.

''(B) DESCENT OF INTERESTS.—If a decedent described in subparagraph (A) has no Indian heirs of the first or second degree, the remainder interest described in such subparagraph shall descend to any of the decedent's collateral heirs of the first or second degree, pursuant to the applicable laws of intestate succession, if on the date of the decedent's death, such heirs were a co-owner of an interest in the parcel of trust or restricted land involved.

''(C) DEFINITION.—For purposes of this section, the term 'collateral heirs of the first or second degree' means the brothers, sisters, aunts, uncles, nieces, nephews, and first cousins, of a decedent.

''(4) DESCENT TO TRIBE.—If the remainder interest described in paragraph (3)(A) does not descend to an Indian heir or heirs it shall descend to the Indian tribe that exercises jurisdiction over the parcel of trust or restricted lands involved, subject to paragraph (5).

''(5) ACQUISITION OF INTEREST BY INDIAN CO-OWNERS.—An Indian co-owner of a parcel of trust or restricted land may prevent the descent of an interest in Indian land to an Indian tribe under paragraph (4) by paying into the decedent's estate the fair market value of the interest in such land. If more than 1 Indian co-owner offers to pay for such an interest, the highest bidder shall obtain the interest. If payment is not received before the close of the probate of the decedent's estate, the interest shall descend to the tribe that exercises jurisdiction over the parcel.

''(6) SPECIAL RULE.—

''(A) IN GENERAL.—Notwithstanding paragraph (2), an owner of trust or restricted land who does not have an Indian spouse, Indian lineal descendant, an Indian heir of the first or second degree, or an Indian collateral heir of the first or second degree, may devise his or her interests in such land to any of the decedent's heirs of the first or second degree or collateral heirs of the first or second degree.

''(B) ACQUISITION OF INTEREST BY TRIBE.—An Indian tribe that exercises jurisdiction over an interest in trust or restricted land described in subparagraph (A) may acquire any interest devised to a non-Indian as provided for in section 206(c).

''(b) INTESTATE SUCCESSION.—

''(1) IN GENERAL.—An interest in trust or restricted land shall pass by intestate succession only to a decedent's spouse or heirs of the first or second degree, pursuant to the applicable law of intestate succession.

''(2) LIFE ESTATE.—Notwithstanding paragraph (1), with respect to land described in such paragraph, a non-Indian spouse or non-Indian heirs of the first or second degree shall only receive a life estate in such land.

''(3) DESCENT OF INTERESTS.—If a decedent described in paragraph (1) has no Indian heirs of the first or second degree, the remainder interest from the life estate referred to in paragraph (2) shall descend to any of the decedent's collateral Indian heirs of the first or second degree, pursuant to the applicable laws of intestate succession, if on the date of the decedent's death, such heirs were a co-owner of an interest in the parcel of trust or restricted land involved.

''(4) DESCENT TO TRIBE.—If the remainder interest described in paragraph (3) does not descend to an Indian heir or heirs it shall descend to the Indian tribe that exercises jurisdiction over the parcel of trust or restricted lands involved, subject to paragraph (5).

''(5) ACQUISITION OF INTEREST BY INDIAN CO-OWNERS.—An Indian co-owner of a parcel of trust or restricted land may prevent the descent of an interest in such land for which there is no heir of the first or second degree by paying into the decedent's estate the fair market value of the interest in such land. If more than 1 Indian co-owner makes an offer to pay for such an interest, the highest bidder shall obtain the interest. If no such offer is made, the interest shall descend to the Indian tribe that exercises jurisdiction over the parcel of land involved.

''(c) JOINT TENANCY; RIGHT OF SURVIVORSHIP.—

''(1) TESTATE.—If a testator devises interests in the same parcel of trust or restricted lands to more than 1 person, in the absence of express language in the devise to the contrary, the devise shall be presumed to create joint tenancy with the right of survivorship in the land involved.

''(2) INTESTATE.—

''(A) IN GENERAL.—Any interest in trust or restricted land that—

''(i) passes by intestate succession to more than 1 person, including a remainder interest under subsection (a) or (b) of section 207; and

''(ii) that constitutes 5 percent or more of the undivided interest in a parcel of trust or restricted land;

shall be held as tenancy in common.

''(B) LIMITED INTEREST.—Any interest in trust or restricted land that—

''(i) passes by intestate succession to more than 1 person, including a remainder interest under subsection (a) or (b) of section 207; and

''(ii) that constitutes less than 5 percent of the undivided interest in a parcel of trust or restricted land;

shall be held by such heirs with the right of survivorship.

''(3) EFFECTIVE DATE.—

''(A) IN GENERAL.—This subsection (other than subparagraph (B)) shall become effective on the later of—

''(i) the date referred to in subsection (g)(5); or

''(ii) the date that is six months after the date on which the Secretary makes the certification required under subparagraph (B).

''(B) CERTIFICATION.—Upon a determination by the Secretary that the Department of the Interior has the capacity, including policies and procedures, to track and manage interests in trust or restricted land held with the right of survivorship, the Secretary shall certify such determination and publish such certification in the Federal Register.

''(d) DESCENT OF OFF-RESERVATION LANDS.—

''(1) INDIAN RESERVATION DEFINED.—For purposes of this subsection, the term 'Indian reservation' includes lands located within—

''(A)(i) Oklahoma; and

''(ii) the boundaries of an Indian tribe's former reservation (as defined and determined by the Secretary);

''(B) the boundaries of any Indian tribe's current or former reservation; or

''(C) any area where the Secretary is required to provide special assistance or consideration of a tribe's acquisition of land or interests in land.

''(2) DESCENT.—Except in the State of California, upon the death of an individual holding an interest in trust or restricted lands that are located outside the boundaries of an

Indian reservation and that are not subject to the jurisdiction of any Indian tribe, that interest shall descend either—

''(A) by testate or intestate succession in trust to an Indian; or

''(B) in fee status to any other devises or heirs.

''(e) APPROVAL OF AGREEMENTS.—The official authorized to adjudicate the probate of trust or restricted lands shall have the authority to approve agreements between a decedent's heirs and devisees to consolidate interests in trust or restricted lands. The agreements referred to in the preceding sentence may include trust or restricted lands that are not a part of the decedent's estate that is the subject of the probate. The Secretary may promulgate regulations for the implementation of this subsection.

''(f) ESTATE PLANNING ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall provide estate planning assistance in accordance with this subsection, to the extent amounts are appropriated for such purpose.

''(2) REQUIREMENTS.—The estate planning assistance provided under paragraph (1) shall be designed to—

''(A) inform, advise, and assist Indian landowners with respect to estate planning in order to facilitate the transfer of trust or restricted lands to a devisee or devisees selected by the landowners; and

''(B) assist Indian landowners in accessing information pursuant to section 217(e).

''(3) CONTRACTS.—In carrying out this section, the Secretary may enter into contracts with entities that have expertise in Indian estate planning and tribal probate codes.

''(g) NOTIFICATION TO INDIAN TRIBES AND OWNERS OF TRUST OR RESTRICTED LANDS.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Indian Land Consolidation Act Amendments of 2000, the Secretary shall notify Indian tribes and owners of trust or restricted lands of the amendments made by the Indian Land Consolidation Act Amendments of 2000.

''(2) SPECIFICATIONS.—The notice required under paragraph (1) shall be designed to inform Indian owners of trust or restricted land of—

''(A) the effect of this Act, with emphasis on the effect of the provisions of this section, on the testate disposition and intestate descent of their interests in trust or restricted land; and

''(B) estate planning options available to the owners, including any opportunities for receiving estate planning assistance or advice.

''(3) REQUIREMENTS.—The Secretary shall provide the notice required under paragraph (1)—

''(A) by direct mail for those Indians with interests in trust and restricted lands for which the Secretary has an address for the interest holder;

''(B) through the Federal Register;

''(C) through local newspapers in areas with significant Indian populations, reservation newspapers, and newspapers that are directed at an Indian audience; and

''(D) through any other means determined appropriate by the Secretary.

''(4) CERTIFICATION.—After providing notice under this subsection, the Secretary shall certify that the requirements of this subsection have been met and shall publish notice of such certification in the Federal Register.

''(5) EFFECTIVE DATE.—The provisions of this section shall not apply to the estate of an individual who dies prior to the day that is 365 days after the Secretary makes the certification required under paragraph (4).'';

(5) in section 208, by striking ''section 206'' and inserting ''subsections (a) and (b) of section 206''; and

(6) by adding at the end the following:

''SEC. 213. PILOT PROGRAM FOR THE ACQUISITION OF FRACTIONAL INTERESTS.

''(a) ACQUISITION BY SECRETARY.—

''(1) IN GENERAL.—The Secretary may acquire, at the discretion of the Secretary and with the consent of the owner, and at fair market value, any fractional interest in trust or restricted lands.

''(2) AUTHORITY OF SECRETARY.—

''(A) IN GENERAL.—The Secretary shall have the authority to acquire interests in trust or restricted lands under this section during the 3-year period beginning on the date of certification that is referred to in section 207(g)(5).

''(B) REQUIRED REPORT.—Prior to expiration of the authority provided for in subparagraph (A), the Secretary shall submit the report required under section 218 concerning whether the program to acquire fractional interests should be extended or altered to make resources available to Indian tribes and individual Indian landowners.

''(3) INTERESTS HELD IN TRUST.—Subject to section 214, the Secretary shall immediately hold interests acquired under this Act in trust for the recognized tribal government that exercises jurisdiction over the land involved.

''(b) REQUIREMENTS.—In implementing subsection (a), the Secretary—

''(1) shall promote the policies provided for in section 102 of the Indian Land Consolidation Act Amendments of 2000;

''(2) may give priority to the acquisition of fractional interests representing 2 percent or less of a parcel of trust or restricted land, especially those interests that would have escheated to a tribe but for the Supreme Court's decision in Babbitt v. Youpee, (117 S Ct. 727 (1997));

''(3) to the extent practicable—

''(A) shall consult with the tribal government that exercises jurisdiction over the land involved in determining which tracts to acquire on a reservation;

''(B) shall coordinate the acquisition activities with the acquisition program of the tribal government that exercises jurisdiction over the land involved, including a tribal land consolidation plan approved pursuant to section 204; and

''(C) may enter into agreements (such agreements will not be subject to the provisions of the Indian Self-Determination and Education Assistance Act of 1974) with the tribal government that exercises jurisdiction over the land involved or a subordinate entity of the tribal government to carry out some or all of the Secretary's land acquisition program; and

''(4) shall minimize the administrative costs associated with the land acquisition program.

''(c) SALE OF INTEREST TO INDIAN LANDOWNERS.—

''(1) CONVEYANCE AT REQUEST.—

''(A) IN GENERAL.—At the request of any Indian who owns at least 5 percent of the undivided interest in a parcel of trust or restricted land, the Secretary shall convey an interest acquired under this section to the Indian landowner upon payment by the Indian landowner of the amount paid for the interest by the Secretary.

''(B) LIMITATION.—With respect to a conveyance under this subsection, the Secretary shall not approve an application to terminate the trust status or remove the restrictions of such an interest.

''(2) MULTIPLE OWNERS.—If more than one Indian owner requests an interest under (1), the Secretary shall convey the interest to the Indian owner who owns the largest percentage of the undivided interest in the parcel of trust or restricted land involved.

''(3) LIMITATION.—If an Indian tribe that has jurisdiction over a parcel of trust or restricted land owns 10 percent or more of the undivided interests in a parcel of such land, such interest may only be acquired under paragraph (1) with the consent of such Indian tribe.

''SEC. 214. ADMINISTRATION OF ACQUIRED FRACTIONAL INTERESTS, DISPOSITION OF PROCEEDS.

''(a) IN GENERAL.—Subject to the conditions described in subsection (b)(1), an Indian tribe receiving a fractional interest under section 213 may, as a tenant in common with the other owners of the trust or restricted lands, lease the interest, sell the resources, consent to the granting of rights-of-way, or engage in any other transaction affecting the trust or restricted land authorized by law.

''(b) CONDITIONS.—

''(1) IN GENERAL.—The conditions described in this paragraph are as follows:

''(A) Until the purchase price paid by the Secretary for an interest referred to in subsection (a) has been recovered, or until the Secretary makes any of the findings under paragraph (2)(A), any lease, resource sale contract, right-of-way, or other document evidencing a transaction affecting the interest shall contain a clause providing that all revenue derived from the interest shall be paid to the Secretary.

''(B) Subject to subparagraph (C), the Secretary shall deposit any revenue derived under subparagraph (A) into the Acquisition Fund created under section 216.

''(C) The Secretary shall deposit any revenue that is paid under subparagraph (A) that is in excess of the purchase price of the fractional interest involved to the credit of the Indian tribe that receives the fractional interest under section 213 and the tribe shall have access to such funds in the same manner as other funds paid to the Secretary for the use of lands held in trust for the tribe.

''(D) Notwithstanding any other provision of law, including section 16 of the Act of June 18, 1934 (commonly referred to as the 'Indian Reorganization Act') (48 Stat. 987, chapter 576; 25 U.S.C. 476), with respect to any interest acquired by the Secretary under section 213, the Secretary may approve a transaction covered under this section on behalf of a tribe until—

''(i) the Secretary makes any of the findings under paragraph (2)(A); or

''(ii) an amount equal to the purchase price of that interest has been paid into the Acquisition Fund created under section 216.

''(2) EXCEPTION.—Paragraph (1)(A) shall not apply to any revenue derived from an interest in a parcel of land acquired by the Secretary under section 213 after—

''(A) the Secretary makes a finding that—

''(i) the costs of administering the interest will equal or exceed the projected revenues for the parcel involved;

''(ii) in the discretion of the Secretary, it will take an unreasonable period of time for the parcel to generate revenue that equals the purchase price paid for the interest; or

''(iii) a subsequent decrease in the value of land or commodities associated with the land make it likely that the interest will be unable to generate revenue that equals the purchase price paid for the interest in a reasonable time; or

''(B) an amount equal to the purchase price of that interest in land has been paid into the Acquisition Fund created under section 216.

''(c) TRIBE NOT TREATED AS PARTY TO LEASE; NO EFFECT ON TRIBAL SOVEREIGNTY, IMMUNITY.—

''(1) IN GENERAL.—Paragraph (2) shall apply with respect to any undivided interest in allotted land held by the Secretary in trust for

a tribe if a lease or agreement under subsection (a) is otherwise applicable to such undivided interest by reason of this section even though the Indian tribe did not consent to the lease or agreement.

''(2) APPLICATION OF LEASE.—The lease or agreement described in paragraph (1) shall apply to the portion of the undivided interest in allotted land described in such paragraph (including entitlement of the Indian tribe to payment under the lease or agreement), and the Indian tribe shall not be treated as being a party to the lease or agreement. Nothing in this section (or in the lease or agreement) shall be construed to affect the sovereignty of the Indian tribe.

''SEC. 215. ESTABLISHING FAIR MARKET VALUE.

''For purposes of this Act, the Secretary may develop a system for establishing the fair market value of various types of lands and improvements. Such a system may include determinations of fair market value based on appropriate geographic units as determined by the Secretary. Such system may govern the amounts offered for the purchase of interests in trust or restricted lands under section 213.

''SEC. 216. ACQUISITION FUND.

''(a) IN GENERAL.—The Secretary shall establish an Acquisition Fund to—

''(1) disburse appropriations authorized to accomplish the purposes of section 213; and

''(2) collect all revenues received from the lease, permit, or sale of resources from interests in trust or restricted lands transferred to Indian tribes by the Secretary under section 213 or paid by Indian landowners under section 213(c).

''(b) DEPOSITS; USE.—

''(1) IN GENERAL.—Subject to paragraph (2), all proceeds from leases, permits, or resource sales derived from an interest in trust or restricted lands described in subsection (a)(2) shall—

''(A) be deposited in the Acquisition Fund; and

''(B) as specified in advance in appropriations Acts, be available for the purpose of acquiring additional fractional interests in trust or restricted lands.

''(2) MAXIMUM DEPOSITS OF PROCEEDS.—With respect to the deposit of proceeds derived from an interest under paragraph (1), the aggregate amount deposited under that paragraph shall not exceed the purchase price of that interest under section 213.

''SEC. 217. TRUST AND RESTRICTED LAND TRANSACTIONS.

''(a) POLICY.—It is the policy of the United States to encourage and assist the consolidation of land ownership through transactions—

''(1) involving individual Indians;

''(2) between Indians and the tribal government that exercises jurisdiction over the land; or

''(3) between individuals who own an interest in trust and restricted land who wish to convey that interest to an Indian or the tribal government that exercises jurisdiction over the parcel of land involved;

in a manner consistent with the policy of maintaining the trust status of allotted lands. Nothing in this section shall be construed to apply to or to authorize the sale of trust or restricted lands to a person who is not an Indian.

''(b) SALES, EXCHANGES AND GIFT DEEDS BETWEEN INDIANS AND BETWEEN INDIANS AND INDIAN TRIBES.—

''(1) IN GENERAL.—

''(A) ESTIMATE OF VALUE.—Notwithstanding any other provision of law and only after the Indian selling, exchanging, or conveying by gift deed for no or nominal consideration an interest in land, has been provided with an estimate of the value of the interest of the Indian pursuant to this section—

''(i) the sale or exchange or conveyance of an interest in trust or restricted land may be made for an amount that is less than the fair market value of that interest; and

''(ii) the approval of a transaction that is in compliance with this section shall not constitute a breach of trust by the Secretary.

''(B) WAIVER OF REQUIREMENT.—The requirement for an estimate of value under subparagraph (A) may be waived in writing by an Indian selling, exchanging, or conveying by gift deed for no or nominal consideration an interest in land with an Indian person who is the owner's spouse, brother, sister, lineal ancestor of Indian blood, lineal descendant, or collateral heir.

''(2) LIMITATION.—For a period of 5 years after the Secretary approves a conveyance pursuant to this subsection, the Secretary shall not approve an application to terminate the trust status or remove the restrictions of such an interest.

''(c) ACQUISITION OF INTEREST BY SECRETARY.—An Indian, or the recognized tribal government of a reservation, in possession of an interest in trust or restricted lands, at least a portion of which is in trust or restricted status on the date of enactment of the Indian Land Consolidation Act Amendments of 2000 and located within a reservation, may request that the interest be taken into trust by the Secretary. Upon such a request, the Secretary shall forthwith take such interest into trust.

''(d) STATUS OF LANDS.—The sale, exchange, or conveyance by gift deed for no or nominal consideration of an interest in trust or restricted land under this section shall not affect the status of that land as trust or restricted land.

''(e) LAND OWNERSHIP INFORMATION.—Notwithstanding any other provision of law, the names and mailing addresses of the Indian owners of trust or restricted lands, and information on the location of the parcel and the percentage of undivided interest owned by each individual, or of any interest in trust or restricted lands, shall, upon written request, be made available to—

''(1) other Indian owners of interests in trust or restricted lands within the same reservation;

''(2) the tribe that exercises jurisdiction over the land where the parcel is located or any person who is eligible for membership in that tribe; and

''(3) prospective applicants for the leasing, use, or consolidation of such trust or restricted land or the interest in trust or restricted lands.

''(f) NOTICE TO INDIAN TRIBE.—After the expiration of the limitation period provided for in subsection (b)(2) and prior to considering an Indian application to terminate the trust status or to remove the restrictions on alienation from trust or restricted land sold, exchanged or otherwise conveyed under this section, the Indian tribe that exercises jurisdiction over the parcel of such land shall be notified of the application and given the opportunity to match the purchase price that has been offered for the trust or restricted land involved.

''SEC. 218. REPORTS TO CONGRESS.

''(a) IN GENERAL.—Prior to expiration of the authority provided for in section 213(a)(2)(A), the Secretary, after consultation with Indian tribes and other interested parties, shall submit to the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that indicates, for the period covered by the report—

''(1) the number of fractional interests in trust or restricted lands acquired; and

''(2) the impact of the resulting reduction in the number of such fractional interests on the financial and realty recordkeeping systems of the Bureau of Indian Affairs.

''(b) REPORT.—The reports described in subsection (a) and section 213(a) shall contain findings as to whether the program under this Act to acquire fractional interests in trust or restricted lands should be extended and whether such program should be altered to make resources available to Indian tribes and individual Indian landowners.

''SEC. 219. APPROVAL OF LEASES, RIGHTS-OF-WAY, AND SALES OF NATURAL RESOURCES.

''(a) APPROVAL BY THE SECRETARY.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may approve any lease or agreement that affects individually owned allotted land or any other land held in trust or restricted status by the Secretary on behalf of an Indian, if—

''(A) the owners of not less than the applicable percentage (determined under subsection (b)) of the undivided interest in the allotted land that is covered by the lease or agreement consent in writing to the lease or agreement; and

''(B) the Secretary determines that approving the lease or agreement is in the best interest of the owners of the undivided interest in the allotted land.

''(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to apply to leases involving coal or uranium.

''(3) DEFINITION.—In this section, the term 'allotted land' includes any land held in trust or restricted status by the Secretary on behalf of one or more Indians.

''(b) APPLICABLE PERCENTAGE.—

''(1) PERCENTAGE INTEREST.—The applicable percentage referred to in subsection (a)(1) shall be determined as follows:

''(A) If there are 5 or fewer owners of the undivided interest in the allotted land, the applicable percentage shall be 100 percent.

''(B) If there are more than 5 such owners, but fewer than 11 such owners, the applicable percentage shall be 80 percent.

''(C) If there are more than 10 such owners, but fewer than 20 such owners, the applicable percentage shall be 60 percent.

''(D) If there are 20 or more such owners, the applicable percentage shall be a majority of the interests in the allotted land.

''(2) DETERMINATION OF OWNERS.—

''(A) IN GENERAL.—For purposes of this subsection, in determining the number of owners of, and their interests in, the undivided interest in the allotted land with respect to a lease or agreement, the Secretary shall make such determination based on the records of the Department of the Interior that identify the owners of such lands and their interests and the number of owners of such land on the date on which the lease or agreement involved is submitted to the Secretary under this section.

''(B) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) shall be construed to authorize the Secretary to treat an Indian tribe as the owner of an interest in allotted land that did not escheat to the tribe pursuant to section 207 as a result of the Supreme Court's decision in Babbitt v. Youpee, (117 S Ct. 727 (1997)).

''(c) AUTHORITY OF SECRETARY TO SIGN LEASE OR AGREEMENT ON BEHALF OF CERTAIN OWNERS.—The Secretary may give written consent to a lease or agreement under subsection (a)—

''(1) on behalf of the individual Indian owner if the owner is deceased and the heirs to, or devisees of, the interest of the deceased owner have not been determined; or

''(2) on behalf of any heir or devisee referred to in paragraph (1) if the heir or devisee has been determined but cannot be located

''(d) EFFECT OF APPROVAL.—

''(1) APPLICATION TO ALL PARTIES.—

''(A) IN GENERAL.—Subject to paragraph (2), a lease or agreement approved by the Secretary under subsection (a) shall be binding on the parties described in subparagraph (B), to the same extent as if all of the owners of the undivided interest in allotted land covered under the lease or agreement consented to the lease or agreement.

''(B) DESCRIPTION OF PARTIES.—The parties referred to in subparagraph (A) are—

''(i) the owners of the undivided interest in the allotted land covered under the lease or agreement referred to in such subparagraph; and

''(ii) all other parties to the lease or agreement.

''(2) TRIBE NOT TREATED AS PARTY TO LEASE; NO EFFECT ON TRIBAL SOVEREIGNTY, IMMUNITY.—

''(A) IN GENERAL.—Subparagraph (B) shall apply with respect to any undivided interest in allotted land held by the Secretary in trust for a tribe if a lease or agreement under subsection (a) is otherwise applicable to such undivided interest by reason of this section even though the Indian tribe did not consent to the lease or agreement.

''(B) APPLICATION OF LEASE.—The lease or agreement described in subparagraph (A) shall apply to the portion of the undivided interest in allotted land described in such paragraph (including entitlement of the Indian tribe to payment under the lease or agreement), and the Indian tribe shall not be treated as being a party to the lease or agreement. Nothing in this section (or in the lease or agreement) shall be construed to affect the sovereignty of the Indian tribe.

''(e) DISTRIBUTION OF PROCEEDS.—

''(1) IN GENERAL.—The proceeds derived from a lease or agreement that is approved by the Secretary under subsection (a) shall be distributed to all owners of undivided interest in the allotted land covered under the lease or agreement.

''(2) DETERMINATION OF AMOUNTS DISTRIBUTED.—The amount of the proceeds under paragraph (1) that are distributed to each owner under that paragraph shall be determined in accordance with the portion of the undivided interest in the allotted land covered under the lease or agreement that is owned by that owner.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to amend or modify the provisions of Public Law 105-188 (25 U.S.C. 396 note), the American Indian Agricultural Resources Management Act (25 U.S.C. 3701 et seq.), title II of the Indian Land Consolidation Act Amendments of 2000, or any other Act that provides specific standards for the percentage of ownership interest that must approve a lease or agreement on a specified reservation.

''SEC. 220. APPLICATION TO ALASKA.

''(a) FINDINGS.—Congress find that—

''(1) numerous academic and governmental organizations have studied the nature and extent of fractionated ownership of Indian land outside of Alaska and have proposed solutions to this problem; and

''(2) despite these studies, there has not been a comparable effort to analyze the problem, if any, of fractionated ownership in Alaska.

''(b) APPLICATION OF ACT TO ALASKA.—Except as provided in this section, this Act shall not apply to land located within Alaska.

''(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to constitute a ratification of any determination by any agency, instrumentality, or court of the United States that may support the assertion of tribal jurisdiction over allotment lands or interests in such land in Alaska.''.

SEC. 104. JUDICIAL REVIEW.

Notwithstanding section 207(g)(5) of the Indian Land Consolidation Act (25 U.S.C. 2206(f)(5)), after the Secretary of Interior provides the certification required under section 207(g)(4) of such Act, the owner of an interest in trust or restricted land may bring an administrative action to challenge the application of such section 207 to the devise or descent of his or her interest or interests in trust or restricted lands, and may seek judicial review of the final decision of the Secretary of Interior with respect to such challenge.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated not to exceed $8,000,000 for fiscal year 2001 and each subsequent fiscal year to carry out the provisions of this title (and the amendments made by this title) that are not otherwise funded under the authority provided for in any other provision of Federal law.

SEC. 106. CONFORMING AMENDMENTS.

(a) PATENTS HELD IN TRUST.—The Act of February 8, 1887 (24 Stat. 388) is amended—

(1) by repealing sections 1, 2, and 3 (25 U.S.C. 331, 332, and 333); and

(2) in the second proviso of section 5 (25 U.S.C. 348)—

(A) by striking ''and partition''; and

(B) by striking ''except'' and inserting ''except as provided by the Indian Land Consolidation Act or a tribal probate code approved under such Act and except''.

(b) ASCERTAINMENT OF HEIRS AND DISPOSAL OF ALLOTMENTS.—The Act of June 25, 1910 (36 Stat. 855) is amended—

(1) in the first sentence of section 1 (25 U.S.C. 372), by striking ''under'' and inserting ''under the Indian Land Consolidation Act or a tribal probate code approved under such Act and pursuant to''; and

(2) in the first sentence of section 2 (25 U.S.C. 373), by striking ''with regulations'' and inserting ''with the Indian Land Consolidation Act or a tribal probate code approved under such Act and regulations''.

(c) TRANSFER OF LANDS.—Section 4 of the Act of June 18, 1934 (25 U.S.C. 464) is amended by striking ''member or:'' and inserting ''member or, except as provided by the Indian Land Consolidation Act,''.

TITLE II—LEASES OF NAVAJO INDIAN ALLOTTED LANDS

SEC. 201. LEASES OF NAVAJO INDIAN ALLOTTED LANDS.

(a) DEFINITIONS.—In this section:

(1) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(2) INDIVIDUALLY OWNED NAVAJO INDIAN ALLOTTED LAND.—The term ''individually owned Navajo Indian allotted land'' means Navajo Indian allotted land that is owned in whole or in part by 1 or more individuals.

(3) NAVAJO INDIAN.—The term ''Navajo Indian'' means a member of the Navajo Nation.

(4) NAVAJO INDIAN ALLOTTED LAND.—The term ''Navajo Indian allotted land'' means a single parcel of land that—

(A) is located within the jurisdiction of the Navajo Nation; and

(B)(i) is held in trust or restricted status by the United States for the benefit of Navajo Indians or members of another Indian tribe; and

(ii) was—

(I) allotted to a Navajo Indian; or

(II) taken into trust or restricted status by the United States for a Navajo Indian.

(5) OWNER.—The term ''owner'' means, in the case of any interest in land described in paragraph (4)(B)(i), the beneficial owner of the interest.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) APPROVAL BY THE SECRETARY.—

(1) IN GENERAL.—The Secretary may approve an oil or gas lease or agreement that affects individually owned Navajo Indian allotted land, if—

(A) the owners of not less than the applicable percentage (determined under paragraph (2)) of the undivided interest in the Navajo Indian allotted land that is covered by the oil or gas lease or agreement consent in writing to the lease or agreement; and

(B) the Secretary determines that approving the lease or agreement is in the best interest of the owners of the undivided interest in the Navajo Indian allotted land.

(2) PERCENTAGE INTEREST.—The applicable percentage referred to in paragraph (1)(A) shall be determined as follows:

(A) If there are 10 or fewer owners of the undivided interest in the Navajo Indian allotted land, the applicable percentage shall be 100 percent.

(B) If there are more than 10 such owners, but fewer than 51 such owners, the applicable percentage shall be 80 percent.

(C) If there are 51 or more such owners, the applicable percentage shall be 60 percent.

(3) AUTHORITY OF SECRETARY TO SIGN LEASE OR AGREEMENT ON BEHALF OF CERTAIN OWNERS.—The Secretary may give written consent to an oil or gas lease or agreement under paragraph (1) on behalf of an individual Indian owner if—

(A) the owner is deceased and the heirs to, or devisees of, the interest of the deceased owner have not been determined; or

(B) the heirs or devisees referred to in subparagraph (A) have been determined, but 1 or more of the heirs or devisees cannot be located.

(4) EFFECT OF APPROVAL.—

(A) APPLICATION TO ALL PARTIES.—

(i) IN GENERAL.—Subject to subparagraph (B), an oil or gas lease or agreement approved by the Secretary under paragraph (1) shall be binding on the parties described in clause (ii), to the same extent as if all of the owners of the undivided interest in Navajo Indian allotted land covered under the lease or agreement consented to the lease or agreement.

(ii) DESCRIPTION OF PARTIES.—The parties referred to in clause (i) are—

(I) the owners of the undivided interest in the Navajo Indian allotted land covered under the lease or agreement referred to in clause (i); and

(II) all other parties to the lease or agreement.

(B) EFFECT ON INDIAN TRIBE.—If—

(i) an Indian tribe is the owner of a portion of an undivided interest in Navajo Indian allotted land; and

(ii) an oil or gas lease or agreement under paragraph (1) is otherwise applicable to such portion by reason of this subsection even though the Indian tribe did not consent to the lease or agreement,

then the lease or agreement shall apply to such portion of the undivided interest (including entitlement of the Indian tribe to payment under the lease or agreement), but the Indian tribe shall not be treated as a party to the lease or agreement and nothing in this subsection (or in the lease or agreement) shall be construed to affect the sovereignty of the Indian tribe.

(5) DISTRIBUTION OF PROCEEDS.—

(A) IN GENERAL.—The proceeds derived from an oil or gas lease or agreement that is approved by the Secretary under paragraph (1) shall be distributed to all owners of the

undivided interest in the Navajo Indian allotted land covered under the lease or agreement.

(B) DETERMINATION OF AMOUNTS DISTRIBUTED.—The amount of the proceeds under subparagraph (A) distributed to each owner under that subparagraph shall be determined in accordance with the portion of the undivided interest in the Navajo Indian allotted land covered under the lease or agreement that is owned by that owner.

FUGITIVE APPREHENSION ACT OF 2000

THURMOND (AND OTHERS) AMENDMENT NO. 4020)

Mr. DEWINE (for Mr. THURMOND (for himself, Mr. BIDEN, and Mr. LEAHY)) proposed an amendment to the bill (S. 2516) to fund task forces to locate and apprehend fugitives in Federal, State, and local felony criminal cases and give administrative subpoena authority to the United States Marshals Service, as follows:

On page 14, beginning with line 21, strike through page 15, line 20 and insert the following:

''(3) NONDISCLOSURE REQUIREMENTS.—

''(A) IN GENERAL.—Except as provided in paragraphs (1) and (2), the Attorney General may apply to a court for an order requiring the party to whom an administrative subpoena is directed to refrain from notifying any other party of the existence of the subpoena or court order for such period as the court deems appropriate.

''(B) ORDER.—The court shall enter such order if it determines that there is reason to believe that notification of the existence of the administrative subpoena will result in—

''(i) endangering the life or physical safety of an individual;

''(ii) flight from prosecution;

''(iii) destruction of or tampering with evidence;

''(iv) intimidation of potential witnesses; or

''(v) otherwise seriously jeopardizing an investigation or undue delay of a trial.

On page 16, line 9 insert '', in consultation with the Secretary of the Treasury,'' after ''eral''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, July 26, 2000. The purpose of this hearing will be to review the Federal sugar program.

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

COMMITTEE ON ARMED SERVICES

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, July 26, 2000 at 9:30 a.m., in open session to consider the nominations of Mr. Donald Mancuso to be Inspector General, Department of Defense; Mr. Roger W. Kallock to be Deputy Under Secretary of Defense for Logistics and Material Readiness; and Mr. James E. Baker to be a Judge of the United States Court of Appeals for the Armed Forces.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, July 26, 2000, at 9:30 a.m., on broadband issues.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, July 26 at 9:30 to conduct an oversight hearing. The committee will receive testimony on Natural Gas Supply.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, July 26, at 9:00 a.m., Hearing Room (SD–4006), to consider the following items:

1. S. 2417, Water Pollution Program Enhancements Act of 2000, with a manager's amendment;

2. S. 1109, Bear Protection Act of 1999;

3. S. 2878, National Wildlife Refuge System Centennial;

4. GSA FY 2001 Construction authorizations (including courthouses);

5. Namings: H.R. 1729, Pamela B. Gwin Hall, Charlottesville, Virginia; H.R. 1901, Kika de la Garza United States Border Station, Pharr, Texas; H.R. 1959, Adrian A. Spears Judicial Training Center, San Antonio, Texas; and H.R. 4608, James H. Quillen United States Courthouse, Greeneville, Tennessee.

6. Nominations: a. Arthur C. Campbell, Assistant Secretary for Economic Development, The Department of Commerce; b. Ella Wong-Rusinko, Alternate Federal Co-Chair, Appalachian Regional Commission; and

7. A study resolution to approve a Natural Resources Conservation Service flood control dam in Warren, Minnesota.

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

COMMITTEE ON FINANCE

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the Session of the Senate on Wednesday, July 26, 2000 for a public hearing to consider the nominations of Robert S. LaRussa to be Under Secretary for International Trade, Department of Commerce, Ruth M. Thomas to be Assistant Secretary for Legislative Affairs, Department of the Treasury; and Lisa G. Ross to be Assistant Secretary for Management and Chief Financial Officer, Department of the Treasury.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 26, 2000, at 11 am to hold a business meeting (agenda attached).

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, July 26, 2000 at 10 a.m. for a hearing regarding S. 1801, the ''Public Interest Declassification Act.''

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Public Health, be authorized to meet for a hearing on ''Health Disparities: Bridging the Gap'' during the session of the Senate on Wednesday, July 26, 2000, at 9:30 a.m.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on The Americans with Disabilities Act: Opening the Doors to the Workplace during the session of the Senate on Wednesday, July 26, 2000, at 2 p.m.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, July 26, 2000 at 1:30 p.m. in room 485 of the Russell Senate Building to mark up pending legislation to be followed by an oversight hearing, on the Activities of the National Indian Gaming Commission; to be followed by a legislative hearing on the S. 2526, to reauthorize the Indian Health Care Improvement Act.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, July 26, 2000 at

2:30 p.m. in room 485 of the Russell Senate Building to conduct a hearing on the S. 2526, to reauthorize the Indian Health Care Improvement Act.

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

COMMITTEE ON THE JUDICIARY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Administrative Oversight and the Courts be authorized to meet to conduct a hearing on Wednesday, July 26, 2000, at 9:30 a.m., in 226 Dirksen.

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

COMMITTEE ON SMALL BUSINESS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate on Wednesday, July 26, 2000, to markup S. 1594, ''Community Development and Venture Capital Act of 1999,'' and other pending matters. The markup will begin at 9:00 a.m. in room 428A of the Russell Senate Office Building.

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LANDS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Lands of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, July 26, at 2:30 p.m. to conduct an oversight hearing to receive testimony on the Draft Environmental Impact Statement implementing the October 1999 announcement by President Clinton to review approximately 40 million acres of national forest lands for increased protection.

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

SUBCOMMITTEE ON WATER AND POWER

Mr. BENNETT. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, July 26 at 2:30 p.m. to conduct a legislative hearing followed by an oversight hearing. The subcommittee will receive testimony on S. 2877, a bill to authorize the Secretary of the Interior to conduct a feasibility study on water optimization in the Burnt River basin, Malheur River basin, Owyehee River basin, and Powder River basin, Oregon; S. 2881, a bill to update an existing Bureau of Reclamation program by amending the Small Reclamation Projects Act of 1956, to establish a partnership program in the Bureau of Reclamation for small reclamation projects, and for other purposes; and S. 2882, a bill to authorize the Bureau of Reclamation to conduct certain feasibility studies to augment water supplies for the Klamath Project, Oregon and California, and for other purposes. The subcommittee will then receive oversight testimony on the status of the Biological Opinions of the National Marine Fisheries Service and the U.S. Fish and Wildlife Service on the operations of the Federal hydropower system of the Columbia River.

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

PRIVILEGE OF THE FLOOR

Mr. WYDEN. Mr. President, I ask unanimous consent for Jim Worth of my office to be granted the privilege of the floor for the rest of the week.

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

NOMINATIONS PLACED ON CALENDAR

Mr. DEWINE. Mr. President, as in executive session, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of the following nominations and that they be placed on the executive calendar.

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

The nominations are as follows:

Edward E. Kaufman, of Delaware, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2003. (Reappointment)

Alberto J. Mora, of Florida, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2003. (Reappointment)

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DEWINE. Mr. President, on behalf of the leader, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on the executive calendar: No. 524.

I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, any statements relating to the nomination be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nomination was considered and confirmed, as follows:

DEPARTMENT OF ENERGY

Mildred Spiewak Dresselhaus, of Massachusetts, to be Director of the Office of Science, Department of Energy.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

INDIAN LAND CONSOLIDATION ACT AMENDMENTS OF 1999

Mr. DEWINE. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 714, S. 1586.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1586) to reduce the fractionated ownership of Indian Lands, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs, with an amendment:

[Strike out all after the enacting clause and insert the part printed in italic]

S. 1586

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 ''Indian Land Consolidation Act Amendments of 2000''.

SEC. 2. FINDINGS.

Congress finds that—

(1) in the 1800's and early 1900's, the United States sought to assimilate Indian people into the surrounding non-Indian culture by allotting tribal lands to individual members of Indian tribes;

(2) as a result of the allotment Acts and related Federal policies, over 90,000,000 acres of land have passed from tribal ownership;

(3) many trust allotments were taken out of trust status, often without their owners consent;

(4) without restrictions on alienation, allotment owners were subject to exploitation and their allotments were often sold or disposed of without any tangible or enduring benefit to their owners;

(5) the trust periods for trust allotments have been extended indefinitely;

(6) because of the inheritance provisions in the original treaties or allotment Acts, the ownership of many of the trust allotments that have remained in trust status has become fractionated into hundreds or thousands of interests, many of which represent 2 percent or less of the total interests;

(7) Congress has authorized the acquisition of lands in trust for individual Indians, and many of those lands have also become fractionated by subsequent inheritance;

(8) the acquisitions referred to in paragraph (7) continue to be made;

(9) the fractional interests described in this section provide little or no return to the beneficial owners of those interests and the administrative costs borne by the United States for those interests are inordinately high;

(10) in Babbitt v. Youpee (117 S Ct. 727 (1997)), the United States Supreme Court found that the application of section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) to the facts presented in that case to be unconstitutional, forcing the Department of the Interior to address the status of thousands of undivided interests in trust and restricted lands;

(11)(A) on February 19, 1999, the Secretary of Interior issued a Secretarial Order which officially reopened the probate of all estates where an interest in land was ordered to escheat to an Indian tribe pursuant to section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206); and

(B) the Secretarial Order also directed appropriate officials of the Bureau of Indian Affairs to distribute such interests ''to the rightful heirs and beneficiaries without regard to 25 U.S.C. 2206'';

(12) in the absence of comprehensive remedial legislation, the number of the fractional interests will continue to grow exponentially;

(13) the problem of the fractionation of Indian lands described in this section is the result of a policy of the Federal Government, cannot be solved by Indian tribes, and requires a solution under Federal law.

(14) any devise or inheritance of an interest in trust or restricted Indian lands is based on Federal law; and

(15) consistent with the Federal policy of tribal self-determination, the Federal Government should encourage the recognized tribal government that exercises jurisdiction over a reservation to establish a tribal probate code for that reservation.

SEC. 3. DECLARATION OF POLICY.

It is the policy of the United States—

(1) to prevent the further fractionation of trust allotments made to Indians;

(2) to consolidate fractional interests and ownership of those interests into usable parcels;

(3) to consolidate fractional interests in a manner that enhances tribal sovereignty;

(4) to promote tribal self-sufficiency and self-determination; and

(5) to reverse the effects of the allotment policy on Indian tribes.

SEC. 4. AMENDMENTS TO THE INDIAN LAND CONSOLIDATION ACT.

The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended—

(1) in section 202—

(A) in paragraph (1), by striking ''(1) 'tribe'' and inserting ''(1) 'Indian tribe' or 'tribe''';

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

''(2) 'Indian' means any person who is a member of any Indian tribe or is eligible to become a member of any Indian tribe at the time of the distribution of the assets of a decedent's estate;'';

(C) by striking ''and'' at the end of paragraph (3);

(D) by striking the period at the end of paragraph (4) and inserting ''; and''; and

(E) by adding at the end the following:

''(5) 'heirs of the first or second degree' means parents, children, grandchildren, grandparents, brothers and sisters of a decedent.'';

(2) in section 205—

(A) in the matter preceding paragraph (1)—

(i) by striking ''Any Indian'' and inserting ''(a) IN GENERAL.—Subject to subsection (b), any Indian'';

(ii) by striking the colon and inserting the following: ''. Interests owned by an Indian tribe in a tract may be included in the computation of the percentage of ownership of the undivided interests in that tract for purposes of determining whether the consent requirement under the preceding sentence has been met.'';

(iii) by striking '': Provided, That—''; and inserting the following:

''(b) CONDITIONS APPLICABLE TO PURCHASE.—Subsection (a) applies on the condition that—'';

(B) in paragraph (2)—

(i) by striking ''If,'' and inserting ''if''; and

(ii) by adding ''and'' at the end; and

(C) by striking paragraph (3) and inserting the following:

''(3) the approval of the Secretary shall be required for a land sale initiated under this section, except that such approval shall not be required with respect to a land sale transaction initiated by an Indian tribe that has in effect a land consolidation plan that has been approved by the Secretary under section 204.'';

(3) by striking section 206 and inserting the following:

''SEC. 206. TRIBAL PROBATE CODES; ACQUISITIONS OF FRACTIONAL INTERESTS BY TRIBES.

''(a) TRIBAL PROBATE CODES.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, any Indian tribe may adopt a tribal probate code to govern descent and distribution of trust or restricted lands that are—

''(A) located within that Indian tribe's reservation; or

''(B) otherwise subject to the jurisdiction of that Indian tribe.

''(2) POSSIBLE INCLUSIONS.—A tribal probate code referred to in paragraph (1) may include—

''(A) rules of intestate succession; and

''(B) other tribal probate code provisions that are consistent with Federal law and that promote the policies set forth in section 3 of the Indian Land Consolidation Act Amendments of 2000.

''(3) LIMITATIONS.—The Secretary shall not approve a tribal probate code if such code prevents an Indian person from inheriting an interest in an allotment that was originally allotted to his or her lineal ancestor.

''(b) SECRETARIAL APPROVAL.—

''(1) IN GENERAL.—Any tribal probate code enacted under subsection (a), and any amendment to such a tribal probate code, shall be subject to the approval of the Secretary.

''(2) REVIEW AND APPROVAL.—

''(A) IN GENERAL.—Each Indian tribe that adopts a tribal probate code under subsection (a) shall submit that code to the Secretary for review. Not later than 180 days after a tribal probate code is submitted to the Secretary under this paragraph, the Secretary shall review and approve or disapprove that tribal probate code.

''(B) CONSEQUENCE OF FAILURES TO APPROVE OR DISAPPROVE A TRIBAL PROBATE CODE.—If the Secretary fails to approve or disapprove a tribal probate code submitted for review under subparagraph (A) by the date specified in that subparagraph, the tribal probate code shall be deemed to have been approved by the Secretary, but only to the extent that the tribal probate code is consistent with Federal law and promotes the policies set forth in section 3 of the Indian Land Consolidation Act Amendments of 2000.

''(C) CONSISTENCY OF TRIBAL PROBATE CODE WITH ACT.—The Secretary may not approve a tribal probate code, or any amendment to such a code, under this paragraph unless the Secretary determines that the tribal probate code promotes the policies set forth in section 3 of the Indian Land Consolidation Act Amendments of 2000.

''(D) EXPLANATION.—If the Secretary disapproves a tribal probate code, or an amendment to such a code, under this paragraph, the Secretary shall include in the notice of disapproval to the Indian tribe a written explanation of the reasons for the disapproval.

''(E) AMENDMENTS.—

''(i) IN GENERAL.—Each Indian tribe that amends a tribal probate code under this paragraph shall submit the amendment to the Secretary for review and approval. Not later than 60 days after receiving an amendment under this subparagraph, the Secretary shall review and approve or disapprove the amendment.

''(ii) CONSEQUENCE OF FAILURE TO APPROVE OR DISAPPROVE AN AMENDMENT.—If the Secretary fails to approve or disapprove an amendment submitted under clause (i), the amendment shall be deemed to have been approved by the Secretary, but only to the extent that the amendment is consistent with Federal law and promotes the policies set forth in section 3 of the Indian Land Consolidation Act of 2000.

''(3) EFFECTIVE DATES.—A tribal probate code approved under paragraph (2) shall become effective on the later of—

''(A) the date specified in section 207(f)(5); or

''(B) 180 days after the date of approval.

''(4) LIMITATIONS.—

''(A) TRIBAL PROBATE CODES.—Each tribal probate code enacted under subsection (a) shall apply only to the estate of a decedent who dies on or after the effective date of the tribal probate code.

''(B) AMENDMENTS TO TRIBAL PROBATE CODES.—With respect to an amendment to a tribal probate code referred to in subparagraph (A), that amendment shall apply only to the estate of a descendant who dies on or after the effective date of the amendment.

''(5) REPEALS.—The repeal of a tribal probate code shall—

''(A) not become effective earlier than the date that is 180 days after the Secretary receives notice of the repeal; and

''(B) apply only to the estate of a decedent who dies on or after the effective date of the repeal.

''(c) AUTHORITY AVAILABLE TO INDIAN TRIBES.—

''(1) APPLICATION.—The recognized tribal government that has jurisdiction over an Indian reservation (as defined in section 207(c)(5)) may exercise the authority provided for in paragraph (2).

''(2) AUTHORITY TO MAKE PAYMENTS IN LIEU OF INHERITANCE OF INTEREST IN LAND.—

''(A) PROHIBITION.—An individual who is not an Indian shall not be entitled to receive by devise or descent any interest in trust or restricted land, except by reserving a life estate under subparagraph (B)(ii), within the reservation over which a tribal government has jurisdiction if, while the decedent's estate is pending before the Secretary, the tribal government referred to in paragraph (1) pays to the Secretary, on behalf of such individual, the value of such interest. The interest for which payment is made under this subparagraph shall be held by the Secretary in trust for the tribal government.

''(B) EXCEPTION.—

''(i) IN GENERAL.—Subparagraph (A) shall not apply to any interest in trust or restricted land if, while the decedent's estate is pending before the Secretary, the ineligible non-Indian heir or devisee described in such subparagraph renounces the interest in favor of a person or persons who are otherwise eligible to inherit.

''(ii) RESERVATION OF LIFE ESTATE.—The non-Indian heir or devisee described in clause (i) may retain a life estate in the interest and convey the remaining interest to an Indian person.

''(iii) PRESUMPTION.—In the absence of any express language to the contrary, a conveyance under clause (ii) is presumed to reserve to the life estate holder all income from the lease, use, rents, profits, royalties, bonuses, or sales of natural resources during the pendency of the life estate and any right to occupy the tract of land as a home.

''(C) PAYMENTS.—With respect to payments by a tribal government under subparagraph (A), the Secretary shall—

''(i) upon the request of the tribal government, allow a reasonable period of time, not to exceed 2 years, for the tribal government to make payments of amounts due pursuant to subparagraph (A); or

''(ii) recognize alternative agreed upon exchanges of consideration between the ineligible non-Indian and the tribe in satisfaction of the payment under subparagraph (A).

''(d) USE OF PROPOSED FINDINGS BY TRIBAL JUSTICE SYSTEMS.—

''(1) TRIBAL JUSTICE SYSTEM DEFINED.—In this subsection, the term 'tribal justice system' has the meaning given that term in section 3 of the Indian Tribal Justice Act (25 U.S.C. 3602).

''(2) REGULATIONS.—The Secretary by regulation may provide for the use of findings of fact and conclusions of law, as rendered by a tribal justice system, as proposed findings of fact and conclusions of law in the adjudication of probate proceedings by the Department of the Interior.'';

(4) by striking section 207 and inserting the following:

''SEC. 207. DESCENT AND DISTRIBUTION; ESCHEAT OF FRACTIONAL INTERESTS.

''(a) TESTAMENTARY DISPOSITION.—

''(1) IN GENERAL.—Except as provided in this section, interests in trust or restricted land may be devised only to—

''(A) the decedent's Indian spouse or any other Indian person; or

''(B) the Indian tribe with jurisdiction over the land so devised.

''(2) NON-INDIAN ESTATE.—Any devise not described in paragraph (1) shall create a non-Indian estate in Indian land as provided for under subsection (c).

''(3) JOINT TENANCY WITH RIGHT OF SURVIVORSHIP.—If a testator devises interests in the same

parcel of trust or restricted land to more than 1 person, in the absence of express language in the devise to the contrary, the devise shall be presumed to create a joint tenancy with right of survivorship.

''(b) INTESTATE SUCCESSION.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), with respect to an interest in trust or restricted land passing by intestate succession, only a spouse or heirs of the first or second degree may inherit such an interest.

''(2) NON-INDIAN ESTATE.—Notwithstanding paragraph (1), a non-Indian spouse or non-Indian heir of the first or second degree may only receive a non-Indian estate in Indian land as provided for under subsection (c).

''(3) JOINT TENANCY.—

''(A) IN GENERAL.—Unless modified by a tribal probate code that is approved under section 206—

''(i) any heirs of the first or second degree that inherit an interest that constitutes 5 percent or more of the undivided interest in a parcel of trust or restricted land, shall hold such interest as tenants in common; and

''(ii) any heirs of the first or second degree that inherit an interest that constitutes less than 5 percent of the undivided interest in a parcel of trust or restricted land, shall hold such interest as joint tenants with the right of survivorship.

''(B) RENOUNCING OF RIGHTS.—The heirs who inherit an interest as tenants in common with a right of survivorship under subparagraph (A)(ii) may renounce their right of survivorship in favor of one or more of their co-owners.

''(4) ACQUISITION OF INTEREST BY INDIAN CO-OWNERS.—An Indian co-owner of a parcel of trust or restricted land may prevent the escheat of an interest in Indian lands for which there is no legal heir by paying into the decedent's estate, the fair market value of the interest in such land. If more than 1 Indian co-owner offers to pay for such interest, the highest bidder shall obtain the interest. If no such offer is made, the interest will escheat to the tribe that exercises jurisdiction over the land.

''(c) NON-INDIAN ESTATES.—

''(1) RIGHTS OF NON-INDIAN ESTATE HOLDERS.—

''(A) IN GENERAL.—An individual who receives a non-Indian estate in Indian land under subsection (a)(2) or (b)(2)—

''(i) shall receive a proportionate share of the proceeds of any lease, use, rents, profits, royalties, bonuses, or sale of natural resources based on their share of the decedent's interest in such land; and

''(ii) may—

''(I) convey or deed by gift the decedent's interest in trust or restricted land to an Indian or the tribe with jurisdiction over the land; or

''(II) devise the decedent's interest to either an Indian or an Indian tribe as provided for in subsection (a)(1) or a non-Indian as provided for in subsection (a)(2).

''(B) DECEDENT'S INTEREST.—In this section, the term 'decedent's interest' means the equitable title held by the last Indian owner of an interest in trust or restricted lands.

''(2) ESCHEAT AND INTESTATE SUCCESSION.—If the holder of a non-Indian estate in Indian land dies without having devised or conveyed the interest of the individual under paragraph (1)(A)(ii), the decedent's interest in the trust or restricted land involved shall—

''(A) descend to the non-Indian estateholder's Indian spouse or Indian heirs of the first or second degree as provided for in subsection (b)(3); or

''(B) in the case of a decedent that does not have an Indian spouse or heir of the first or second degree, descend to the Indian tribe having jurisdiction over the trust or restricted lands.

''(3) ACQUISITION OF INTEREST BY INDIAN CO-OWNERS.—An Indian co-owner of a parcel of trust or restricted land may prevent the escheat of an interest to the tribe under paragraph (2) by paying into the estate of the owner of a non-Indian estate in Indian land the fair market value of the interest. If more than 1 Indian co-owner offers to pay for such interest, the highest bidder shall obtain the interest.

''(4) DEVISE OF INTEREST.—If the owner of a non-Indian estate in Indian land devises the interest in such land to a person who is not an Indian, at the discretion of the Secretary and subject to the availability of appropriations, the Secretary may, pursuant to section 213, acquire such interest, with or without the consent of the devisee, by depositing the value of the interest in the estate of the owner of the non-Indian estate in Indian land.

''(5) RULE OF CONSTRUCTION.—

''(A) IN GENERAL.—With respect to a decedent's interest in trust or restricted lands under this subsection, until such time as an Indian or an Indian tribe acquires such interest through inheritance, escheat, or conveyance, the Secretary shall be treated as the holder of the remainder from the life estate.

''(B) LIMITATION.—Subparagraph (A) shall not be construed to authorize the Secretary to retain any of the proceeds from the lease, use, rents, profits, royalties, bonuses, or sale of natural resources with respect to the trust or restricted lands involved.

''(6) DESCENT OF OFF-RESERVATION LANDS.—

''(A) INDIAN RESERVATION DEFINED.—For purposes of this paragraph, the term 'Indian reservation' includes lands located within—

''(i)(I) Oklahoma; and

''(II) the boundaries of an Indian tribe's former reservation (as defined and determined by the Secretary);

''(ii) the boundaries of any Indian tribe's current or former reservation; or

''(iii) any area where the Secretary is required to provide special assistance or consideration of a tribe's acquisition of land or interests in land.

''(B) DESCENT.—Upon the death of an individual holding an interest in trust or restricted lands that are located outside the boundaries of an Indian reservation and that are not subject to the jurisdiction of any Indian tribe, that interest shall descend either—

''(i) by testate or intestate succession in trust to an Indian; or

''(ii) in fee status to any other devises or heirs.

''(d) APPROVAL OF AGREEMENTS.—The official authorized to adjudicate the probate of trust or restricted lands shall have the authority to approve agreements between a decedent's heirs and devisees to consolidate interests in trust or restricted lands. The agreements referred to in the preceding sentence may include trust or restricted lands that are not a part of the decedent's estate that is the subject of the probate. The Secretary may promulgate regulations for the implementation of this subsection.

''(e) ESTATE PLANNING ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall provide estate planning assistance in accordance with this subsection, to the extent amounts are appropriated for such purpose.

''(2) REQUIREMENTS.—The estate planning assistance provided under paragraph (1) shall be designed to—

''(A) inform, advise, and assist Indian landowners with respect to estate planning in order to facilitate the transfer of trust or restricted lands to a devisee or devisees selected by the landowners; and

''(B) assist Indian landowners in accessing information pursuant to section 217(g).

''(3) CONTRACTS.—In carrying out this section, the Secretary may enter into contracts with entities that have expertise in Indian estate planning and tribal probate codes.

''(f) NOTIFICATION TO INDIAN TRIBES AND OWNERS OF TRUST OR RESTRICTED LANDS.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Indian Land Consolidation Act Amendments of 2000, the Secretary shall notify Indian tribes and owners of trust or restricted lands of the amendments made by the Indian Land Consolidation Act Amendments of 2000.

''(2) SPECIFICATIONS.—The notice required under paragraph (1) shall be designed to inform Indian owners of trust or restricted land of—

''(A) the effect of this Act, with emphasis on the effect of the provisions of this section, on the testate disposition and intestate descent of their interests in trust or restricted land; and

''(B) estate planning options available to the owners, including any opportunities for receiving estate planning assistance or advice.

''(3) REQUIREMENTS.—The Secretary shall provide the notice required under paragraph (1)—

''(A) by direct mail for those Indians with interests in trust and restricted lands for which the Secretary has an address for the interest holder;

''(B) through the Federal Register;

''(C) through local newspapers in areas with significant Indian populations, reservation newspapers, and newspapers that are directed at an Indian audience; and

''(D) through any other means determined appropriate by the Secretary.

''(4) CERTIFICATION.—After providing notice under this subsection, the Secretary shall certify that the requirements of this subsection have been met and shall publish notice of such certification in the Federal Register.

''(5) EFFECTIVE DATE.—The provisions of this section shall not apply to the estate of an individual who dies prior to the day that is 365 days after the Secretary makes the certification required under paragraph (4).''; and

(5) by adding at the end the following:

''SEC. 213. PILOT PROGRAM FOR THE ACQUISITION OF FRACTIONAL INTERESTS.

''(a) ACQUISITION BY SECRETARY.—

''(1) IN GENERAL.—The Secretary may acquire, at the discretion of the Secretary and with the consent of the owner, except as provided in section 207(c)(4), and at fair market value, any fractional interest in trust or restricted lands.

''(2) AUTHORITY OF SECRETARY.—

''(A) IN GENERAL.—The Secretary shall have the authority to acquire interests in trust or restricted lands under this section during the 3-year period beginning on the date of certification that is referred to in section 207(f)(5).

''(B) REQUIRED REPORT.—Prior to expiration of the authority provided for in subparagraph (A), the Secretary shall submit the report required under section 218 concerning whether the program to acquire fractional interests should be extended or altered to make resources available to Indian tribes and individual Indian landowners.

''(3) INTERESTS HELD IN TRUST.—Subject to section 214, the Secretary shall immediately hold interests acquired under this Act in trust for the recognized tribal government that exercises jurisdiction over the reservation.

''(b) REQUIREMENTS.—In implementing subsection (a), the Secretary—

''(1) shall promote the policies provided for in section 3 of the Indian Land Consolidation Act Amendments of 2000;

''(2) may give priority to the acquisition of fractional interests representing 2 percent or less of a parcel of trust or restricted land, especially those interests that would have escheated to a tribe but for the Supreme Court's decision in Babbitt v. Youpee, (117 S Ct. 727 (1997));

''(3) to the extent practicable—

''(A) shall consult with the reservation's recognized tribal government in determining which tracts to acquire on a reservation;

''(B) shall coordinate the acquisition activities with the reservation's recognized tribal government's acquisition program, including a tribal land consolidation plan approved pursuant to section 204; and

''(C) may enter into agreements (such agreements will not be subject to the provisions of the Indian Self-Determination and Education Assistance Act of 1974) with the reservation's recognized tribal government or a subordinate entity of the tribal government to carry out some or

all of the Secretary's land acquisition program; and

''(4) shall minimize the administrative costs associated with the land acquisition program.

''(c) SALE OF INTEREST TO INDIAN LANDOWNERS.—

''(1) IN GENERAL.—At the request of any Indian who owns at least 5 percent of the undivided interest in a parcel of trust or restricted land, the Secretary shall convey an interest acquired under this section to the Indian landowner upon payment by the Indian landowner of the amount paid for the interest by the Secretary.

''(2) LIMITATIONS.—

''(A) TRIBAL CONSENT.—If an Indian tribe that has jurisdiction over a parcel of trust or restricted land owns 10 percent or more of the undivided interests in a parcel of such land, such interest may only be acquired under paragraph (1) with the consent of such Indian tribe.

''(B) LIMITATION.—With respect to a conveyance under this subsection, the Secretary shall not approve an application to terminate the trust status or remove the restrictions of such an interest.

''SEC. 214. ADMINISTRATION OF ACQUIRED FRACTIONAL INTERESTS, DISPOSITION OF PROCEEDS.

''(a) IN GENERAL.—Subject to the conditions described in subsection (b)(1), an Indian tribe receiving a fractional interest under section 213 may, as a tenant in common with the other owners of the trust or restricted lands, lease the interest, sell the resources, consent to the granting of rights-of-way, or engage in any other transaction affecting the trust or restricted land authorized by law.

''(b) CONDITIONS.—

''(1) IN GENERAL.—The conditions described in this paragraph are as follows:

''(A) Except as provided in subsection (d), until the purchase price paid by the Secretary for an interest referred to in subsection (a) has been recovered, any lease, resource sale contract, right-of-way, or other document evidencing a transaction affecting the interest shall contain a clause providing that all revenue derived from the interest shall be paid to the Secretary.

''(B) Subject to subparagraph (C), the Secretary shall deposit any revenue derived under subparagraph (A) into the Acquisition Fund created under section 216.

''(C) The Secretary shall deposit any revenue that is paid under subparagraph (A) that is in excess of the purchase price of the fractional interest involved to the credit of the Indian tribe that receives the fractional interest under section 213 and the tribe shall have access to such funds in the same manner as other funds paid to the Secretary for the use of lands held in trust for the tribe.

''(D) Notwithstanding any other provision of law, including section 16 of the Act of June 18, 1934 (commonly referred to as the 'Indian Reorganization Act') (48 Stat. 987, chapter 576; 25 U.S.C. 476), with respect to any interest acquired by the Secretary under section 213, the Secretary may approve a transaction covered under this section on behalf of a tribe until—

''(i) the Secretary makes any of the findings under paragraph (2)(A); or

''(ii) an amount equal to the purchase price of that interest has been paid into the Acquisition Fund created under section 216.

''(2) EXCEPTION.—Paragraph (1)(A) shall not apply to any revenue derived from an interest in a parcel of land acquired by the Secretary under section 213 after—

''(A) the Secretary makes a finding that—

''(i) the costs of administering the interest will equal or exceed the projected revenues for the parcel involved;

''(ii) in the discretion of the Secretary, it will take an unreasonable period of time for the parcel to generate revenue that equals the purchase price paid for the interest; or

''(iii) a subsequent decrease in the value of land or commodities associated with the land make it likely that the interest will be unable to generate revenue that equals the purchase price paid for the interest in a reasonable time; or

''(B) an amount equal to the purchase price of that interest in land has been paid into the Acquisition Fund created under section 216.

''(c) EFFECT ON INDIAN TRIBE.—

''(1) IN GENERAL.—Paragraph (2) shall apply with respect to any undivided interest in allotted land held by the Secretary in trust for a tribe if a lease or agreement under subsection (a) is otherwise applicable to such undivided interest by reason of this section even though the Indian tribe did not consent to the lease or agreement.

''(2) APPLICATION OF LEASE.—The lease or agreement described in paragraph (1) shall apply to the portion of the undivided interest in allotted land described in such paragraph (including entitlement of the Indian tribe to payment under the lease or agreement), and the Indian tribe shall not be treated as being a party to the lease or agreement. Nothing in this section (or in the lease or agreement) shall be construed to affect the sovereignty of the Indian tribe.

''SEC. 215. ESTABLISHING FAIR MARKET VALUE.

''(a) IN GENERAL.—For purposes of this Act, the Secretary may develop a system for establishing the fair market value of various types of lands and improvements. Such a system may include determinations of fair market value based on appropriate geographic units as determined by the Secretary. Such system may govern the amounts offered for the purchase of interests in trust or restricted lands under section 213.

''(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prevent the owner of an interest in trust or restricted lands from appealing a determination of fair market value made in accordance with this section.

''SEC. 216. ACQUISITION FUND.

''(a) IN GENERAL.—The Secretary shall establish an Acquisition Fund to—

''(1) disburse appropriations authorized to accomplish the purposes of section 213; and

''(2) collect all revenues received from the lease, permit, or sale of resources from interests in trust or restricted lands transferred to Indian tribes by the Secretary under section 213.

''(b) DEPOSITS; USE.—

''(1) IN GENERAL.—Subject to paragraph (2), all proceeds from leases, permits, or resource sales derived from an interest in trust or restricted lands described in subsection (a)(2) shall—

''(A) be deposited in the Acquisition Fund; and

''(B) as specified in advance in appropriations Acts, be available for the purpose of acquiring additional fractional interests in trust or restricted lands.

''(2) MAXIMUM DEPOSITS OF PROCEEDS.—With respect to the deposit of proceeds derived from an interest under paragraph (1), the aggregate amount deposited under that paragraph shall not exceed the purchase price of that interest under section 213.

''SEC. 217. TRUST AND RESTRICTED LAND TRANSACTIONS.

''(a) POLICY.—It is the policy of the United States to encourage and assist the consolidation of land ownership through transactions involving individual Indians and between Indians and a reservation's recognized tribal government in a manner consistent with the policy of maintaining the trust status of allotted lands. Nothing in this section shall be construed to apply to or to authorize the sale of trust or restricted lands to a person who is not an Indian.

''(b) SALES AND EXCHANGES BETWEEN INDIANS AND BETWEEN INDIANS AND INDIAN TRIBES.—

''(1) IN GENERAL.—

''(A) ESTIMATE OF VALUE.—Notwithstanding any other provision of law and only after the Indian selling or exchanging an interest in land has been provided with an estimate of the value of the interest of the Indian pursuant to this section—

''(i) the sale or exchange of an interest in trust or restricted land may be made for an amount that is less than the fair market value of that interest; and

''(ii) the approval of a transaction that is in compliance with this section shall not constitute a breach of trust by the Secretary.

''(B) WAIVER OF REQUIREMENT.—The requirement for an estimate of value under subparagraph (A) may be waived in writing by an Indian selling or exchanging an interest in land with an Indian person who is the owner's spouse, brother, sister, lineal ancestor of Indian blood, lineal descendant, or collateral heir.

''(2) LIMITATION.—For a period of 5 years after the Secretary approves a conveyance pursuant to this subsection, the Secretary shall not approve an application to terminate the trust status or remove the restrictions of such an interest.

''(c) ACQUISITION OF INTEREST BY SECRETARY.—An Indian, or the recognized tribal government of a reservation, in possession of an interest in trust or restricted lands, at least a portion of which is in trust or restricted status on the date of enactment of the Indian Land Consolidation Act Amendments of 2000 and located within a reservation, may request that the interest be taken into trust by the Secretary. Upon such a request, the Secretary shall forthwith take such interest into trust.

''(d) STATUS OF LANDS.—The sale or exchange of an interest in trust or restricted land under this section shall not affect the status of that land as trust or restricted land.

''(e) GIFT DEEDS.—

''(1) IN GENERAL.—An individual owner of an interest in trust or restricted land may convey that interest by gift deed to—

''(A) an individual Indian; or

''(B) the Indian tribe that exercises jurisdiction over that land.

''(2) SPECIAL RULE.—With respect to any gift deed conveyed under this section, the Secretary shall not require an appraisal and the transaction shall be consistent with this Act and any other provision of Federal law.

''(f) NO TERMINATION.—During the 7-year period beginning on the date on which the Secretary approves a conveyance of an interest in trust or restricted land under subsection (e), the Secretary shall not approve an application to terminate the trust status of, or remove the restrictions on, such an interest.

''(g) LAND OWNERSHIP INFORMATION.—Notwithstanding any other provision of law, the names and mailing addresses of the Indian owners of trust or restricted lands, and information on the location of the parcel and the percentage of undivided interest owned by each individual, or of any interest in trust or restricted lands, shall, upon written request, be made available to—

''(1) other Indian owners of interests in trust or restricted lands within the same reservation;

''(2) the tribe that exercises jurisdiction over the reservation where the parcel is located or any person who is eligible for membership in that tribe; and

''(3) prospective applicants for the leasing, use, or consolidation of such trust or restricted land or the interest in trust or restricted lands.

''SEC. 218. REPORTS TO CONGRESS.

''(a) IN GENERAL.—Prior to expiration of the authority provided for in section 213(a)(2)(A), the Secretary, after consultation with Indian tribes and other interested parties, shall submit to the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that indicates, for the period covered by the report—

''(1) the number of fractional interests in trust or restricted lands acquired; and

''(2) the impact of the resulting reduction in the number of such fractional interests on the financial and realty recordkeeping systems of the Bureau of Indian Affairs.

''(b) REPORT.—The reports described in subsection (a) and section 213(a) shall contain findings as to whether the program under this Act to acquire fractional interests in trust or restricted lands should be extended and whether such program should be altered to make resources available to Indian tribes and individual Indian landowners.

''SEC. 219. APPROVAL OF LEASES, RIGHTS-OF-WAY, AND SALES OF NATURAL RESOURCES.

''(a) APPROVAL BY THE SECRETARY.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may approve any lease or agreement that affects individually owned allotted land, if—

''(A) the owners of not less than the applicable percentage (determined under subsection (b)) of the undivided interest in the allotted land that is covered by the lease or agreement consent in writing to the lease or agreement; and

''(B) the Secretary determines that approving the lease or agreement is in the best interest of the owners of the undivided interest in the allotted land.

''(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to apply to leases involving coal or uranium.

''(b) APPLICABLE PERCENTAGE.—

''(1) PERCENTAGE INTEREST.—The applicable percentage referred to in subsection (a)(1) shall be determined as follows:

''(A) If there are 5 or fewer owners of the undivided interest in the allotted land, the applicable percentage shall be 100 percent.

''(B) If there are more than 5 such owners, but fewer than 11 such owners, the applicable percentage shall be 80 percent.

''(C) If there are more than 10 such owners, but fewer than 20 such owners, the applicable percentage shall be 60 percent.

''(D) If there are 20 or more such owners, the applicable percentage shall be a majority of the interests in the allotted land.

''(2) DETERMINATION OF OWNERS.—

''(A) IN GENERAL.—For purposes of this subsection, in determining the number of owners of, and their interests in, the undivided interest in the allotted land with respect to a lease or agreement, the Secretary shall make such determination based on the records of the Department of the Interior that identify the owners of such lands and their interests and the number of owners of such land on the date on which the lease or agreement involved is submitted to the Secretary under this section.

''(B) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) shall be construed to authorize the Secretary to treat an Indian tribe as the owner of an interest in allotted land that did not escheat to the tribe pursuant to section 207 as a result of the Supreme Court's decision in Babbitt v. Youpee, (117 S Ct. 727 (1997)).

''(c) AUTHORITY OF SECRETARY TO SIGN LEASE OR AGREEMENT ON BEHALF OF CERTAIN OWNERS.—The Secretary may give written consent to a lease or agreement under subsection (a)—

''(1) on behalf of the individual Indian owner if the owner is deceased and the heirs to, or devisees of, the interest of the deceased owner have not been determined; or

''(2) on behalf of any heir or devisee referred to in paragraph (1) if the heir or devisee has been determined but cannot be located

''(d) EFFECT OF APPROVAL.—

''(1) APPLICATION TO ALL PARTIES.—

''(A) IN GENERAL.—Subject to paragraph (2), a lease or agreement approved by the Secretary under subsection (a) shall be binding on the parties described in subparagraph (B), to the same extent as if all of the owners of the undivided interest in allotted land covered under the lease or agreement consented to the lease or agreement.

''(B) DESCRIPTION OF PARTIES.—The parties referred to in subparagraph (A) are—

''(i) the owners of the undivided interest in the allotted land covered under the lease or agreement referred to in such subparagraph; and

''(ii) all other parties to the lease or agreement.

''(2) EFFECT ON INDIAN TRIBE.—

''(A) IN GENERAL.—Subparagraph (B) shall apply with respect to any undivided interest in allotted land held by the Secretary in trust for a tribe if a lease or agreement under subsection (a) is otherwise applicable to such undivided interest by reason of this section even though the Indian tribe did not consent to the lease or agreement.

''(B) APPLICATION OF LEASE.—The lease or agreement described in subparagraph (A) shall apply to the portion of the undivided interest in allotted land described in such paragraph (including entitlement of the Indian tribe to payment under the lease or agreement), and the Indian tribe shall not be treated as being a party to the lease or agreement. Nothing in this section (or in the lease or agreement) shall be construed to affect the sovereignty of the Indian tribe.

''(e) DISTRIBUTION OF PROCEEDS.—

''(1) IN GENERAL.—The proceeds derived from a lease or agreement that is approved by the Secretary under subsection (a) shall be distributed to all owners of undivided interest in the allotted land covered under the lease or agreement.

''(2) DETERMINATION OF AMOUNTS DISTRIBUTED.—The amount of the proceeds under paragraph (1) that are distributed to each owner under that paragraph shall be determined in accordance with the portion of the undivided interest in the allotted land covered under the lease or agreement that is owned by that owner.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to amend or modify the provisions of Public Law 105-188 (25 U.S.C. 396 note), the American Indian Agricultural Resources Management Act (25 U.S.C. 3701 et seq.) or any other Act that provides specific standards for the percentage of ownership interest that must approve a lease or agreement on a specified reservation.

''SEC. 220. APPLICATION TO ALASKA.

''(a) FINDINGS.—Congress find that—

''(1) numerous academic and governmental organizations have studied the nature and extent of fractionated ownership of Indian land outside of Alaska and have proposed solutions to this problem; and

''(2) despite these studies, there has not been a comparable effort to analyze the problem, if any, of fractionated ownership in Alaska.

''(b) APPLICATION OF ACT TO ALASKA.—Except as provided in this section, this Act shall not apply to land located within Alaska.

''(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to constitute a ratification of any determination by any agency, instrumentality, or court of the United States that may support the assertion of tribal jurisdiction over allotment lands or interests in such land in Alaska.''.

SEC. 5. JUDICIAL REVIEW.

Notwithstanding section 207(f)(5) of the Indian Land Consolidation Act (25 U.S.C. 2206(f)(5)), after the Secretary of Interior provides the certification required under section 207(f)(4) of such Act, the owner of an interest in trust or restricted land may bring an administrative action to challenge the application of such section 207 to their interest in trust or restricted lands, and may seek judicial review of the final decision of the Secretary of Interior with respect to such challenge.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated not to exceed $8,000,000 for fiscal year 2001 and each subsequent fiscal year to carry out the provisions of this Act (and the amendments made by this Act) that are not otherwise funded under the authority provided for in any other provision of Federal law.

SEC. 7. CONFORMING AMENDMENTS.

(a) PATENTS HELD IN TRUST.—The Act of February 8, 1887 (24 Stat. 388) is amended—

(1) by repealing sections 1, 2, and 3 (25 U.S.C. 331, 332, and 333); and

(2) in the second proviso of section 5 (25 U.S.C. 348)—

(A) by striking ''and partition''; and

(B) by striking ''except'' and inserting ''except as provided by the Indian Land Consolidation Act or a tribal probate code approved under such Act and except''.

(b) ASCERTAINMENT OF HEIRS AND DISPOSAL OF ALLOTMENTS.—The Act of June 25, 1910 (36 Stat. 855) is amended—

(1) in the first sentence of section 1 (25 U.S.C. 372), by striking ''under'' and inserting ''under the Indian Land Consolidation Act or a tribal probate code approved under such Act and pursuant to''; and

(2) in the first sentence of section 2 (25 U.S.C. 373), by striking ''with regulations'' and inserting ''with the Indian Land Consolidation Act or a tribal probate code approved under such Act and regulations''.

(c) TRANSFER OF LANDS.—Section 4 of the Act of June 18, 1934 (25 U.S.C. 464) is amended by striking ''trust:'' and inserting ''trust, except as provided by the Indian Land Consolidation Act:''.

AMENDMENT NO. 4019

(Purpose: To provide for a complete substitute)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE], for Mr. CAMPBELL, proposes an amendment numbered 4019.

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

Mr. CAMPBELL. Mr. President, on September 15, 1999, I introduced S. 1586, the Indian Land Consolidation Act Amendments of 2000. At that time I pledged to work with all interested parties to address the vexing problems associated with fractionated ownership of Indian lands. These lands were carved out of Indian reservations in the late 19th and early 20th centuries. Within only a few generations, the ownership of the allotments was divided among dozens of the heirs of the original owners of these parcels. This situation has only grown worse as each decade passes.

In 1983, Congress tried to solve fractionation when it enacted the Indian Land Consolidation Act (ILCA), P.L. 94–459. The ILCA prevented small undivided interests from passing by either devise or descent. Only those interests that produced more than $100 in revenue in the preceding year were exempted. In 1987 the Supreme Court ruled in *Hodel* v. *Irving*, 481 U.S. 704, that those provisions of the ILCA violated the 5th Amendment by taking property without just compensation.

Then in 1992, the General Accounting Office surveyed 12 Indian reservations with fractionated ownership and reported to Congress:

BIA's workload for ownership records is substantial. The agency maintains about 1.1 million records for the 12 reservations. Over 60 percent of the records represent small ownership interests of Indian individuals—some as small as one four thousandth of 1 percent. (GAO/RCED–92–96BR)

In 1994, the Department of Interior began a national consultation with tribal leaders and landowners concerning the need to address fractionation through a comprehensive legislative proposal. Based on these consultations, in June 1997, the Administration submitted a legislative proposal on land fractionation to Congress.

Also in 1997, the Supreme Court ruled in *Babbitt* v. *Youpee*, 519 U.S. 234 that the 1984 amendments to the ILCA did not go far enough to alter the Court's previous finding that the ILCA violated the 5th Amendment.

On November 4, 2000, the Senate Indian Affairs Committee (SCIA) held a joint hearing on S. 1586 with the House Committee on Resources.

On March 23, 2000, the SCIA reported S. 1586. Relying on a suggestion in the Supreme Court's 1987 opinion, the reported bill allowed an owner to devise fractional interests of less than 2%, but eliminated the intestate descent of such interests. These interests were allowed to ''escheat'' to the tribe exercising jurisdiction over the parcel. Because of the controversy associated with the escheat provision, Committee staff continued to work with interested parties to develop a proposal for addressing fractionation without the use of escheat.

On June 14, 2000, the SCIA reported S. 1586 with an amendment in the nature of a substitute. In response to concerns that probate reform should be comprehensive, the reported version of the bill was not limited to smaller fractional interests. Instead the bill addressed both the problem of fractionated ownership and the loss of trust land through devise and descent. The bill provided that non-Indian heirs and devisees would receive ''non-Indian interests in Indian land,'' rather than fee title to trust and restricted land. In most instances, these interests would operate as if they were a life estate in the interest.

S. 1586 was endorsed on June 28, 2000 by the National Congress of American Indians (NCAI), the largest and most representative tribal organization in the Nation, through Resolution Jun–00–044. The Resolution requested that the bill's sponsor continue to work with NCAI to address technical issues.

Throughout June and July, a concerted effort has been made to consult with Indian tribes, landowners, and inter-tribal organizations, BIA personnel, and interested academics to clarify and simplify the bill. For example, in many instances a ''non-Indian estate in Indian land'' might prove a more complicated interest than was necessary to achieve the bill's objective. It was recommended that the bill's non-Indian estate should simply be replaced by an ordinary life estate.

A proposed amendment in the nature of a substitute has been produced. The amendment differs from the version reported by the SCIA on June 14, 2000 in the following ways:

The definition of ''Indian'' is amended. As reported on June 14, 2000, the definition included members of Indian tribes and those eligible for membership in an Indian tribe. The proposed amendment adds a provision for: ''any person who has been found to meet the definition of 'Indian' under a provision of Federal law if the Secretary determines that using such law's definition of Indian is consistent with the purposes of this Act.'' This amendment will ensure that individuals who are treated as Indians for other purposes of Federal law will also be treated as Indian for purposes of this Act.

Section 207 dealing with the devise and descent of interests in trust and restricted lands has been rewritten to provide that non-Indians inheriting interest in trust and restricted land will now receive life estates in place of ''non-Indian interests in Indian land.'' The owner of allotted land who does not have any Indian heirs may devise his interest to non-Indian heirs. Such a devise may then reserve a life estate if the remainder interest is acquired by the tribe under section 206(c).

Section 206(c), which allows Indian tribes to acquire interests devised to non-Indians has been rewritten for clarity.

As reported on June 14, 2000, S. 1586 provided that interests of 5% or less that pass by intestate succession would be inherited with the right of survivorship to prevent further fractionation. Since the BIA is in the process of reforming its trust and probate management system, the proposed amendment provides that this provision will not take effect until the Secretary certifies that the BIA has a process in place to track interests held with the right of survivorship.

A separate subsection concerning gift deeds is now incorporated into another section that allows the Secretary to approve conveyance of trust land to Indians. Also, trust land may now be conveyed to Indians by a person of Indian ancestry who owns trust land, but does not meet the ILCA''s definition of Indian.

A second title to S. 1586 includes the text from S. 1315 and its House counterpart H.R. 3181, which allow the Secretary of Interior to approve oil and gas leases on lands allotted to individual Navajo Indians, as long as the specified majority of owners of undivided interests approve the transaction. S. 1315 and H.R. 3181 were introduced at the request of the Navajo Allottee Association, Shii Shi Keyah.

I have described S. 1586 as the ''cornerstone'' of the Committee's efforts to reform the BIA's management of land fractionation. Without this bill, interests will continue to fractionate. That is why the Department of the Interior continues to support this bill, even though it differs greatly from the Department's original proposal.

As far back as 1934, a member of the House of Representatives referred to fractionated interests as: ''a meaningless system of minute partitioning in which all thought of the possible use of the land to satisfy human needs is lost in a mathematical haze of bookkeeping.'' S. 1586 provides a framework that will allow the Federal government, tribal governments, and those who own interests in allotments to begin addressing these issues.

Mr. DEWINE. Mr. President, I ask unanimous consent that the amendment be agreed to, the committee amendment be agreed to, as amended, the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 4019) was agreed to.

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The bill (S. 1586), as amended, was read the third time and passed.

S. 1586

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 ''Indian Land Consolidation Act Amendments of 2000''.

TITLE I—INDIAN LAND CONSOLIDATION

SEC. 101. FINDINGS.

Congress finds that—

(1) in the 1800's and early 1900's, the United States sought to assimilate Indian people into the surrounding non-Indian culture by allotting tribal lands to individual members of Indian tribes;

(2) as a result of the allotment Acts and related Federal policies, over 90,000,000 acres of land have passed from tribal ownership;

(3) many trust allotments were taken out of trust status, often without their owners consent;

(4) without restrictions on alienation, allotment owners were subject to exploitation and their allotments were often sold or disposed of without any tangible or enduring benefit to their owners;

(5) the trust periods for trust allotments have been extended indefinitely;

(6) because of the inheritance provisions in the original treaties or allotment Acts, the ownership of many of the trust allotments that have remained in trust status has become fractionated into hundreds or thousands of undivided interests, many of which represent 2 percent or less of the total interests;

(7) Congress has authorized the acquisition of lands in trust for individual Indians, and many of those lands have also become fractionated by subsequent inheritance;

(8) the acquisitions referred to in paragraph (7) continue to be made;

(9) the fractional interests described in this section often provide little or no return to the beneficial owners of those interests and the administrative costs borne by the United States for those interests are inordinately high;

(10) in Babbitt v. Youpee (117 S Ct. 727 (1997)), the United States Supreme Court

found the application of section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) to the facts presented in that case to be unconstitutional, forcing the Department of the Interior to address the status of thousands of undivided interests in trust and restricted lands;

(11)(A) on February 19, 1999, the Secretary of Interior issued a Secretarial Order which officially reopened the probate of all estates where an interest in land was ordered to escheat to an Indian tribe pursuant to section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206); and

(B) the Secretarial Order also directed appropriate officials of the Bureau of Indian Affairs to distribute such interests ''to the rightful heirs and beneficiaries without regard to 25 U.S.C. 2206'';

(12) in the absence of comprehensive remedial legislation, the number of the fractional interests will continue to grow exponentially;

(13) the problem of the fractionation of Indian lands described in this section is the result of a policy of the Federal Government, cannot be solved by Indian tribes, and requires a solution under Federal law.

(14) any devise or inheritance of an interest in trust or restricted Indian lands is a matter of Federal law; and

(15) consistent with the Federal policy of tribal self-determination, the Federal Government should encourage the recognized tribal government that exercises jurisdiction over a reservation to establish a tribal probate code for that reservation.

SEC. 102. DECLARATION OF POLICY.

It is the policy of the United States—

(1) to prevent the further fractionation of trust allotments made to Indians;

(2) to consolidate fractional interests and ownership of those interests into usable parcels;

(3) to consolidate fractional interests in a manner that enhances tribal sovereignty;

(4) to promote tribal self-sufficiency and self-determination; and

(5) to reverse the effects of the allotment policy on Indian tribes.

SEC. 103. AMENDMENTS TO THE INDIAN LAND CONSOLIDATION ACT.

The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended—

(1) in section 202—

(A) in paragraph (1), by striking ''(1) 'tribe' '' and inserting ''(1) 'Indian tribe' or 'tribe' '';

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

''(2) 'Indian' means any person who is a member of any Indian tribe or is eligible to become a member of any Indian tribe, or any person who has been found to meet the definition of 'Indian' under a provision of Federal law if the Secretary determines that using such law's definition of Indian is consistent with the purposes of this Act;'';

(C) by striking ''and'' at the end of paragraph (3);

(D) by striking the period at the end of paragraph (4) and inserting ''; and''; and

(E) by adding at the end the following:

''(5) 'heirs of the first or second degree' means parents, children, grandchildren, grandparents, brothers and sisters of a decedent.'';

(2) in section 205—

(A) in the matter preceding paragraph (1)—

(i) by striking ''Any Indian'' and inserting ''(a) IN GENERAL.—Subject to subsection (b), any Indian'';

(ii) by striking the colon and inserting the following: ''. Interests owned by an Indian tribe in a tract may be included in the computation of the percentage of ownership of the undivided interests in that tract for purposes of determining whether the consent requirement under the preceding sentence has been met.'';

(iii) by striking '': *Provided*, That—''; and inserting the following:

''(b) CONDITIONS APPLICABLE TO PURCHASE.—Subsection (a) applies on the condition that—'';

(B) in paragraph (2)—

(i) by striking ''If,'' and inserting ''if''; and

(ii) by adding ''and'' at the end; and

(C) by striking paragraph (3) and inserting the following:

''(3) the approval of the Secretary shall be required for a land sale initiated under this section, except that such approval shall not be required with respect to a land sale transaction initiated by an Indian tribe that has in effect a land consolidation plan that has been approved by the Secretary under section 204.'';

(3) by striking section 206 and inserting the following:

''SEC. 206. TRIBAL PROBATE CODES; ACQUISITIONS OF FRACTIONAL INTERESTS BY TRIBES.

''(a) TRIBAL PROBATE CODES.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, any Indian tribe may adopt a tribal probate code to govern descent and distribution of trust or restricted lands that are—

''(A) located within that Indian tribe's reservation; or

''(B) otherwise subject to the jurisdiction of that Indian tribe.

''(2) POSSIBLE INCLUSIONS.—A tribal probate code referred to in paragraph (1) may include—

''(A) rules of intestate succession; and

''(B) other tribal probate code provisions that are consistent with Federal law and that promote the policies set forth in section 102 of the Indian Land Consolidation Act Amendments of 2000.

''(3) LIMITATIONS.—The Secretary shall not approve a tribal probate code if such code prevents an Indian person from inheriting an interest in an allotment that was originally allotted to his or her lineal ancestor.

''(b) SECRETARIAL APPROVAL.—

''(1) IN GENERAL.—Any tribal probate code enacted under subsection (a), and any amendment to such a tribal probate code, shall be subject to the approval of the Secretary.

''(2) REVIEW AND APPROVAL.—

''(A) IN GENERAL.—Each Indian tribe that adopts a tribal probate code under subsection (a) shall submit that code to the Secretary for review. Not later than 180 days after a tribal probate code is submitted to the Secretary under this paragraph, the Secretary shall review and approve or disapprove that tribal probate code.

''(B) CONSEQUENCE OF FAILURES TO APPROVE OR DISAPPROVE A TRIBAL PROBATE CODE.—If the Secretary fails to approve or disapprove a tribal probate code submitted for review under subparagraph (A) by the date specified in that subparagraph, the tribal probate code shall be deemed to have been approved by the Secretary, but only to the extent that the tribal probate code is consistent with Federal law and promotes the policies set forth in section 102 of the Indian Land Consolidation Act Amendments of 2000.

''(C) CONSISTENCY OF TRIBAL PROBATE CODE WITH ACT.—The Secretary may not approve a tribal probate code, or any amendment to such a code, under this paragraph unless the Secretary determines that the tribal probate code promotes the policies set forth in section 102 of the Indian Land Consolidation Act Amendments of 2000.

''(D) EXPLANATION.—If the Secretary disapproves a tribal probate code, or an amendment to such a code, under this paragraph, the Secretary shall include in the notice of disapproval to the Indian tribe a written explanation of the reasons for the disapproval.

''(E) AMENDMENTS.—

''(i) IN GENERAL.—Each Indian tribe that amends a tribal probate code under this paragraph shall submit the amendment to the Secretary for review and approval. Not later than 60 days after receiving an amendment under this subparagraph, the Secretary shall review and approve or disapprove the amendment.

''(ii) CONSEQUENCE OF FAILURE TO APPROVE OR DISAPPROVE AN AMENDMENT.—If the Secretary fails to approve or disapprove an amendment submitted under clause (i), the amendment shall be deemed to have been approved by the Secretary, but only to the extent that the amendment is consistent with Federal law and promotes the policies set forth in section 102 of the Indian Land Consolidation Act of 2000.

''(3) EFFECTIVE DATES.—A tribal probate code approved under paragraph (2) shall become effective on the later of—

''(A) the date specified in section 207(g)(5); or

''(B) 180 days after the date of approval.

''(4) LIMITATIONS.—

''(A) TRIBAL PROBATE CODES.—Each tribal probate code enacted under subsection (a) shall apply only to the estate of a decedent who dies on or after the effective date of the tribal probate code.

''(B) AMENDMENTS TO TRIBAL PROBATE CODES.—With respect to an amendment to a tribal probate code referred to in subparagraph (A), that amendment shall apply only to the estate of a decedent who dies on or after the effective date of the amendment.

''(5) REPEALS.—The repeal of a tribal probate code shall—

''(A) not become effective earlier than the date that is 180 days after the Secretary receives notice of the repeal; and

''(B) apply only to the estate of a decedent who dies on or after the effective date of the repeal.

''(c) AUTHORITY AVAILABLE TO INDIAN TRIBES.—

''(1) IN GENERAL.—If the owner of an interest in trust or restricted land devises an interest in such land to a non-Indian under section 207(a)(6)(A), the Indian tribe that exercises jurisdiction over the parcel of land involved may acquire such interest by paying to the Secretary the fair market value of such interest, as determined by the Secretary on the date of the decedent's death. The Secretary shall transfer such payment to the devisee.

''(2) LIMITATION.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to an interest in trust or restricted land if, while the decedent's estate is pending before the Secretary, the non-Indian devisee renounces the interest in favor of an Indian person.

''(B) RESERVATION OF LIFE ESTATE.—A non-Indian devisee described in subparagraph (A) or a non-Indian devisee described in section 207(a)(6)(B), may retain a life estate in the interest involved, including a life estate to the revenue produced from the interest. The amount of any payment required under paragraph (1) shall be reduced to reflect the value of any life estate reserved by a non-Indian devisee under this subparagraph.

''(3) PAYMENTS.—With respect to payments by an Indian tribe under paragraph (1), the Secretary shall—

''(A) upon the request of the tribe, allow a reasonable period of time, not to exceed 2 years, for the tribe to make payments of amounts due pursuant to paragraph (1); or

''(B) recognize alternative agreed upon exchanges of consideration or extended payment terms between the non-Indian devisee

described in paragraph (1) and the tribe in satisfaction of the payment under paragraph (1).

''(d) USE OF PROPOSED FINDINGS BY TRIBAL JUSTICE SYSTEMS.—

''(1) TRIBAL JUSTICE SYSTEM DEFINED.—In this subsection, the term 'tribal justice system' has the meaning given that term in section 3 of the Indian Tribal Justice Act (25 U.S.C. 3602).

''(2) REGULATIONS.—The Secretary by regulation may provide for the use of findings of fact and conclusions of law, as rendered by a tribal justice system, as proposed findings of fact and conclusions of law in the adjudication of probate proceedings by the Department of the Interior.'';

(4) by striking section 207 and inserting the following:

''SEC. 207. DESCENT AND DISTRIBUTION.

''(a) TESTAMENTARY DISPOSITION.—

''(1) IN GENERAL.—Interests in trust or restricted land may be devised only to—

''(A) the decedent's Indian spouse or any other Indian person; or

''(B) the Indian tribe with jurisdiction over the land so devised.

''(2) LIFE ESTATE.—Any devise of an interest in trust or restricted land to a non-Indian shall create a life estate with respect to such interest.

''(3) REMAINDER.—

''(A) IN GENERAL.—Except where the remainder from the life estate referred to in paragraph (2) is devised to an Indian, such remainder shall descend to the decedent's Indian spouse or Indian heirs of the first or second degree pursuant to the applicable law of intestate succession.

''(B) DESCENT OF INTERESTS.—If a decedent described in subparagraph (A) has no Indian heirs of the first or second degree, the remainder interest described in such subparagraph shall descend to any of the decedent's collateral heirs of the first or second degree, pursuant to the applicable laws of intestate succession, if on the date of the decedent's death, such heirs were a co-owner of an interest in the parcel of trust or restricted land involved.

''(C) DEFINITION.—For purposes of this section, the term 'collateral heirs of the first or second degree' means the brothers, sisters, aunts, uncles, nieces, nephews, and first cousins, of a decedent.

''(4) DESCENT TO TRIBE.—If the remainder interest described in paragraph (3)(A) does not descend to an Indian heir or heirs it shall descend to the Indian tribe that exercises jurisdiction over the parcel of trust or restricted lands involved, subject to paragraph (5).

''(5) ACQUISITION OF INTEREST BY INDIAN CO-OWNERS.—An Indian co-owner of a parcel of trust or restricted land may prevent the descent of an interest in Indian land to an Indian tribe under paragraph (4) by paying into the decedent's estate the fair market value of the interest in such land. If more than 1 Indian co-owner offers to pay for such an interest, the highest bidder shall obtain the interest. If payment is not received before the close of the probate of the decedent's estate, the interest shall descend to the tribe that exercises jurisdiction over the parcel.

''(6) SPECIAL RULE.—

''(A) IN GENERAL.—Notwithstanding paragraph (2), an owner of trust or restricted land who does not have an Indian spouse, Indian lineal descendant, an Indian heir of the first or second degree, or an Indian collateral heir of the first or second degree, may devise his or her interests in such land to any of the decedent's heirs of the first or second degree or collateral heirs of the first or second degree.

''(B) ACQUISITION OF INTEREST BY TRIBE.—An Indian tribe that exercises jurisdiction over an interest in trust or restricted land described in subparagraph (A) may acquire any interest devised to a non-Indian as provided for in section 206(c).

''(b) INTESTATE SUCCESSION.—

''(1) IN GENERAL.—An interest in trust or restricted land shall pass by intestate succession only to a decedent's spouse or heirs of the first or second degree, pursuant to the applicable law of intestate succession.

''(2) LIFE ESTATE.—Notwithstanding paragraph (1), with respect to land described in such paragraph, a non-Indian spouse or non-Indian heirs of the first or second degree shall only receive a life estate in such land.

''(3) DESCENT OF INTERESTS.—If a decedent described in paragraph (1) has no Indian heirs of the first or second degree, the remainder interest from the life estate referred to in paragraph (2) shall descend to any of the decedent's collateral Indian heirs of the first or second degree, pursuant to the applicable laws of intestate succession, if on the date of the decedent's death, such heirs were a co-owner of an interest in the parcel of trust or restricted land involved.

''(4) DESCENT TO TRIBE.—If the remainder interest described in paragraph (3) does not descend to an Indian heir or heirs it shall descend to the Indian tribe that exercises jurisdiction over the parcel of trust or restricted lands involved, subject to paragraph (5).

''(5) ACQUISITION OF INTEREST BY INDIAN CO-OWNERS.—An Indian co-owner of a parcel of trust or restricted land may prevent the descent of an interest in such land for which there is no heir of the first or second degree by paying into the decedent's estate the fair market value of the interest in such land. If more than 1 Indian co-owner makes an offer to pay for such an interest, the highest bidder shall obtain the interest. If no such offer is made, the interest shall descend to the Indian tribe that exercises jurisdiction over the parcel of land involved.

''(c) JOINT TENANCY; RIGHT OF SURVIVORSHIP.—

''(1) TESTATE.—If a testator devises interests in the same parcel of trust or restricted lands to more than 1 person, in the absence of express language in the devise to the contrary, the devise shall be presumed to create joint tenancy with the right of survivorship in the land involved.

''(2) INTESTATE.—

''(A) IN GENERAL.—Any interest in trust or restricted land that—

''(i) passes by intestate succession to more than 1 person, including a remainder interest under subsection (a) or (b) of section 207; and

''(ii) that constitutes 5 percent or more of the undivided interest in a parcel of trust or restricted land;

shall be held as tenancy in common.

''(B) LIMITED INTEREST.—Any interest in trust or restricted land that—

''(i) passes by intestate succession to more than 1 person, including a remainder interest under subsection (a) or (b) of section 207; and

''(ii) that constitutes less than 5 percent of the undivided interest in a parcel of trust or restricted land;

shall be held by such heirs with the right of survivorship.

''(3) EFFECTIVE DATE.—

''(A) IN GENERAL.—This subsection (other than subparagraph (B)) shall become effective on the later of—

''(i) the date referred to in subsection (g)(5); or

''(ii) the date that is six months after the date on which the Secretary makes the certification required under subparagraph (B).

''(B) CERTIFICATION.—Upon a determination by the Secretary that the Department of the Interior has the capacity, including policies and procedures, to track and manage interests in trust or restricted land held with the right of survivorship, the Secretary shall certify such determination and publish such certification in the Federal Register.

''(d) DESCENT OF OFF-RESERVATION LANDS.—

''(1) INDIAN RESERVATION DEFINED.—For purposes of this subsection, the term 'Indian reservation' includes lands located within—

''(A)(i) Oklahoma; and

''(ii) the boundaries of an Indian tribe's former reservation (as defined and determined by the Secretary);

''(B) the boundaries of any Indian tribe's current or former reservation; or

''(C) any area where the Secretary is required to provide special assistance or consideration of a tribe's acquisition of land or interests in land.

''(2) DESCENT.—Except in the State of California, upon the death of an individual holding an interest in trust or restricted lands that are located outside the boundaries of an Indian reservation and that are not subject to the jurisdiction of any Indian tribe, that interest shall descend either—

''(A) by testate or intestate succession in trust to an Indian; or

''(B) in fee status to any other devises or heirs.

''(e) APPROVAL OF AGREEMENTS.—The official authorized to adjudicate the probate of trust or restricted lands shall have the authority to approve agreements between a decedent's heirs and devisees to consolidate interests in trust or restricted lands. The agreements referred to in the preceding sentence may include trust or restricted lands that are not a part of the decedent's estate that is the subject of the probate. The Secretary may promulgate regulations for the implementation of this subsection.

''(f) ESTATE PLANNING ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall provide estate planning assistance in accordance with this subsection, to the extent amounts are appropriated for such purpose.

''(2) REQUIREMENTS.—The estate planning assistance provided under paragraph (1) shall be designed to—

''(A) inform, advise, and assist Indian landowners with respect to estate planning in order to facilitate the transfer of trust or restricted lands to a devisee or devisees selected by the landowners; and

''(B) assist Indian landowners in accessing information pursuant to section 217(e).

''(3) CONTRACTS.—In carrying out this section, the Secretary may enter into contracts with entities that have expertise in Indian estate planning and tribal probate codes.

''(g) NOTIFICATION TO INDIAN TRIBES AND OWNERS OF TRUST OR RESTRICTED LANDS.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Indian Land Consolidation Act Amendments of 2000, the Secretary shall notify Indian tribes and owners of trust or restricted lands of the amendments made by the Indian Land Consolidation Act Amendments of 2000.

''(2) SPECIFICATIONS.—The notice required under paragraph (1) shall be designed to inform Indian owners of trust or restricted land of—

''(A) the effect of this Act, with emphasis on the effect of the provisions of this section, on the testate disposition and intestate descent of their interests in trust or restricted land; and

''(B) estate planning options available to the owners, including any opportunities for receiving estate planning assistance or advice.

''(3) REQUIREMENTS.—The Secretary shall provide the notice required under paragraph (1)—

''(A) by direct mail for those Indians with interests in trust and restricted lands for

which the Secretary has an address for the interest holder;

''(B) through the Federal Register;

''(C) through local newspapers in areas with significant Indian populations, reservation newspapers, and newspapers that are directed at an Indian audience; and

''(D) through any other means determined appropriate by the Secretary.

''(4) CERTIFICATION.—After providing notice under this subsection, the Secretary shall certify that the requirements of this subsection have been met and shall publish notice of such certification in the Federal Register.

''(5) EFFECTIVE DATE.—The provisions of this section shall not apply to the estate of an individual who dies prior to the day that is 365 days after the Secretary makes the certification required under paragraph (4).'';

(5) in section 208, by striking ''section 206'' and inserting ''subsections (a) and (b) of section 206''; and

(6) by adding at the end the following:

''SEC. 213. PILOT PROGRAM FOR THE ACQUISITION OF FRACTIONAL INTERESTS.

''(a) ACQUISITION BY SECRETARY.—

''(1) IN GENERAL.—The Secretary may acquire, at the discretion of the Secretary and with the consent of the owner, and at fair market value, any fractional interest in trust or restricted lands.

''(2) AUTHORITY OF SECRETARY.—

''(A) IN GENERAL.—The Secretary shall have the authority to acquire interests in trust or restricted lands under this section during the 3-year period beginning on the date of certification that is referred to in section 207(g)(5).

''(B) REQUIRED REPORT.—Prior to expiration of the authority provided for in subparagraph (A), the Secretary shall submit the report required under section 218 concerning whether the program to acquire fractional interests should be extended or altered to make resources available to Indian tribes and individual Indian landowners.

''(3) INTERESTS HELD IN TRUST.—Subject to section 214, the Secretary shall immediately hold interests acquired under this Act in trust for the recognized tribal government that exercises jurisdiction over the land involved.

''(b) REQUIREMENTS.—In implementing subsection (a), the Secretary—

''(1) shall promote the policies provided for in section 102 of the Indian Land Consolidation Act Amendments of 2000;

''(2) may give priority to the acquisition of fractional interests representing 2 percent or less of a parcel of trust or restricted land, especially those interests that would have escheated to a tribe but for the Supreme Court's decision in Babbitt v. Youpee, (117 S Ct. 727 (1997));

''(3) to the extent practicable—

''(A) shall consult with the tribal government that exercises jurisdiction over the land involved in determining which tracts to acquire on a reservation;

''(B) shall coordinate the acquisition activities with the acquisition program of the tribal government that exercises jurisdiction over the land involved, including a tribal land consolidation plan approved pursuant to section 204; and

''(C) may enter into agreements (such agreements will not be subject to the provisions of the Indian Self-Determination and Education Assistance Act of 1974) with the tribal government that exercises jurisdiction over the land involved or a subordinate entity of the tribal government to carry out some or all of the Secretary's land acquisition program; and

''(4) shall minimize the administrative costs associated with the land acquisition program.

''(c) SALE OF INTEREST TO INDIAN LANDOWNERS.—

''(1) CONVEYANCE AT REQUEST.—

''(A) IN GENERAL.—At the request of any Indian who owns at least 5 percent of the undivided interest in a parcel of trust or restricted land, the Secretary shall convey an interest acquired under this section to the Indian landowner upon payment by the Indian landowner of the amount paid for the interest by the Secretary.

''(B) LIMITATION.—With respect to a conveyance under this subsection, the Secretary shall not approve an application to terminate the trust status or remove the restrictions of such an interest.

''(2) MULTIPLE OWNERS.—If more than one Indian owner requests an interest under (1), the Secretary shall convey the interest to the Indian owner who owns the largest percentage of the undivided interest in the parcel of trust or restricted land involved.

''(3) LIMITATION.—If an Indian tribe that has jurisdiction over a parcel of trust or restricted land owns 10 percent or more of the undivided interests in a parcel of such land, such interest may only be acquired under paragraph (1) with the consent of such Indian tribe.

''SEC. 214. ADMINISTRATION OF ACQUIRED FRACTIONAL INTERESTS, DISPOSITION OF PROCEEDS.

''(a) IN GENERAL.—Subject to the conditions described in subsection (b)(1), an Indian tribe receiving a fractional interest under section 213 may, as a tenant in common with the other owners of the trust or restricted lands, lease the interest, sell the resources, consent to the granting of rights-of-way, or engage in any other transaction affecting the trust or restricted land authorized by law.

''(b) CONDITIONS.—

''(1) IN GENERAL.—The conditions described in this paragraph are as follows:

''(A) Until the purchase price paid by the Secretary for an interest referred to in subsection (a) has been recovered, or until the Secretary makes any of the findings under paragraph (2)(A), any lease, resource sale contract, right-of-way, or other document evidencing a transaction affecting the interest shall contain a clause providing that all revenue derived from the interest shall be paid to the Secretary.

''(B) Subject to subparagraph (C), the Secretary shall deposit any revenue derived under subparagraph (A) into the Acquisition Fund created under section 216.

''(C) The Secretary shall deposit any revenue that is paid under subparagraph (A) that is in excess of the purchase price of the fractional interest involved to the credit of the Indian tribe that receives the fractional interest under section 213 and the tribe shall have access to such funds in the same manner as other funds paid to the Secretary for the use of lands held in trust for the tribe.

''(D) Notwithstanding any other provision of law, including section 16 of the Act of June 18, 1934 (commonly referred to as the 'Indian Reorganization Act') (48 Stat. 987, chapter 576; 25 U.S.C. 476), with respect to any interest acquired by the Secretary under section 213, the Secretary may approve a transaction covered under this section on behalf of a tribe until—

''(i) the Secretary makes any of the findings under paragraph (2)(A); or

''(ii) an amount equal to the purchase price of that interest has been paid into the Acquisition Fund created under section 216.

''(2) EXCEPTION.—Paragraph (1)(A) shall not apply to any revenue derived from an interest in a parcel of land acquired by the Secretary under section 213 after—

''(A) the Secretary makes a finding that—

''(i) the costs of administering the interest will equal or exceed the projected revenues for the parcel involved;

''(ii) in the discretion of the Secretary, it will take an unreasonable period of time for the parcel to generate revenue that equals the purchase price paid for the interest; or

''(iii) a subsequent decrease in the value of land or commodities associated with the land make it likely that the interest will be unable to generate revenue that equals the purchase price paid for the interest in a reasonable time; or

''(B) an amount equal to the purchase price of that interest in land has been paid into the Acquisition Fund created under section 216.

''(c) TRIBE NOT TREATED AS PARTY TO LEASE; NO EFFECT ON TRIBAL SOVEREIGNTY, IMMUNITY.—

''(1) IN GENERAL.—Paragraph (2) shall apply with respect to any undivided interest in allotted land held by the Secretary in trust for a tribe if a lease or agreement under subsection (a) is otherwise applicable to such undivided interest by reason of this section even though the Indian tribe did not consent to the lease or agreement.

''(2) APPLICATION OF LEASE.—The lease or agreement described in paragraph (1) shall apply to the portion of the undivided interest in allotted land described in such paragraph (including entitlement of the Indian tribe to payment under the lease or agreement), and the Indian tribe shall not be treated as being a party to the lease or agreement. Nothing in this section (or in the lease or agreement) shall be construed to affect the sovereignty of the Indian tribe.

''SEC. 215. ESTABLISHING FAIR MARKET VALUE.

''For purposes of this Act, the Secretary may develop a system for establishing the fair market value of various types of lands and improvements. Such a system may include determinations of fair market value based on appropriate geographic units as determined by the Secretary. Such system may govern the amounts offered for the purchase of interests in trust or restricted lands under section 213.

''SEC. 216. ACQUISITION FUND.

''(a) IN GENERAL.—The Secretary shall establish an Acquisition Fund to—

''(1) disburse appropriations authorized to accomplish the purposes of section 213; and

''(2) collect all revenues received from the lease, permit, or sale of resources from interests in trust or restricted lands transferred to Indian tribes by the Secretary under section 213 or paid by Indian landowners under section 213(c).

''(b) DEPOSITS; USE.—

''(1) IN GENERAL.—Subject to paragraph (2), all proceeds from leases, permits, or resource sales derived from an interest in trust or restricted lands described in subsection (a)(2) shall—

''(A) be deposited in the Acquisition Fund; and

''(B) as specified in advance in appropriations Acts, be available for the purpose of acquiring additional fractional interests in trust or restricted lands.

''(2) MAXIMUM DEPOSITS OF PROCEEDS.—With respect to the deposit of proceeds derived from an interest under paragraph (1), the aggregate amount deposited under that paragraph shall not exceed the purchase price of that interest under section 213.

''SEC. 217. TRUST AND RESTRICTED LAND TRANSACTIONS.

''(a) POLICY.—It is the policy of the United States to encourage and assist the consolidation of land ownership through transactions—

''(1) involving individual Indians;

''(2) between Indians and the tribal government that exercises jurisdiction over the land; or

''(3) between individuals who own an interest in trust and restricted land who wish to convey that interest to an Indian or the tribal government that exercises jurisdiction over the parcel of land involved;

in a manner consistent with the policy of maintaining the trust status of allotted lands. Nothing in this section shall be construed to apply to or to authorize the sale of trust or restricted lands to a person who is not an Indian.

''(b) SALES, EXCHANGES AND GIFT DEEDS BETWEEN INDIANS AND BETWEEN INDIANS AND INDIAN TRIBES.—

''(1) IN GENERAL.—

''(A) ESTIMATE OF VALUE.—Notwithstanding any other provision of law and only after the Indian selling, exchanging, or conveying by gift deed for no or nominal consideration an interest in land, has been provided with an estimate of the value of the interest of the Indian pursuant to this section—

''(i) the sale or exchange or conveyance of an interest in trust or restricted land may be made for an amount that is less than the fair market value of that interest; and

''(ii) the approval of a transaction that is in compliance with this section shall not constitute a breach of trust by the Secretary.

''(B) WAIVER OF REQUIREMENT.—The requirement for an estimate of value under subparagraph (A) may be waived in writing by an Indian selling, exchanging, or conveying by gift deed for no or nominal consideration an interest in land with an Indian person who is the owner's spouse, brother, sister, lineal ancestor of Indian blood, lineal descendant, or collateral heir.

''(2) LIMITATION.—For a period of 5 years after the Secretary approves a conveyance pursuant to this subsection, the Secretary shall not approve an application to terminate the trust status or remove the restrictions of such an interest.

''(c) ACQUISITION OF INTEREST BY SECRETARY.—An Indian, or the recognized tribal government of a reservation, in possession of an interest in trust or restricted lands, at least a portion of which is in trust or restricted status on the date of enactment of the Indian Land Consolidation Act Amendments of 2000 and located within a reservation, may request that the interest be taken into trust by the Secretary. Upon such a request, the Secretary shall forthwith take such interest into trust.

''(d) STATUS OF LANDS.—The sale, exchange, or conveyance by gift deed for no or nominal consideration of an interest in trust or restricted land under this section shall not affect the status of that land as trust or restricted land.

''(e) LAND OWNERSHIP INFORMATION.—Notwithstanding any other provision of law, the names and mailing addresses of the Indian owners of trust or restricted lands, and information on the location of the parcel and the percentage of undivided interest owned by each individual, or of any interest in trust or restricted lands, shall, upon written request, be made available to—

''(1) other Indian owners of interests in trust or restricted lands within the same reservation;

''(2) the tribe that exercises jurisdiction over the land where the parcel is located or any person who is eligible for membership in that tribe; and

''(3) prospective applicants for the leasing, use, or consolidation of such trust or restricted land or the interest in trust or restricted lands.

''(f) NOTICE TO INDIAN TRIBE.—After the expiration of the limitation period provided for in subsection (b)(2) and prior to considering an Indian application to terminate the trust status or to remove the restrictions on alienation from trust or restricted land sold, exchanged or otherwise conveyed under this section, the Indian tribe that exercises jurisdiction over the parcel of such land shall be notified of the application and given the opportunity to match the purchase price that has been offered for the trust or restricted land involved.

''SEC. 218. REPORTS TO CONGRESS.

''(a) IN GENERAL.—Prior to expiration of the authority provided for in section 213(a)(2)(A), the Secretary, after consultation with Indian tribes and other interested parties, shall submit to the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that indicates, for the period covered by the report—

''(1) the number of fractional interests in trust or restricted lands acquired; and

''(2) the impact of the resulting reduction in the number of such fractional interests on the financial and realty recordkeeping systems of the Bureau of Indian Affairs.

''(b) REPORT.—The reports described in subsection (a) and section 213(a) shall contain findings as to whether the program under this Act to acquire fractional interests in trust or restricted lands should be extended and whether such program should be altered to make resources available to Indian tribes and individual Indian landowners.

''SEC. 219. APPROVAL OF LEASES, RIGHTS-OF-WAY, AND SALES OF NATURAL RESOURCES.

''(a) APPROVAL BY THE SECRETARY.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may approve any lease or agreement that affects individually owned allotted land or any other land held in trust or restricted status by the Secretary on behalf of an Indian, if—

''(A) the owners of not less than the applicable percentage (determined under subsection (b)) of the undivided interest in the allotted land that is covered by the lease or agreement consent in writing to the lease or agreement; and

''(B) the Secretary determines that approving the lease or agreement is in the best interest of the owners of the undivided interest in the allotted land.

''(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to apply to leases involving coal or uranium.

''(3) DEFINITION.—In this section, the term 'allotted land' includes any land held in trust or restricted status by the Secretary on behalf of one or more Indians.

''(b) APPLICABLE PERCENTAGE.—

''(1) PERCENTAGE INTEREST.—The applicable percentage referred to in subsection (a)(1) shall be determined as follows:

''(A) If there are 5 or fewer owners of the undivided interest in the allotted land, the applicable percentage shall be 100 percent.

''(B) If there are more than 5 such owners, but fewer than 11 such owners, the applicable percentage shall be 80 percent.

''(C) If there are more than 10 such owners, but fewer than 20 such owners, the applicable percentage shall be 60 percent.

''(D) If there are 20 or more such owners, the applicable percentage shall be a majority of the interests in the allotted land.

''(2) DETERMINATION OF OWNERS.—

''(A) IN GENERAL.—For purposes of this subsection, in determining the number of owners of, and their interests in, the undivided interest in the allotted land with respect to a lease or agreement, the Secretary shall make such determination based on the records of the Department of the Interior that identify the owners of such lands and their interests and the number of owners of such land on the date on which the lease or agreement involved is submitted to the Secretary under this section.

''(B) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) shall be construed to authorize the Secretary to treat an Indian tribe as the owner of an interest in allotted land that did not escheat to the tribe pursuant to section 207 as a result of the Supreme Court's decision in Babbitt v. Youpee, (117 S Ct. 727 (1997)).

''(c) AUTHORITY OF SECRETARY TO SIGN LEASE OR AGREEMENT ON BEHALF OF CERTAIN OWNERS.—The Secretary may give written consent to a lease or agreement under subsection (a)—

''(1) on behalf of the individual Indian owner if the owner is deceased and the heirs to, or devisees of, the interest of the deceased owner have not been determined; or

''(2) on behalf of any heir or devisee referred to in paragraph (1) if the heir or devisee has been determined but cannot be located

''(d) EFFECT OF APPROVAL.—

''(1) APPLICATION TO ALL PARTIES.—

''(A) IN GENERAL.—Subject to paragraph (2), a lease or agreement approved by the Secretary under subsection (a) shall be binding on the parties described in subparagraph (B), to the same extent as if all of the owners of the undivided interest in allotted land covered under the lease or agreement consented to the lease or agreement.

''(B) DESCRIPTION OF PARTIES.—The parties referred to in subparagraph (A) are—

''(i) the owners of the undivided interest in the allotted land covered under the lease or agreement referred to in such subparagraph; and

''(ii) all other parties to the lease or agreement.

''(2) TRIBE NOT TREATED AS PARTY TO LEASE; NO EFFECT ON TRIBAL SOVEREIGNTY, IMMUNITY.—

''(A) IN GENERAL.—Subparagraph (B) shall apply with respect to any undivided interest in allotted land held by the Secretary in trust for a tribe if a lease or agreement under subsection (a) is otherwise applicable to such undivided interest by reason of this section even though the Indian tribe did not consent to the lease or agreement.

''(B) APPLICATION OF LEASE.—The lease or agreement described in subparagraph (A) shall apply to the portion of the undivided interest in allotted land described in such paragraph (including entitlement of the Indian tribe to payment under the lease or agreement), and the Indian tribe shall not be treated as being a party to the lease or agreement. Nothing in this section (or in the lease or agreement) shall be construed to affect the sovereignty of the Indian tribe.

''(e) DISTRIBUTION OF PROCEEDS.—

''(1) IN GENERAL.—The proceeds derived from a lease or agreement that is approved by the Secretary under subsection (a) shall be distributed to all owners of undivided interest in the allotted land covered under the lease or agreement.

''(2) DETERMINATION OF AMOUNTS DISTRIBUTED.—The amount of the proceeds under paragraph (1) that are distributed to each owner under that paragraph shall be determined in accordance with the portion of the undivided interest in the allotted land covered under the lease or agreement that is owned by that owner.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to amend or modify the provisions of Public Law 105-188 (25 U.S.C. 396 note), the American Indian Agricultural Resources Management Act (25 U.S.C. 3701 et seq.), title II of the Indian Land Consolidation Act Amendments of 2000,

or any other Act that provides specific standards for the percentage of ownership interest that must approve a lease or agreement on a specified reservation.

"SEC. 220. APPLICATION TO ALASKA.

''(a) FINDINGS.—Congress find that—

''(1) numerous academic and governmental organizations have studied the nature and extent of fractionated ownership of Indian land outside of Alaska and have proposed solutions to this problem; and

''(2) despite these studies, there has not been a comparable effort to analyze the problem, if any, of fractionated ownership in Alaska.

''(b) APPLICATION OF ACT TO ALASKA.—Except as provided in this section, this Act shall not apply to land located within Alaska.

''(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to constitute a ratification of any determination by any agency, instrumentality, or court of the United States that may support the assertion of tribal jurisdiction over allotment lands or interests in such land in Alaska.''.

SEC. 104. JUDICIAL REVIEW.

Notwithstanding section 207(g)(5) of the Indian Land Consolidation Act (25 U.S.C. 2206(f)(5)), after the Secretary of Interior provides the certification required under section 207(g)(4) of such Act, the owner of an interest in trust or restricted land may bring an administrative action to challenge the application of such section 207 to the devise or descent of his or her interest or interests in trust or restricted lands, and may seek judicial review of the final decision of the Secretary of Interior with respect to such challenge.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated not to exceed $8,000,000 for fiscal year 2001 and each subsequent fiscal year to carry out the provisions of this title (and the amendments made by this title) that are not otherwise funded under the authority provided for in any other provision of Federal law.

SEC. 106. CONFORMING AMENDMENTS.

(a) PATENTS HELD IN TRUST.—The Act of February 8, 1887 (24 Stat. 388) is amended—

(1) by repealing sections 1, 2, and 3 (25 U.S.C. 331, 332, and 333); and

(2) in the second proviso of section 5 (25 U.S.C. 348)—

(A) by striking ''and partition''; and

(B) by striking ''except'' and inserting ''except as provided by the Indian Land Consolidation Act or a tribal probate code approved under such Act and except''.

(b) ASCERTAINMENT OF HEIRS AND DISPOSAL OF ALLOTMENTS.—The Act of June 25, 1910 (36 Stat. 855) is amended—

(1) in the first sentence of section 1 (25 U.S.C. 372), by striking ''under'' and inserting ''under the Indian Land Consolidation Act or a tribal probate code approved under such Act and pursuant to''; and

(2) in the first sentence of section 2 (25 U.S.C. 373), by striking ''with regulations'' and inserting ''with the Indian Land Consolidation Act or a tribal probate code approved under such Act and regulations''.

(c) TRANSFER OF LANDS.—Section 4 of the Act of June 18, 1934 (25 U.S.C. 464) is amended by striking ''member or:'' and inserting ''member or, except as provided by the Indian Land Consolidation Act,''.

TITLE II—LEASES OF NAVAJO INDIAN ALLOTTED LANDS

SEC. 201. LEASES OF NAVAJO INDIAN ALLOTTED LANDS.

(a) DEFINITIONS.—In this section:

(1) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(2) INDIVIDUALLY OWNED NAVAJO INDIAN ALLOTTED LAND.—The term ''individually owned Navajo Indian allotted land'' means Navajo Indian allotted land that is owned in whole or in part by 1 or more individuals.

(3) NAVAJO INDIAN.—The term ''Navajo Indian'' means a member of the Navajo Nation.

(4) NAVAJO INDIAN ALLOTTED LAND.—The term ''Navajo Indian allotted land'' means a single parcel of land that—

(A) is located within the jurisdiction of the Navajo Nation; and

(B)(i) is held in trust or restricted status by the United States for the benefit of Navajo Indians or members of another Indian tribe; and

(ii) was—

(I) allotted to a Navajo Indian; or

(II) taken into trust or restricted status by the United States for a Navajo Indian.

(5) OWNER.—The term ''owner'' means, in the case of any interest in land described in paragraph (4)(B)(i), the beneficial owner of the interest.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) APPROVAL BY THE SECRETARY.—

(1) IN GENERAL.—The Secretary may approve an oil or gas lease or agreement that affects individually owned Navajo Indian allotted land, if—

(A) the owners of not less than the applicable percentage (determined under paragraph (2)) of the undivided interest in the Navajo Indian allotted land that is covered by the oil or gas lease or agreement consent in writing to the lease or agreement; and

(B) the Secretary determines that approving the lease or agreement is in the best interest of the owners of the undivided interest in the Navajo Indian allotted land.

(2) PERCENTAGE INTEREST.—The applicable percentage referred to in paragraph (1)(A) shall be determined as follows:

(A) If there are 10 or fewer owners of the undivided interest in the Navajo Indian allotted land, the applicable percentage shall be 100 percent.

(B) If there are more than 10 such owners, but fewer than 51 such owners, the applicable percentage shall be 80 percent.

(C) If there are 51 or more such owners, the applicable percentage shall be 60 percent.

(3) AUTHORITY OF SECRETARY TO SIGN LEASE OR AGREEMENT ON BEHALF OF CERTAIN OWNERS.—The Secretary may give written consent to an oil or gas lease or agreement under paragraph (1) on behalf of an individual Indian owner if—

(A) the owner is deceased and the heirs to, or devisees of, the interest of the deceased owner have not been determined; or

(B) the heirs or devisees referred to in subparagraph (A) have been determined, but 1 or more of the heirs or devisees cannot be located.

(4) EFFECT OF APPROVAL.—

(A) APPLICATION TO ALL PARTIES.—

(i) IN GENERAL.—Subject to subparagraph (B), an oil or gas lease or agreement approved by the Secretary under paragraph (1) shall be binding on the parties described in clause (ii), to the same extent as if all of the owners of the undivided interest in Navajo Indian allotted land covered under the lease or agreement consented to the lease or agreement.

(ii) DESCRIPTION OF PARTIES.—The parties referred to in clause (i) are—

(I) the owners of the undivided interest in the Navajo Indian allotted land covered under the lease or agreement referred to in clause (i); and

(II) all other parties to the lease or agreement.

(B) EFFECT ON INDIAN TRIBE.—If—

(i) an Indian tribe is the owner of a portion of an undivided interest in Navajo Indian allotted land; and

(ii) an oil or gas lease or agreement under paragraph (1) is otherwise applicable to such portion by reason of this subsection even though the Indian tribe did not consent to the lease or agreement,

then the lease or agreement shall apply to such portion of the undivided interest (including entitlement of the Indian tribe to payment under the lease or agreement), but the Indian tribe shall not be treated as a party to the lease or agreement and nothing in this subsection (or in the lease or agreement) shall be construed to affect the sovereignty of the Indian tribe.

(5) DISTRIBUTION OF PROCEEDS.—

(A) IN GENERAL.—The proceeds derived from an oil or gas lease or agreement that is approved by the Secretary under paragraph (1) shall be distributed to all owners of the undivided interest in the Navajo Indian allotted land covered under the lease or agreement.

(B) DETERMINATION OF AMOUNTS DISTRIBUTED.—The amount of the proceeds under subparagraph (A) distributed to each owner under that subparagraph shall be determined in accordance with the portion of the undivided interest in the Navajo Indian allotted land covered under the lease or agreement that is owned by that owner.

RECOGNIZING HEROES PLAZA IN THE CITY OF PUEBLO, COLORADO

Mr. DEWINE. Mr. President, I ask unanimous consent that the Armed Services Committee be discharged from further consideration of H. Con. Res. 351, and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 351) recognizing Heroes Plaza in the City of Pueblo, Colorado, as honoring recipients of the Medal of Honor.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DEWINE. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and finally that any statements relating to the resolution be printed in the RECORD.

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

AUTHORITY FOR UNITED STATES POSTAL SERVICE TO ISSUE SEMIPOSTALS

Mr. DEWINE. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 4437, 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. 4437) to grant to the United States Postal Service the authority to issue semipostals, and for other purposes.

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

Mr. DEWINE. Mr. President, I ask unanimous consent that the bill be read the 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. 4437) was read the third time and passed.

INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT

Mr. DEWINE. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House to accompany H.R. 1167.

There being no objection, the Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 1167) entitled ''An Act to amend the Indian Self-Determination and Education Assistance Act to provide for further self-governance by Indian tribes, and for other purposes'', with the following amendments:

(1)Page 14, line 12, strike [(or of such other agency)].

(2)Page 15, line 1, after ''functions'' insert: *so*

(3)Page 19, line 4, after ''section 106'' insert: *other provisions of law,*

(4)Page 20, line 6, strike [305] and insert: *505*

(5)Page 31, line 23, strike [may] and insert: *is authorized to*

(6)Page 39, strike lines 7 through 14, and insert the following:

''(g) WAGES.—All laborers and mechanics employed by contractors and subcontractors (excluding tribes and tribal organizations) in the construction, alteration, or repair, including painting or decorating of a building or other facilities in connection with construction projects funded by the United States under this Act shall be paid wages at not less than those prevailing wages on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act of March 3, 1931 (46 Stat. 1494). With respect to construction alteration, or repair work to which the Act of March 3, 1931, is applicable under this section, the Secretary of Labor shall have the authority and functions set forth in the Reorganization Plan numbered 14, of 1950, and section 2 of the Act of June 13, 1934 (48 Stat. 948).''.

(7)Page 39, strike line 24 and all that follows through page 40, line 6, and insert the following:

''Regarding construction programs or projects, the Secretary and Indian tribes may negotiate for the inclusion of specific provisions of the Office of Federal Procurement and Policy Act (41 U.S.C. 401 et seq.) and Federal acquisition regulations in any funding agreement entered into under this part. Absent a negotiated agreement, such provisions and regulatory requirements shall not apply.''.

(8)Page 41, line 1, insert a comma after ''Executive orders''.

(9)Page 49, strike lines 4 through 10.

(10)Page 56, beginning on line 21, strike [for fiscal years 2000 and 2001].

(11)Page 60, line 6, strike [(a) IN GENERAL.—].

(12)Page 60, strike lines 9 and 10.

(13)Page 60, strike line 16 and all that follows through page 65, line 16.

(14)Page 65, line 17, strike [**SEC. 13.**] and insert: ***SEC. 12.***

(15)Page 66, after line 7, insert the following:

''SEC. 13. EFFECTIVE DATE.

''Except as otherwise provided, the provisions of this Act shall take effect on the date of the enactment of this Act.''.

INDIAN TRIBAL PURCHASES OF PRESCRIPTION DRUGS IN SELF GOVERNANCE

Mr. HELMS. Mr. President, it would be helpful to get a clarification for the RECORD from the manager of H.R. 1167, the distinguished Chairman of the Senate Committee on Indian Affairs. I understand that H.R. 1167, the bill to amend the Indian Self-Determination and Education Assistance Act to provide for further self-governance by Indian tribes, contains a provision that would allow Indian tribes to purchase prescription drugs from the Federal Supply Schedule for the purpose of providing health services to Indians under contract with the Indian Health Service.

Mr. CAMPBELL. I would be glad to clarify this matter for the distinguished Senator from North Carolina. Your understanding is correct.

Mr. HELMS. I thank the able Senator. Moreover, I understand that the committee intends that the prescription drugs purchased off the Federal Supply Schedule can only be used for Indians whose health care is provided by the tribe, and cannot be purchased or used for resale, nor may they be dispensed to non-Indian employees of a tribe. Is that correct, Mr. Chairman?

Mr. CAMPBELL. It is the Committee's intent that prescription drugs purchased off the Federal Supply Schedule, as authorized under H.R. 1167, are for the exclusive use of tribal members, not for non-Indian employees of a tribe. Furthermore, it is the intent of the committee that prescription drugs purchased through access to the Federal Supply Schedule by tribes are not to be resold.

Mr. DEWINE. Mr. President, I ask unanimous consent that the Senate agree to the amendments of the House.

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

FUGITIVE APPREHENSION ACT OF 2000

Mr. DEWINE. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 695, S. 2516.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2516) to fund task forces to locate and apprehend fugitives in Federal, State and local felony criminal cases and give administrative subpoena authority to the United States Marshals Service, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment, as follows:

(Strike out all after the enacting clause and insert the part printed in italic)

S. 2516

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 ''Fugitive Apprehension Act of 2000''.

SEC. 2. FUGITIVE APPREHENSION TASK FORCES.

(a) IN GENERAL.—The Attorney General shall, upon consultation with appropriate Department of Justice and Department of the Treasury law enforcement components, establish permanent Fugitive Apprehension Task Forces consisting of Federal, State, and local law enforcement authorities in designated regions of the United States, to be directed and coordinated by the United States Marshals Service, for the purpose of locating and apprehending fugitives.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the United States Marshal Service to carry out the provisions of this section $30,000,000 for the fiscal year 2001, $5,000,000 for fiscal year 2002, and $5,000,000 for fiscal year 2003.

(c) OTHER EXISTING APPLICABLE LAW.—Nothing in this section shall be construed to limit any existing authority under any other provision of Federal or State law for law enforcement agencies to locate or apprehend fugitives through task forces or any other means.

SEC. 3. ADMINISTRATIVE SUBPOENAS TO APPREHEND FUGITIVES.

(a) IN GENERAL.—Chapter 49 of title 18, United States Code, is amended by adding at the end the following:

''§ 1075. Administrative subpoenas to apprehend fugitives

''(a) DEFINITIONS.—In this section:

''(1) FUGITIVE.—The term 'fugitive' means a person who—

''(A) having been accused by complaint, information, or indictment under Federal law or having been convicted of committing a felony under Federal law, flees or attempts to flee from or evades or attempts to evade the jurisdiction of the court with jurisdiction over the felony;

''(B) having been accused by complaint, information, or indictment under State law or having been convicted of committing a felony under State law, flees or attempts to flee from, or evades or attempts to evade, the jurisdiction of the court with jurisdiction over the felony;

''(C) escapes from lawful Federal or State custody after having been accused by complaint, information, or indictment or having been convicted of committing a felony under Federal or State law; or

''(D) is in violation of subparagraph (2) or (3) of the first undesignated paragraph of section 1073.

''(2) INVESTIGATION.—The term 'investigation' means, with respect to a State fugitive described in subparagraph (B) or (C) of paragraph (1), an investigation in which there is reason to believe that the fugitive fled from or evaded, or attempted to flee from or evade, the jurisdiction of the court, or escaped from custody, in or affecting, or using any facility of, interstate or foreign commerce, or as to whom an appropriate law enforcement officer or official of a State or political subdivision has requested the Attorney General to assist in the investigation, and the Attorney General finds that the particular circumstances of the request give rise to a Federal interest sufficient for the exercise of Federal jurisdiction pursuant to section 1075.

''(3) STATE.—The term 'State' means a State of the United States, the District of Colombia, and any commonwealth, territory, or possession of the United States.

''(b) SUBPOENAS AND WITNESSES.—

''(1) SUBPOENAS.—In any investigation with respect to the apprehension of a fugitive, the Attorney General may subpoena witnesses for the purpose of the production of any records (including books, papers, documents, electronic data, and other tangible and intangible items that constitute or contain evidence) that the Attorney General finds, based on articulable facts, are relevant to discerning the whereabouts of the fugitive. A subpoena under this subsection shall describe the records or items required to be produced and prescribe a return date within a reasonable period of time within which the

records or items can be assembled and made available.

''(2) WITNESSES.—The attendance of witnesses and the production of records may be required from any place in any State or other place subject to the jurisdiction of the United States at any designated place where the witness was served with a subpoena, except that a witness shall not be required to appear more than 500 miles distant from the place where the witness was served. Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

''(c) SERVICE.—

''(1) AGENT.—A subpoena issued under this section may be served by any person designated in the subpoena as the agent of service.

''(2) NATURAL PERSON.—Service upon a natural person may be made by personal delivery of the subpoena to that person or by certified mail with return receipt requested.

''(3) CORPORATION.—Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association that is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

''(4) AFFIDAVIT.—The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

''(d) CONTUMACY OR REFUSAL.—

''(1) IN GENERAL.—In the case of the contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which he carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records if so ordered.

''(2) CONTEMPT.—Any failure to obey the order of the court may be punishable by the court as contempt thereof.

''(3) PROCESS.—All process in any case to enforce an order under this subsection may be served in any judicial district in which the person may be found.

''(4) RIGHTS OF SUBPOENA RECIPIENT.—Not later than 20 days after the date of service of an administrative subpoena under this section upon any person, or at any time before the return date specified in the subpoena, whichever period is shorter, such person may file, in the district within which such person resides, is found, or transacts business, a petition to modify or quash such subpoena on grounds that—

''(A) the terms of the subpoena are unreasonable or unnecessary;

''(B) the subpoena fails to meet the requirements of this section; or

''(C) the subpoena violates the constitutional rights or any other legal rights or privilege of the subpoenaed party.

''(e) REPORT.—

''(1) IN GENERAL.—The Attorney General shall report in January of each year to the Committees on the Judiciary of the Senate and the House of Representatives on the number of administrative subpoenas issued under this section, whether each matter involved a fugitive from Federal or State charges, and identification of the agency or component of the Department of Justice issuing the subpoena and imposing the charges.

''(2) EXPIRATION.—The reporting requirement of this subsection shall terminate in 3 years after the date of enactment of this section.

''(f) GUIDELINES.—

''(1) IN GENERAL.—The Attorney General shall issue guidelines governing the issuance of administrative subpoenas pursuant to this section.

''(2) REVIEW.—The guidelines required by this subsection shall mandate that administrative subpoenas may be issued only after review and approval of senior supervisory personnel within the respective investigative agency or component of the Department of Justice.

''(g) DELAYED NOTICE.—

''(1) IN GENERAL.—Where an administrative subpoena is issued under this section to a provider of electronic communication service (as defined in section 2510 of this title) or remote computing service (as defined in section 2711 of this title), the Attorney General may—

''(A) in accordance with section 2705(a) of this title, delay notification to the subscriber or customer to whom the record pertains; and

''(B) apply to a court, in accordance with section 2705(b) of this title, for an order commanding the provider of electronic communication service or remote computing service not to notify any other person of the existence of the subpoena or court order.

''(2) SUBPOENAS FOR FINANCIAL RECORDS.—If a subpoena is issued under this section to a financial institution for financial records of any customer of such institution, the Attorney General may apply to a court under section 1109 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3409) for an order to delay customer notice as otherwise required.

''(3) NONDISCLOSURE REQUIREMENTS.—

''(A) IN GENERAL.—Except as otherwise provided in paragraphs (1) and (2), the Attorney General may require the party to whom an administrative subpoena is directed to refrain from notifying any other party of the existence of the subpoena for 30 days.

''(B) EXTENSION.—The Attorney General may apply to a court for an order extending the time for such period as the court deems appropriate.

''(C) CRITERIA FOR EXTENSION.—The court shall enter an order under subparagraph (B) if it determines that there is reason to believe that notification of the existence of the administrative subpoena will result in—

''(i) endangering the life or physical safety of an individual;

''(ii) flight from prosecution;

''(iii) destruction of or tampering with evidence;

''(iv) intimidation of potential witnesses; or

''(v) otherwise seriously jeopardizing an investigation or undue delay in trial.

''(h) IMMUNITY FROM CIVIL LIABILITY.—Any person, including officers, agents, and employees, who in good faith produce the records or items requested in a subpoena shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer, in compliance with the terms of a court order for nondisclosure.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 49 of title 18, United States Code, is amended by adding at the end the following:

''1075. Administrative subpoenas to apprehend fugitives.''.

SEC. 4. STUDY AND REPORT OF THE USE OF ADMINISTRATIVE SUBPOENAS.

Not later than December 31, 2001, the Attorney General shall complete a study on the use of administrative subpoena power by executive branch agencies or entities and shall report the findings to the Committees on the Judiciary of the Senate and the House of Representatives. Such report shall include—

(1) a description of the sources of administrative subpoena power and the scope of such subpoena power within executive branch agencies;

(2) a description of applicable subpoena enforcement mechanisms;

(3) a description of any notification provisions and any other provisions relating to safeguarding privacy interests;

(4) a description of the standards governing the issuance of administrative subpoenas; and

(5) recommendations from the Attorney General regarding necessary steps to ensure that administrative subpoena power is used and enforced consistently and fairly by executive branch agencies.

AMENDMENT NO. 4020

Mr. DEWINE. Mr. President, I send an amendment to the desk on behalf of Senators THURMOND, BIDEN, and LEAHY.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio (Mr. DEWINE) for Mr. THURMOND, Mr. BIDEN, and Mr. LEAHY, proposes an amendment numbered 4020.

The amendment is as follows:

(Purpose: To impose nondisclosure requirements, and for other purposes)

On page 14, beginning with line 21, strike through page 15, line 20 and insert the following:

''(3) NONDISCLOSURE REQUIREMENTS.—

''(A) IN GENERAL.—Except as provided in paragraphs (1) and (2), the Attorney General may apply to a court for an order requiring the party to whom an administrative subpoena is directed to refrain from notifying any other party of the existence of the subpoena or court order for such period as the court deems appropriate.

''(B) ORDER.—The court shall enter such order if it determines that there is reason to believe that notification of the existence of the administrative subpoena will result in—

''(i) endangering the life or physical safety of an individual;

''(ii) flight from prosecution;

''(iii) destruction of or tampering with evidence;

''(iv) intimidation of potential witnesses; or

''(v) otherwise seriously jeopardizing an investigation or undue delay of a trial.

On page 16, line 9 insert '', in consultation with the Secretary of the Treasury,'' after ''eral''.

Mr. THURMOND. Mr. President, I am very pleased that tonight the Senate is considering S. 2516, the Fugitive Apprehension Act. Senator BIDEN and I introduced this important legislation to help address the serious threat of federal and state fugitives. The need for it was clearly demonstrated in a hearing I held on this matter last month in my subcommittee.

The number of wanted persons is truly alarming. There are over 38,000 felony warrants outstanding in federal cases. There are over one-half million felony or other serious fugitives listed in the National Crime Information Center database. Yet, this is far less than the actual number of dangerous fugitives roaming the streets because many states do not put all dangerous wanted persons into the database. As recently reported in the Washington Post, California has 2.5 million unserved felony and misdemeanor warrants, and Baltimore has 61,000.

While violent crime in the United States has been decreasing in recent years, the number of serious fugitives has been climbing. The number of N.C.I.C. fugitives has doubled since 1987, and continues to rise steadily each year.

Fugitives represent not only an outrage to the rule of law, they are also a serious threat to public safety. Many of

them continue to commit additional crimes while they roam undetected.

The bill would provide $40 million dollars over three years for the Marshals Service to form fugitive task forces with state and local authorities. The Marshals Service is the lead federal agency regarding this matter. Task forces combine the expertise of the Marshals Service in these specialized investigations with the knowledge that local law enforcement has about their communities. This teamwork helps authorities prioritize and apprehend large numbers of dangerous criminals.

The legislation would also provide administrative subpoena authority, which would allow investigators to track down leads about wanted persons faster and more efficiently. Currently, the time it takes to get vital information, such as telephone or apartment rental records, through a formal court order can make the difference between whether a fugitive is apprehended or remains on the run.

This bill has been endorsed by various law enforcement organizations, including the National Sheriffs Association, the Fraternal Order of Police, and the National Association of Police Organizations, and the subpoena authority is supported by the Administration. This is an important step that we can take to help federal and state law enforcement address the serious fugitive threat that exists in our country.

I ask consent to have printed in the RECORD a section-by-section analysis of the bill.

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

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The title is the ''Fugitive Apprehension Act of 2000.''

Section 2. Fugitive apprehension task forces

The purpose of this provision is to assist Federal, state and local law enforcement authorities by forming multi-agency task forces around the country to locate and apprehend fugitives wanted by their jurisdictions.

The bill would authorize to be appropriated to the U.S. Marshals Service $40 million dollars over three years to establish new, permanent Fugitive Apprehension Task Forces and supplement the efforts of task forces already operating in areas throughout the United States. The Fugitive Apprehension Task Forces would be totally dedicated to locating and apprehending fugitives under the direction of a National Director and not under a specific District to insure that they are not utilized for other Marshals Service missions.

Section 3. Administrative subpoena authority

This section of the bill creates a new section 1075 in Title 18, United States Code, providing for administrative subpoena authority to ascertain the whereabouts of fugitives.

Section 1075(a) contains various definitions for ''fugitive,'' ''investigation,'' and ''state,'' that delimit the scope of the section's operative provisions.

Section 1075(b) provides for the issuance of administrative subpoenas in investigations as defined in section 1075(a). The Attorney General may subpoena witnesses for the production of records the Attorney General finds, based on articulable facts, are relevant to discerning the whereabouts of a fugitive. A subpoena must describe the records or items required to be produced and prescribe a return date within a reasonable period of time within which the records or items can be assembled and made available. Witnesses may not be required to travel more than 500 miles from the place of service of the subpoena, and must be paid the same fees and mileage paid witnesses in United States courts.

Section 1075(c) provides for methods of service of a subpoena under this section.

Section 1075(d) empowers courts to enforce subpoenas issued under this section. Subpoena recipients may move to modify or quash an administrative subpoena within 20 days of service of the subpoena, or prior to the return date, whichever period is shorter, on specified grounds.

Section 1075(e) provides that the Attorney General must issue a report to the Congress about the use of this section, for the first three years following enactment of the statute.

Section 1075(f) provides that the Attorney General shall issue guidelines governing the issuance of administrative subpoenas aimed at the apprehension of fugitives as authorized by this section. The guidelines shall mandate that no such subpoenas issue absent review and approval of senior supervisory personnel within the respective investigative agency or component of the Department of Justice.

Section 1075(g) provides that administrative subpoenas issued to a provider of electronic communication service (as defined in 18 U.S.C. §2510) or remote computing service (as defined in 18 U.S.C. §2711) may include delayed notification and nondisclosure provisions consistent with 18 U.S.C. §2705. Paragraph (g) further provides that subpoenas issued under this section for financial records are subject to the Attorney General's power to request a delayed customer notice pursuant to 12 U.S.C. §3409. Administrative subpoenas issued pursuant to this section should be governed, where appropriate, by 18 U.S.C. §2705 and 12 U.S.C. §3409. Otherwise, the Attorney General may apply for a court order imposing a non-disclosure period for specified reasons.

Section 1075(h) provides that good faith compliance with a subpoena issued under this section, and good faith compliance with a nondisclosure order under this provision (whether incorporated in a subpoena by the Attorney General or separately ordered by a court), will be immunized from civil liability in state and federal courts.

Section 4. Study and report of the use of administrative subpoenas

This section requires the Attorney General, in consultation with the Secretary of the Treasury, to complete a study of the use of administrative subpoena power, and report to the Congress by December 31, 2001.

Mr. LEAHY. Mr. President, I am pleased that the Senate is passing S. 2516, ''The Fugitive Apprehension Act of 2000.''

During Senate Judiciary Committee consideration of this legislation, we were able to reconcile in the Thurmond-Biden-Leahy substitute amendment to S. 2516, the significant differences between that bill, as introduced, and S. 2761, ''The Capturing Criminals Act,'' which I introduced with Senator KOHL on June 21, 2000. I commend Senators THURMOND and BIDEN for their leadership on this issue and am glad we were able to make a number of changes to the bill to ensure that the authority granted is consistent with privacy and other appropriate safeguards.

As a former prosecutor, I am well aware that fugitives from justice are an important problem and that their capture is an essential function of law enforcement. According to the FBI, nearly 550,000 people are currently fugitives from justice on federal, state, and local felony charges combined. This means that there are almost as many fugitive felons as there are citizens residing in my home state of Vermont.

The fact that we have more than one half million fugitives from justice, a significant portion of whom are convicted felons in violation of probation or parole, who have been able to flaunt courts order and avoid arrest, breeds disrespect for our laws and poses undeniable risks to the safety of our citizens.

Our federal law enforcement agencies should be commended for the job they have been doing to date on capturing federal fugitives and helping the states and local communities bring their fugitives to justice. The U.S. Marshals Service, our oldest law enforcement agency, has arrested over 120,000 federal, state and local fugitives in the past four years, including more federal fugitives than all the other federal agencies combined. In prior years, the Marshals Service spearheaded special fugitive apprehension task forces, called FIST Operations, that targeted fugitives in particular areas and was singularly successful in arresting over 34,000 fugitive felons.

Similarly, the FBI has established twenty-four Safe Streets Task Forces exclusively focused on apprehending fugitives in cities around the country. Over the period of 1995 to 1999, the FBI's efforts have resulted in the arrest of a total of 65,359 state fugitives.

Nevertheless, the number of outstanding fugitives is too large. The substitute amendment we consider today will help make a difference by providing new but limited administrative subpoena authority to the Department of Justice to obtain documentary evidence helpful in tracking down fugitives and by authorizing the Attorney General to establish fugitive task forces.

''Administrative subpoena'' is the term generally used to refer to a demand for documents or testimony by an investigative entity or regulatory agency that is empowered to issue the subpoena independently and without the approval of any grand jury, court or other judicial entity. I am generally skeptical of administrative subpoena power. Administrative subpoenas avoid the strict grand jury secrecy rules and the documents provided in response to such subpoenas are, therefore, subject to broader dissemination. Moreover, since investigative agents issue such subpoenas directly, without review by

a judicial officer or even a prosecutor, fewer ''checks'' are in place to ensure the subpoena is issued with good cause and not merely as a fishing expedition.

Nonetheless, unlike initial criminal inquiries, fugitive investigations present unique difficulties. Law enforcement may not use grand jury subpoenas since, by the time a person is a fugitive, the grand jury phase of an investigation is usually over. Use of grand jury subpoenas to obtain phone or bank records to track down a fugitive would be an abuse of the grand jury. Trial subpoenas may also not be used, either because the fugitive is already convicted or no trial may take place without the fugitive.

This inability to use trial and grand jury subpoenas for fugitive investigations creates a gap in law enforcement procedures. Law enforcement partially fills this gap by using the All Writs Act, 28 U.S.C. § 1651(a), which authorizes federal courts to ''issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.'' The procedures, however, for obtaining orders under this Act, and the scope and non-disclosure terms of such orders, vary between jurisdictions.

Thus, authorizing administrative subpoena power will help bridge the gap in fugitive investigations to allow federal law enforcement agencies to obtain records useful for tracking a fugitive's whereabouts.

The Thurmond-Biden-Leahy substitute amendment incorporates a number of provisions from the Leahy-Kohl ''Capturing Criminals Act'' and makes significant and positive modifications to the original version of S. 2516. First, as introduced, S. 2516 would have limited use of an administrative subpoena to those fugitives who have been ''indicted,'' and failed to address the fact that fugitives flee after arrest on the basis of a ''complaint'' and may flee after the prosecutor has filed an ''information'' in lieu of an indictment. The substitute amendment, by contrast, would allow use of such subpoenas to track fugitives who have been accused in a ''complaint, information or indictment.''

Second, S. 2516, as introduced, would have required the U.S. Marshal Service to report quarterly to the Attorney General (who must transmit the report to Congress) on use of the administrative subpoenas. While a reporting requirement is useful, the requirement as described in the original S. 2516 was overly burdensome and insufficiently specific. The substitute amendment, as in the Capturing Criminals Act, would require the Attorney General to report for the next three years to the Judiciary Committees of both the House and Senate with the following information about the use of administrative subpoenas in fugitive investigations: the number issued, by which agency, identification of the charges on which the fugitive was wanted and whether the fugitive was wanted on federal or state charges.

Third, although the original S. 2516 outlined the procedures for enforcement of an administrative subpoena, it was silent on the mechanisms for contesting the subpoena by the recipient. The substitute amendment expressly addresses this issue. As set forth in the Capturing Criminals Act, this substitute amendment would allow a person who is served with an administrative subpoena to petition a court to modify or set aside the subpoena on grounds that compliance would be ''unreasonable or oppressive'' (a standard used in Fed. R. Crim. P. 17 for trial subpoenas) or would violate constitutional or other legal rights of the person.

Fourth, the original S. 2516 did not provide, or set forth a procedure, for the government to command a custodian of records not to disclose or to delay notice to a customer about the existence of the subpoena. This is particularly critical in fugitive investigations when law enforcement does not want to alert the fugitive that the police are on his/her trail. The substitute amendment incorporates from the Capturing Criminals Act the express authority for law enforcement to apply for a court order directing the custodian of records to delay notice to subscribers of the existence of the subpoena on the same terms applicable in current law to other subpoenas issued to phone companies and other electronic service providers and to banks.

Fifth, the original S. 2516 did not provide any immunity from civil liability for persons complying with administrative subpoenas in fugitive investigations. As in the Capturing Criminals Act, the substitute amendment would provide immunity from civil liability for good faith compliance with an administrative subpoena, including nondisclosure in compliance with the terms of a court order.

Sixth, S. 2516, as introduced, would have authorized use of an administrative subpoena upon a finding by the Attorney General that the documents are ''relevant and material,'' which is further defined to mean that ''there are articulable facts that show the fugitive's whereabouts may be discerned from the records sought.'' Changing the standard for issuance of a subpoena from ''relevancy'' to a hybrid of ''relevant and material'' sets a confusing and bad precedent. Accordingly, the substitute amendment would authorize issuance of an administrative subpoena for documents if the Attorney General finds based upon articulable facts that they are relevant to discerning the fugitive's whereabouts.

Seventh, the original S. 2516 authorized the Attorney General to issue guidelines delegating authority for issuance of administrative subpoenas only to the Director of the U.S. Marshals Service, despite the fact that the FBI, and the Drug Enforcement Administration also want this authority to find fugitives on charges over which they have investigative authority. The substitute amendment would authorize the Attorney General to issue guidelines delegating authority for issuance of administrative subpoenas to supervisory personnel within components of the Department.

Eighth, the original S. 2516 did not address the issue that a variety of administrative subpoena authorities exist in multiple forms in every agency. The substitute amendment incorporates from the Capturing Criminals Act a requirement that the Attorney General provide a report on this issue.

Finally, as introduced, S. 2516 authorized the U.S. Marshal Service to establish permanent Fugitive Apprehension Task Forces. By contrast, the substitute amendment would authorize $40,000,000 over three years for the Attorney General to establish multiagencytask forces (which will be coordinated by the Director of the Marshals Service) in consultation with the Secretary of the Treasury and the States, so that the Secret Service, BATF, the FBI and the States are able to participate in the Task Forces to find their fugitives.

This Thurmond-Biden-Leahy substitute amendment makes necessary changes to this bill that will help law enforcement—with increased resources for regional fugitive apprehension task forces and administrative subpoena authority—bring to justice both federal and state fugitives who, by their conduct, have demonstrated a lack of respect for our nation's criminal justice system.

Mr. DEWINE. Mr. President, I ask unanimous consent the amendment be agreed to, the committee substitute amendment, as amended, agreed to, the bill be read the 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 amendment (No. 4020) was agreed to.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 2516), as amended, was passed.

S. 2516

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 ''Fugitive Apprehension Act of 2000''.

SEC. 2. FUGITIVE APPREHENSION TASK FORCES.

(a) IN GENERAL.—The Attorney General shall, upon consultation with appropriate Department of Justice and Department of the Treasury law enforcement components, establish permanent Fugitive Apprehension Task Forces consisting of Federal, State, and local law enforcement authorities in designated regions of the United States, to be directed and coordinated by the United States Marshals Service, for the purpose of locating and apprehending fugitives.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

the United States Marshal Service to carry out the provisions of this section $30,000,000 for the fiscal year 2001, $5,000,000 for fiscal year 2002, and $5,000,000 for fiscal year 2003.

(c) OTHER EXISTING APPLICABLE LAW.—Nothing in this section shall be construed to limit any existing authority under any other provision of Federal or State law for law enforcement agencies to locate or apprehend fugitives through task forces or any other means.

SEC. 3. ADMINISTRATIVE SUBPOENAS TO APPREHEND FUGITIVES.

(a) IN GENERAL.—Chapter 49 of title 18, United States Code, is amended by adding at the end the following:

"§ 1075. Administrative subpoenas to apprehend fugitives

''(a) DEFINITIONS.—In this section:

''(1) FUGITIVE.—The term 'fugitive' means a person who—

''(A) having been accused by complaint, information, or indictment under Federal law or having been convicted of committing a felony under Federal law, flees or attempts to flee from or evades or attempts to evade the jurisdiction of the court with jurisdiction over the felony;

''(B) having been accused by complaint, information, or indictment under State law or having been convicted of committing a felony under State law, flees or attempts to flee from, or evades or attempts to evade, the jurisdiction of the court with jurisdiction over the felony;

''(C) escapes from lawful Federal or State custody after having been accused by complaint, information, or indictment or having been convicted of committing a felony under Federal or State law; or

''(D) is in violation of subparagraph (2) or (3) of the first undesignated paragraph of section 1073.

''(2) INVESTIGATION.—The term 'investigation' means, with respect to a State fugitive described in subparagraph (B) or (C) of paragraph (1), an investigation in which there is reason to believe that the fugitive fled from or evaded, or attempted to flee from or evade, the jurisdiction of the court, or escaped from custody, in or affecting, or using any facility of, interstate or foreign commerce, or as to whom an appropriate law enforcement officer or official of a State or political subdivision has requested the Attorney General to assist in the investigation, and the Attorney General finds that the particular circumstances of the request give rise to a Federal interest sufficient for the exercise of Federal jurisdiction pursuant to section 1075.

''(3) STATE.—The term 'State' means a State of the United States, the District of Colombia, and any commonwealth, territory, or possession of the United States.

''(b) SUBPOENAS AND WITNESSES.—

''(1) SUBPOENAS.—In any investigation with respect to the apprehension of a fugitive, the Attorney General may subpoena witnesses for the purpose of the production of any records (including books, papers, documents, electronic data, and other tangible and intangible items that constitute or contain evidence) that the Attorney General finds, based on articulable facts, are relevant to discerning the whereabouts of the fugitive. A subpoena under this subsection shall describe the records or items required to be produced and prescribe a return date within a reasonable period of time within which the records or items can be assembled and made available.

''(2) WITNESSES.—The attendance of witnesses and the production of records may be required from any place in any State or other place subject to the jurisdiction of the United States at any designated place where the witness was served with a subpoena, except that a witness shall not be required to appear more than 500 miles distant from the place where the witness was served. Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

''(c) SERVICE.—

''(1) AGENT.—A subpoena issued under this section may be served by any person designated in the subpoena as the agent of service.

''(2) NATURAL PERSON.—Service upon a natural person may be made by personal delivery of the subpoena to that person or by certified mail with return receipt requested.

''(3) CORPORATION.—Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association that is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

''(4) AFFIDAVIT.—The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

''(d) CONTUMACY OR REFUSAL.—

''(1) IN GENERAL.—In the case of the contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which he carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records if so ordered.

''(2) CONTEMPT.—Any failure to obey the order of the court may be punishable by the court as contempt thereof.

''(3) PROCESS.—All process in any case to enforce an order under this subsection may be served in any judicial district in which the person may be found.

''(4) RIGHTS OF SUBPOENA RECIPIENT.—Not later than 20 days after the date of service of an administrative subpoena under this section upon any person, or at any time before the return date specified in the subpoena, whichever period is shorter, such person may file, in the district within which such person resides, is found, or transacts business, a petition to modify or quash such subpoena on grounds that—

''(A) the terms of the subpoena are unreasonable or unnecessary;

''(B) the subpoena fails to meet the requirements of this section; or

''(C) the subpoena violates the constitutional rights or any other legal rights or privilege of the subpoenaed party.

''(e) REPORT.—

''(1) IN GENERAL.—The Attorney General shall report in January of each year to the Committees on the Judiciary of the Senate and the House of Representatives on the number of administrative subpoenas issued under this section, whether each matter involved a fugitive from Federal or State charges, and identification of the agency or component of the Department of Justice issuing the subpoena and imposing the charges.

''(2) EXPIRATION.—The reporting requirement of this subsection shall terminate in 3 years after the date of enactment of this section.

''(f) GUIDELINES.—

''(1) IN GENERAL.—The Attorney General shall issue guidelines governing the issuance of administrative subpoenas pursuant to this section.

''(2) REVIEW.—The guidelines required by this subsection shall mandate that administrative subpoenas may be issued only after review and approval of senior supervisory personnel within the respective investigative agency or component of the Department of Justice.

''(g) DELAYED NOTICE.—

''(1) IN GENERAL.—Where an administrative subpoena is issued under this section to a provider of electronic communication service (as defined in section 2510 of this title) or remote computing service (as defined in section 2711 of this title), the Attorney General may—

''(A) in accordance with section 2705(a) of this title, delay notification to the subscriber or customer to whom the record pertains; and

''(B) apply to a court, in accordance with section 2705(b) of this title, for an order commanding the provider of electronic communication service or remote computing service not to notify any other person of the existence of the subpoena or court order.

''(2) SUBPOENAS FOR FINANCIAL RECORDS.—If a subpoena is issued under this section to a financial institution for financial records of any customer of such institution, the Attorney General may apply to a court under section 1109 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3409) for an order to delay customer notice as otherwise required.

''(3) NONDISCLOSURE REQUIREMENTS.—

''(A) IN GENERAL.—Except as provided in paragraphs (1) and (2), the Attorney General may apply to a court for an order requiring the party to whom an administrative subpoena is directed to refrain from notifying any other party of the existence of the subpoena or court order for such period as the court deems appropriate.

''(B) ORDER.—The court shall enter such order if it determines that there is reason to believe that notification of the existence of the administrative subpoena will result in—

''(i) endangering the life or physical safety of an individual;

''(ii) flight from prosecution;

''(iii) destruction of or tampering with evidence;

''(iv) intimidation of potential witnesses; or

''(v) otherwise seriously jeopardizing an investigation or undue delay of a trial.

''(h) IMMUNITY FROM CIVIL LIABILITY.—Any person, including officers, agents, and employees, who in good faith produce the records or items requested in a subpoena shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer, in compliance with the terms of a court order for nondisclosure.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 49 of title 18, United States Code, is amended by adding at the end the following:

''1075. Administrative subpoenas to apprehend fugitives.''.

SEC. 4. STUDY AND REPORT OF THE USE OF ADMINISTRATIVE SUBPOENAS.

Not later than December 31, 2001, the Attorney General, in consultation with the Secretary of the Treasury, shall complete a study on the use of administrative subpoena power by executive branch agencies or entities and shall report the findings to the Committees on the Judiciary of the Senate and the House of Representatives. Such report shall include—

(1) a description of the sources of administrative subpoena power and the scope of such subpoena power within executive branch agencies;

(2) a description of applicable subpoena enforcement mechanisms;

(3) a description of any notification provisions and any other provisions relating to safeguarding privacy interests;

(4) a description of the standards governing the issuance of administrative subpoenas; and

(5) recommendations from the Attorney General regarding necessary steps to ensure that administrative subpoena power is used and enforced consistently and fairly by executive branch agencies.

ORDER FOR COMMITTEES TO FILE LEGISLATIVE MATTERS

Mr. DEWINE. Mr. President, I ask unanimous consent that, notwithstanding the adjournment of the Senate, committees have until 1 p.m. on Friday, August 25, in order to file legislative matters.

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

MEASURE READ FOR THE FIRST TIME—S. 2940

Mr. DEWINE. Mr. President, I understand that S. 2940 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2940) to authorize additional assistance for international malaria control, and to provide for coordination and consultation in providing assistance under the Foreign Assistance Act of 1961 with respect to malaria, HIV, and tuberculosis.

Mr. DEWINE. Mr. President, I ask for its second reading and object to my own request.

The PRESIDING OFFICER. Under the order, the bill will receive its next reading on the next legislative day.

MEASURE READ FOR THE FIRST TIME—S. 2941

Mr. DEWINE. Mr. President, I understand that S. 2941 is at the desk and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 2941) to amend the Federal Election Campaign Act of 1971 to provide meaningful campaign finance reform through better reporting, decreasing the role of soft money, and increasing individual contribution limits, and for other purposes.

Mr. DEWINE. I now ask for its second reading, and I object to my own request.

The PRESIDING OFFICER. The objection is heard.

The bill will be read the second time on the next legislative day.

ORDERS FOR THURSDAY, JULY 27, 2000

Mr. DEWINE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Thursday, July 27. I further ask consent that on Thursday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business for Coverdell tributes only until 11 a.m., with Senators permitted to speak for up to 10 minutes each.

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

PROGRAM

Mr. DEWINE. When the Senate convenes at 9:30 a.m., the Senate will be in a period of morning business until 11 a.m. for statements in memory of Senator Paul Coverdell. Following morning business, the Senate will have a swearing-in ceremony for Senator-designate Zell Miller. After the ceremony and the remarks by the Senator-designate, the Senate will proceed to a cloture vote on the motion to proceed to the energy and water appropriations bill. By previous order, following the cloture vote, the Senate will begin consideration of the conference report to accompany the Department of Defense appropriations bill, with a vote to occur at approximately 3:15 p.m. Assuming cloture is invoked on the motion to proceed to the energy and water appropriations bill, the Senate will then begin 30 hours of postcloture debate.

As a reminder, cloture was filed on the motion to proceed to the PNTR China legislation during today's session. It is hoped an agreement can be made to schedule that vote for tomorrow afternoon.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DEWINE. If there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:04 p.m., adjourned until, Thursday, July 27, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 26, 2000:

NATIONAL CREDIT UNION ADMINISTRATION BOARD

GEOFF BACINO, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL CREDIT UNION ADMINISTRATION BOARD FOR THE TERM OF SIX YEARS EXPIRING AUGUST 2, 2005, VICE NORMAN E. D'AMOURS, TERM EXPIRED.

DEPARTMENT OF TRANSPORTATION

DAVID Z. PLAVIN, OF NEW YORK, TO BE A MEMBER OF THE FEDERAL AVIATION MANAGEMENT ADVISORY COUNCIL FOR A TERM OF ONE YEAR. (NEW POSITION)

BROADCASTING BOARD OF GOVERNORS

EDWARD E. KAUFMAN, OF DELAWARE, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2003. (REAPPOINTMENT)

ALBERTO J. MORA, OF FLORIDA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2003. (REAPPOINTMENT)

FOREIGN SERVICE

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE AND STATE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

JOHN F. ALOIA, OF NEW JERSEY
EDIE J. BACKMAN, OF VIRGINIA
CHRISTOPHER J. BANE, OF VIRGINIA
DESIREE A. BARON, OF MICHIGAN
DAVID HILL BENNER, OF VIRGINIA
DANA M. BROWN, OF CALIFORNIA
CHRISTOPHER P. CHIARELLO, OF VIRGINIA
D. SHANE CHRISTENSEN, OF CALIFORNIA
ELIZABETH OVERTON COLTON, OF VIRGINIA
LAMONT CARY COLUCCI, OF WISCONSIN
JOHN P. COONEY III, OF NEW YORK
CHAD PARKER CUMMINS, OF CALIFORNIA
ERIC G. FALLS, OF VIRGINIA
EVAN T. FELSING, OF NEW JERSEY
MARGARET J. FLETCHER, OF VIRGINIA
ELISE J. FOX, OF CALIFORNIA
SAMIR A. GEORGE, OF VIRGINIA
MICHAEL JOSEPH GIARUCKIS, OF FLORIDA
JULIET S. GOLE, OF MARYLAND
GLENN GRIMES, OF VIRGINIA
GLENN JAMES GUIMOND, OF CALIFORNIA
TRACY HAILEY GEORGIEVA, OF FLORIDA
NORMAN C. HALL, OF VIRGINIA
JENNY S. HAN, OF LOUISIANA
JASON M. HANCOCK, OF VIRGINIA
RUTH ANN HARGUS, OF VIRGINIA
ANDREW R. HERRUP, OF THE DISTRICT OF COLUMBIA
NICHOLAS J. HILGERT III, OF VIRGINIA
CHARLES DAVID HILLON, OF VIRGINIA
KIMBERLY A. HOFFSTROM, OF FLORIDA
HANS A. HOLMER, OF THE DISTRICT OF COLUMBIA
JOHN A. IRVIN, OF VIRGINIA
KEVIN A. KIERCE, OF VIRGINIA
JOSEPH C. KOEN, OF TEXAS
JOHN A. KRINGEN, OF VIRGINIA
ANNE M. LARSON, OF VIRGINIA
BRYAN D. LARSON, OF COLORADO
EUGENE LENSTON, OF CALIFORNIA
DAVID WALTER LETTENEY, OF MARYLAND
DANA M. LINNET, OF MASSACHUSETTS
GREGORY DANIEL LOGERFO, OF NEW YORK
DAVID P. MATHEWSON, OF VIRGINIA
LORRIE W. MC CORKELL, OF VIRGINIA
CRAIG W. MC GARRAH III, OF VIRGINIA
RANDALL T. MERIDETH, OF MINNESOTA
EDWARD L. MICCIO, OF CALIFORNIA
FRANKLIN B. MILES, OF VIRGINIA
DAVID ERIC MITCHELL, OF TEXAS
ANNE MARIE MOORE, OF NEW HAMPSHIRE
DAVID THOMAS MOORE, OF CALIFORNIA
KATHARINE MOSELEY, OF THE DISTRICT OF COLUMBIA
STANLEY M. NESTOR, OF PENNSYLVANIA
MICHAEL J. OLEJARZ, OF FLORIDA
RANDALL M. OLSON, OF VIRGINIA
CHRISTOPHER J. PANICO, OF CONNECTICUT
ANDREW B. PAUL, OF OHIO
SHERYL A. PICKNEY-MAAS, OF SOUTH CAROLINA
DANIEL MOSHE RENNA, OF THE DISTRICT OF COLUMBIA
DAVID N. RICHELSOPH, OF CONNECTICUT
SHERI SIMPSON RIEDL, OF VIRGINIA
SCOTT R. RIEDMANN, OF OHIO
MARK S. RILEY, OF VIRGINIA
LISA CHRISTINE ROYDEN, OF VIRGINIA
EDWIN S. SAEGER, OF MARYLAND
PHILIP S. SALTER, OF VIRGINIA
MARK ANDREW SCHAPIRO, OF NEW YORK
GREGORY KENT SCHIFFER, OF TEXAS
DAVID C. SCHROEDER, OF FLORIDA
MICHAEL K. SINGH, OF ILLINOIS
MARY JANE SKAPEK, OF VIRGINIA
BRICE SLOAN, OF IDAHO
MATTHEW DAVID SMITH, OF NEW HAMPSHIRE
LEE J. SPERRY, OF VIRGINIA
RUTH ANNE STEVENS, OF OHIO
TRACY LYNN TAYLOR, OF THE DISTRICT OF COLUMBIA
WILLIAM W. TENNEY, OF VIRGINIA
BETTY L. WADE, OF WEST VIRGINIA
DANIEL JOSEPH WARTKO, OF THE DISTRICT OF COLUMBIA
TIMOTHY W. WILKIE, OF HAWAII
GREGORY M. WINSTEAD, OF FLORIDA
NOAH S. ZARING, OF IOWA
DAVID L. ZINKOWICH, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE AS INDICATED, EFFECTIVE NOVEMBER 21, 1999:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

AGENCY FOR INTERNATIONAL DEVELOPMENT

GEORGE DEIKUN, OF CALIFORNIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE AS INDICATED, EFFECTIVE NOVEMBER 21, 1999:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

DEPARTMENT OF STATE

PAUL G. CHURCHILL, OF ILLINOIS

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE

AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. CHARLES R. HOLLAND, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. GLEN W. MOORHEAD III, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. NORTON A. SCHWARTZ, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601, AND AS A SENIOR MEMBER OF THE MILITARY STAFF COMMITTEE OF THE UNITED NATIONS UNDER TITLE 10, U.S.C., SECTION 711:

To be lieutenant general

MAJ. GEN. JOHN P. ABIZAID, 0000

To be lieutenant general

LT. GEN. EDWARD G. ANDERSON III, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. BRYAN D. BROWN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. WILLIAM P. TANGNEY, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. MICHAEL P. DELONG, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. GREGORY S. NEWBOLD, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. WALTER F. DORAN, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

WILLIAM B. ACKER III, 0000
DENNIS L. ANDERSON, 0000
JAMES W. ANTHAMATTEN, 0000
PAUL E. ANTONIOU, 0000
TERRENCE E. ARAGONI, 0000
ANA M. AVILLANROSA, 0000
JAMES G. BAKER, 0000
DANIEL J. BALBERCHAK, JR., 0000
JOHN D. BALUCH, 0000
WENDY L. BARNES, 0000
CRAIG L. BARTOS, 0000
JEFFREY J. BARTZ, 0000
MICHAEL G. BENAC, 0000
STEPHEN A. BIRD, 0000
JERRY J. BISHOP II, 0000
WAYNE A. BLEY, 0000
PAUL M. BLOSE, JR., 0000
PHILIP L. BOERSTLER, 0000
JULIE L. BOHANNON, 0000
BRUCE H. BOKONY, 0000
MICHAEL T. BOND, 0000
CHRISTINA M. BONNER, 0000
DOUGLAS J. BOWER, 0000
KENNETH G. BRADSHAW, 0000
MARK V. BRADY, 0000
THOMAS D. BRANT, 0000
STEVE J. BRASINGTON, 0000
WAYNE A. BREER, 0000
PETER S. BRIGHTMAN, 0000
RANDY S. BRINKMANN, 0000
SHERRY L. BROWN, 0000
MICHAEL J. CATANESE, 0000
SIMON K. CHAN, 0000
RENEE C. CLANCY, 0000
LOGAN V. COCKRUM, JR., 0000
PRISCILLA B. COE, 0000
FREDERICK J. COLE, 0000
DOUGLAS R. CONTE, 0000
KEVIN B. COOK, 0000
LAWRENCE H. COPPOCK, JR., 0000
CELINDA R. CREWS, 0000
KEVIN W. CROPP, 0000
KAREN C. DANTIN, 0000
DONNA E. DEHART, 0000
JOSEPH P. DERVAY, 0000
MICHAEL L. DETZKY, 0000
STEPHEN I. DEUTSCH, 0000
BILLY K. DODSON, 0000
PATRICK G. DONOVAN, 0000
TERESA L. DOYLE, 0000
MICHAEL A. DROLL, 0000
CYNTHIA A. DULLEA, 0000
CLARETTA Y. DUPREE, 0000
SCOTT W. ECK, 0000
CARL F. ERCK, 0000
JOHN C. ERLANDSON, 0000
WILLIE E. EVANS, 0000
LARRY D. FARR, 0000
WALTER W. FARRELL, 0000
JAMES R. FELL, 0000
BRIAN E. FERGUSON, 0000
ELAINE A. FINCHER, 0000
WILLIAM F. FISCHER, 0000
WESTBY G. FISHER, 0000
CAROL A. FORSSELL, 0000
MICHAEL J. FRAC, 0000
GREGORY FRAILEY, 0000
SANDRA S. FRANKLIN, 0000
DONALD GALLIGAN, 0000
PAUL M. GAMBLE, 0000
V.A. GARBARINI, 0000
FREDERICK GENUALDI, 0000
LEON A. GEORGE, 0000
WILLIAM F. R. GILROY, 0000
DONALD R. GINTZIG, 0000
GLORIA S. GLENEWINKEL, 0000
MARY A. GONZALEZ, 0000
JULIA C. GOODIN, 0000
KENT S. GORE, 0000
TIMOTHY M. GRIGGS, 0000
THOMAS C. GUERCI, 0000
ANNE L. GUZA, 0000
KENT N. HALL, 0000
OLEH HALUSZKA, 0000
MARY E. HARDING, 0000
CHARLES D. HARR, 0000
BEVERLY D. HEDGEPETH, 0000
MARIE C. HEIMERDINGER, 0000
KATHLEEN G. HENNELLY, 0000
JEFFREY A. HILL, 0000
JANICE J. HOFFMAN, 0000
JAMES L. HONEY, 0000
MICHAEL D. HOOD, 0000
JACK N. HOSTETTER, 0000
JAMES G. HUPP, 0000
KATHERINE L. IMMERMAN, 0000
JANICE R. JOHNSON, 0000
EDWARD C. KASSAB, 0000
PAMELA A. KEEN, 0000
KEVIN M. KENNY, 0000
MICHAEL J. KING, 0000
ANN M. KOLSHAK, 0000
STEPHEN KORONKA, 0000
HUGH S. KROELL, JR., 0000
DAVID R. LAIB, 0000
STEVEN R. LAPP, 0000
ROSANNE V. LEAHY, 0000
LINDA M. LENAHAN, 0000
PATRICIA A. LEONARD, 0000
FREDERICK S. LOCHTE, 0000
RAYMOND K. LOFINK, 0000
ADRIEL LOPEZ, 0000
TERRY M. LOUIE, 0000
BRIAN M. MADDEN, 0000
CLOVIS E. MANLEY, 0000
CHARLES J. MARDEN, JR., 0000
MICHAELEEN MASON, 0000
JOHN W. MASTERS, 0000
WILLIAM J. MC ELLROY, JR., 0000
JEANETTE L. MC GRAW, 0000
THOMAS P. MC GREGOR, 0000
CRAIG L. MEADOWS, 0000
L.M. MECKLER IV, 0000
IGNACIO I. MENDIGUREN, 0000
JUDY R. MERRING, 0000
MELISSA M. MERRITT, 0000
JAMES A. MILLER, 0000
JOHN H. MILLER II, 0000
RICHARD J. MILLS, 0000
LAURA J. MIRKINSON, 0000
DIANA L. MITTSCARCAVALLO, 0000
EDA MORENO, 0000
CATHERINE J. MORTON, 0000
RICHARD J. MULLINS, 0000
KARLA J. NACION, 0000
GORDON S. NAYLOR, 0000
JEFFREY M. NEVELS, 0000
ROBERT S. NEWMAN, 0000
MICHAEL S. OCONNOR, 0000
WANG S. OHM, 0000
JOAN M. OLSON, 0000
RICHARD E. OSWALD, JR., 0000
JOHN W. OWEN, 0000
THOMAS C. PATTON, 0000
JEFFREY R. PEARCE, 0000
WILLIAM T. PERKINS, 0000
JOHN F. PIERCE, 0000
SANFORD POLLAK, 0000
PAUL J. PONTIER, 0000
EDWARD J. POSNAK, 0000
BRUCE M. POTENZA, 0000
PRESCOTT L. PRINCE, 0000
KAREN PURDIN, 0000
JANET J. L. QUINN, 0000
BRUCE T. REED, 0000
GARY M. REITER, 0000
RONALD G. RESS, 0000
MICHAEL D. RIGG, 0000
JOHN K. ROBERTSON, 0000
PAUL P. ROUNTREE, 0000
BRUCE A. RUMSCH, 0000
KAROLYN K. RYAN, 0000
LINDA K. M. SALYER, 0000
JOSE SAMSON, 0000
DAVID F. SCACCIA, 0000
RICHARD J. SCAPPINI, 0000
REINHART SCHELERT, 0000
PAUL E. SCHMIDT, JR, 0000
RANDALL K. SCHMITT, 0000
STEVEN R. SCHNEIDER, 0000
JOHN R. SCHUSTER, 0000
KEVIN G. SEAMAN, 0000
CAROL F. SEDNEK, 0000
STEPHEN W. SEELIG, 0000
CATHERINE P. SESSIONS, 0000
ROBERT A. SHARP, 0000
THOMAS G. SHAW, 0000
EUGENE M. SIBICK, 0000
JARED H. SILBERMAN, 0000
BARBARA A. SISSON, 0000
SUSAN M. SKINNER, 0000
MARTIN E. SMITH, 0000
PAUL R. SMITH, 0000
CHRISTOPHER W. SOIKA, 0000
CATHERINE E. SPANGLER, 0000
CRAIG W. SPENCER, 0000
CHRISTOPHER C. STAEHELI, 0000
ALLAN M. STANCZAK, 0000
PAUL W. STEEL, 0000
VICTOR G. STIEBEL, 0000
ORSURE W. STOKES, 0000
MARC A. SUMMERS, 0000
MICHAEL A. SZYMANSKI, 0000
LESLIE J. TENARO, 0000
ARTHUR F. I. THIBODEAU II, 0000
PAMELA L. M. THOMPSON, 0000
KEITH G. TOWNSLEY, 0000
JANET L. TREMBLAY, 0000
RALPH W. TURNER, JR, 0000
WILLIAM M. TURNER, 0000
SUSAN P. TYE, 0000
TIMOTHY E. TYRE, 0000
DAVID S. VANDERBILT, 0000
DAVID O. VOLLENWEIDER II, 0000
MARIAN C. WELLS, 0000
MELVIN D. WETZEL II, 0000
MARY S. WHEELER, 0000
STEPHEN B. WHITE, 0000
BARBARA A. WHITING, 0000
NANCY A. WINCHESTER, 0000
JEROME A. WISNIEW, 0000
RICHARD J. WOLFRAM, 0000
JOAN H. WOOTEN, 0000
PATRICIA E. YAP, 0000
BRIAN G. YONISH, 0000
JAMES YOUNG, 0000
JOHN ZAREM, 0000

DEPARTMENT OF TRANSPORTATION

SUE BAILEY, OF MARYLAND, TO BE ADMINISTRATOR OF THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, VICE RICARDO MARTINEZ, RESIGNED.

WITHDRAWAL

Executive message transmitted by the President to the Senate on July 26, 2000, withdrawing from further Senate consideration the following nomination:

DEPARTMENT OF JUSTICE

JOHN R. SIMPSON, OF MARYLAND, TO BE A COMMISSIONER OF THE UNITED STATES PAROLE COMMISSION FOR A TERM OF SIX YEARS (REAPPOINTMENT), WHICH WAS SENT TO THE SENATE ON JULY 19, 1999.

CONFIRMATION

Executive nomination confirmed by the Senate July 26, 2000:

DEPARTMENT OF ENERGY

MILDRED SPIEWAK DRESSELHAUS, OF MASSACHUSETTS, TO BE DIRECTOR OF THE OFFICE OF SCIENCE, DEPARTMENT OF ENERGY.