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Senate

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

The PRESIDENT pro tempore. Today's prayer will be offered by a guest Chaplain, the Reverend Dr. James E. Olson, Faith Evangelical Free Church, Fort Collins, CO. He is a guest of Senator WAYNE ALLARD.

PRAYER

The guest chaplain, Reverend Dr. James E. Olson, Faith Evangelical Free Church, Fort Collins, CO, offered the following prayer:

Our God, You have been our hearts' true home in all generations. From everlasting to everlasting You alone are there and singularly sovereign. We are not. Our hearts are fragile and weakened by fears. Our lives, even in their prime, are weighted with labor and sorrow. We, therefore, turn to You for the strength beyond ourselves that is needed today.

Instill in the women and men of this Senate, whom You have entrusted with high responsibility, an intensity that keeps on caring. Grant them wisdom for sound judgment in the face of constant complexity. Prompt considerate words that they may relate to each other rightly this day, that they may encourage loved ones and staff at the close of the day, and that they may present to You a heart of wisdom on the last day.

Let Your favor be upon this Senate in doing what is right and do confirm for them the work of their hands ''that we may lead a tranquil and quiet life in all godliness and dignity.''—Timothy 2:2 NASB. In the strong Name of our Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished Senator from Colorado is recognized.

THE GUEST CHAPLAIN

Mr. ALLARD. Mr. President, I should like to personally welcome the guest Chaplain today, Dr. James Olson, who is from my home State of Colorado. I wish to also thank Dr. Lloyd Ogilvie for his graciousness in welcoming him here to the Senate.

My wife Joan and I are blessed that we have inspirational leaders both here in Washington and back in my home State of Colorado. Dr. Lloyd Ogilvie is somebody we really respect and value and look to for our spiritual leadership. Dr. James Olson is not only a spiritual leader for my wife and I in Colorado but of the family, and I just wish to state in a public manner how much we appreciate his leadership and how much as a family we appreciate what he does for us. He has not only personally served the Allard family, but he has personally served the community of Fort Collins, CO. He has taken an active part in that community as a religious leader, and in his sermons in the Faith Evangelical Free Church of Fort Collins he has been a leader of affairs before our country, and I think he has been a voice of reason for the congregation and one of balance. I have always appreciated his message on Sundays whenever we have attended his church, and I think that he has strengthened the spiritual community in Fort Collins, particularly the Christian community.

I just want to recognize in a public way all his leadership in Colorado, particularly his community. I think he typifies the leadership throughout this country of many of our community pastors and religious leaders. Sometimes I don't think we recognize them as we should. They are an important part of what goes on in this country; they are an important part of what America is all about.

So it is with a great deal of pleasure that I welcome Dr. James Olson to the Senate and let him know just how much we appreciate his prayer this morning and wish both his wife Carol and him our very best. We are happy that they could take time out of their religious lives to come to Washington and be a part of the Senate today.

SCHEDULE

Mr. ALLARD. Mr. President, this morning there will be a period of morning business until 11 a.m. Following morning business, the Senate will resume consideration of S. 4, the Soldiers', Sailors', Airmen's and Marines' Bill of Rights Act of 1999. At 12 noon, the Senate will recess until 2:15 p.m. to allow the weekly party luncheons to meet. Following the luncheons, the Senate will resume consideration of S. 4 with amendments expected to be offered and debated. Rollcall votes are possible throughout today's session, and Members will be notified of the voting schedule when it becomes available.

I thank my colleagues for their attention.

I yield back the remainder of my time.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. VOINOVICH). 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 not to extend beyond the hour of 11 o'clock.

Under the previous order, the Senator from New Hampshire, Mr. SMITH, is recognized for up to 20 minutes.

Mr. SMITH of New Hampshire. I thank the Chair.

PRIVILEGE OF THE FLOOR

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent

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

that one of my staff, Mr. Jim Dohoney, be granted floor privileges during my remarks this morning.

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

(The remarks of Mr. SMITH of New Hampshire pertaining to the introduction of the legislation are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

IMPLEMENTATION OF THE FOOD QUALITY PROTECTION ACT

Mr. LOTT. Mr. President, it is rare for both Houses of Congress to reach a unanimous agreement—fully bipartisan legislation. The Food Quality Protection Act (FQPA) was enacted in this manner in 1996. This new law eliminated the famed Delaney Clause for residues in raw and processed foods—replacing it with a scientific, rational standard of ''reasonable certainty of no harm.'' Food and agricultural interest, as well as the pesticide industry, saw the passage of FQPA as an opportunity to assure that sound science is paramount in EPA's determinations on use of crop protection chemicals. It is worth saying it again—a scientific, rational, sound and reasonable standard.

Mr. President, sound science is what the authors intended and expected. This is what Congress wanted—sound science as the rule's foundation. Further, the new law provided an additional safety factor to protect infants and children, and new ways of assessing pesticide benefits and risks. This is something Congress fully supported. Despite a unanimous Congressional vote, implementing the law at the regulatory level has been a very difficult and unnecessarily complex process.

In fact, only a few months after the law was passed, the entire FQPA implementation process broke down. Members of Congress voiced their concern. The problems were so great and concerns from America's agriculture industry so substantial that Vice President GORE sent a Memorandum to both the Department of Agriculture and the Environmental Protection Agency on April 8, 1998. This memorandum laid out the White House's plan for getting FQPA's implementation back on track.

The White House's plan for FQPA implementation contained four basic principles. It included sound science in protecting public health, regulatory transparency, reasonable transition for agriculture, and consultation with the public and other agencies. The Vice President's approach was supported by America's agriculture community. Everyone's hopes were high.

Mr. President, today, almost a year after the White House got directly involved in FQPA's implementation process, it is still off track. It is becoming clear to me that Congress may again have to revisit FQPA.

Mr. President, Congress wanted a law to eliminate the scientifically inadequate and outdated Delaney Clause. What Congress and the Nation got was much worse. In fact, the EPA has failed to provide scientifically sound guidance to the regulated community. The EPA approach follows a path toward great economic harm for both agricultural producers and urban users of these products—an EPA approach which is without scientific foundation.

Farmers, the food industry, pest control interests, and many others are understandably concerned. Americans want and deserve a fair, workable implementation of this bipartisan law. Americans want and deserve rules that are based on real information and sound science. Americans want and deserve rules that follow the Vice President's memo. Americans want and deserve rules which fit FQPA's requirements.

In order for these rules to be achieved EPA must:

Allow development of the best scientific methodology and data;

Base its decisions on actual pesticide uses rather than model assumptions; and

Operate in an open, transparent manner to establish uniform, scientific and practical policies.

Mr. President, this is simple and straightforward, and makes scientific common sense. This request is consistent with the intent of the unanimously passed law. This request is also consistent with the Vice President's memo of nearly a year ago.

The requirements of the law are achievable. I have confidence that EPA can do this right—EPA just needs to take the time, invest the effort with the proper focus.

EPA must recognize the problems that will be created if FQPA is improperly implemented. It is estimated that the economic impact for agricultural producers is tremendous. For just one class of chemicals being analyzed by EPA, estimates have shown a 55% yield loss in my state for corn if these products were eliminated. For cotton in Mississippi, the yield loss has been estimated at 8 percent. Crops across the United States would also be negatively impacted.

However, Mr. President, FQPA is not just about farming. Poor implementation of FQPA could also have consequences in the public health area. FQPA's passage was not just about reassessing old products, it was more about getting new, safer crop protection products on the market. FQPA's passage was bipartisan & unanimous because Congress also wanted new products and a rational scientific process. One such new product intended for use on cotton is currently under review by EPA. This new cotton insecticide, PIRATE, is extremely important to Mississippi cotton producers and we need full registration of this product before the growing season this year.

Mr. President, EPA must implement FQPA properly. EPA should not make any final decisions on important pesticide products until they have completely developed a clear and transparent process for implementing the law and have evaluated the impacts of product loss. With that done—FQPA will meet the expectations of Congress.

NATIONAL MISSILE DEFENSE

Mr. GRAMS. Mr. President, I wish that I could say that Congress and the President of the United States are doing everything possible to protect the American people and preserve the values that we hold dear. But that is not the case.

At this time, the United States is defenseless against a ballistic missile attack. Clearly, that is an unacceptable state of affairs. Recent events demand the United States move forward and deploy, as soon as technologically possible, an effective National Missile Defense (NMD) system which can defend U.S. territory against any limited ballistic missile attack, whether from an accidental, unauthorized, or deliberate launch.

It is my sincere hope that President Clinton's recent decision to request $6.6 billion over 6 years for missile defense research in his budget reflects a new commitment to deploy the most extensive, effective national missile defense system in the shortest amount of time. I am pleased the President finally understands the need for a missile defense system and hope he will continue that commitment. Any President sworn to protect our Nation must support the deployment of a system that would protect Americans from annihilation.

We know that the threat of a missile attack is growing stronger as more emerging powers, such as North Korea and Iran are developing long-range ballistic missiles that could reach the United States. As recent events have shown, we cannot rely on the intelligence estimates this administration has been using as a security blanket. Remember, our intelligence community projected that Iran could not field its medium-range ballistic missile (the 800–940 mile range Shahab-3) until 2003, but Iran flight-tested this system 6 months ago. We were also surprised by North Korea's test firing of a two-stage missile over Japan last August. It is simply not reasonable to assume that the United States will get 3 years' advance warning, thus allowing 3 years to deploy a limited defense under the Clinton administration's ''3+3 deployment readiness program.''

As the congressionally mandated bipartisan Rumsfeld commission noted, Iran has acquired and is seeking advanced missile components that can be combined to produce ballistic missiles with sufficient range to strike all the way to St. Paul, Minnesota. As the Senator from Minnesota, I must say that I take that threat to heart. In addition, North Korea is close to testing a new missile that will have sufficient range to strike the continental United States. When that occurs, the threat to

the United States could increase exponentially, because North Korea has announced that it had and would continue to sell ballistic missiles and production technology to any interested buyer.

We live in a very dangerous world that is growing more and more volatile—a world where rogue regimes and terrorist groups are developing and purchasing the means to attack our Nation. We have to make a choice. We can rely on leaders like Saddam Hussein to show restraint, which seems unlikely—or we can develop a national missile defense that will provide the United States with means to counter a ballistic missile attack.

America can no longer afford to hide behind the outdated ABM Treaty. It does not offer any protection from the threats emerging at the end of this century. It was negotiated and ratified to address the cold war era when the Soviet Union was our major threat. At present, rogue states consider ballistic missiles valuable instruments to intimidate countries that are unable or unwilling to defend themselves. As a member of the Senate Foreign Relations Committee who supports a strong leadership role for the United States in the global arena, I am concerned that the U.S. vulnerability to missile attack could undermine our Nation's capacity to defend our national security interests abroad. For the sake of our Nation's security, I hope this administration will move forward to embrace the most effective national defense system possible. The future of our great nation literally depends on it.

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

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

Mr. DURBIN. Mr. President, it is my understanding I have been given some 10 minutes in morning business, but I am coming up against an 11 o'clock scheduled floor debate. If the manager of the bill is not on the floor, I would like to proceed with my 10 minutes in morning business.

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

Mr. DURBIN. Thank you, Mr. President.

THE SURPLUS, SOCIAL SECURITY AND MEDICARE

Mr. DURBIN. Mr. President, I just left a hearing of the Senate Budget Committee, and I thought it was ironic that we are now in a debate over the disposition of America's surplus. I am sure the President will recall that 2 years ago, almost to the day, we were here on the floor of the U.S. Senate where the chairman of the Senate Judiciary Committee, Senator ORRIN HATCH of Utah, brought out virtually every budget report from the last 30 years that he believed to be in deficit, in red ink, and stacked them up. They were higher than the height of the Senator from Utah, and he is a tall man, making the point that we had been embroiled in deficit spending for so long we had no recourse, nothing we could do, other than to amend the Constitution of the United States and to give the Federal courts the authority to force Congress to stop spending, to stop deficits, with the so-called balanced budget amendment. That amendment lost by 1 vote 2 years ago. It was the hottest item on the Senate calendar 2 years ago.

Today, we are deeply embroiled in a debate in the Senate Budget Committee on how to spend the surplus. We have turned the corner as a nation, and the President has come forward and said, ''I think we should take this surplus and use it in a sensible way for the future of America.'' I hope we engage in debate here in the 106th Congress, House and Senate, Democrats and Republicans, in a way to do that responsibly.

I think we should take the President's advice that at least 62 percent or so of this surplus be dedicated to Social Security, to retire the debt in Social Security, to give it a longer life. But then we seem to break down after we kind of reach that agreement on 60 percent or so of that surplus, and it is that breakdown I would like to address for just a few moments on the floor of the Senate this morning.

One of the things that concerns me is that there are other programs in need of help, not just Social Security, not the least of which is Medicare. And after we have taken some 60 percent of the surplus and spent it to solidify Social Security, the President is suggesting we take some 15 percent of that surplus and invest that in Medicare, adding about 10 years to the Medicare Program.

We have to do more. Just putting that money in may buy some time. We know the fundamentals of the program need to be addressed. And if I am not mistaken, this week, or soon, we will have a report from a bipartisan commission on what to do with the future of Medicare. It won't be easy, whatever it might be.

But I am concerned that the Republican Party, in addressing this same surplus, does not speak to the need for more money into Medicare. Instead, what they are proposing is $776 billion in tax cuts. I cannot think of two more popular words for a politician to utter than ''tax cuts.'' People just sit up and listen. ''Are you going to cut my taxes? I want to hear about it.'' It is a very popular thing to say.

But I hope we will step back for a moment and realize that a program like Medicare needs an infusion of capital to make sure it can survive. Gene Sperling, the economic advisor to the President, said the other day, in a bipartisan meeting, he is hoping the Republican leadership will join us in not only dedicating surplus to Social Security but also to Medicare because so many millions of Americans are dependent on that.

I might also say that I think there is need and room for some tax cuts after we have taken the surplus and put it into Social Security and Medicare, things we need to do. But I do not believe the tax cut which has been proposed, at least initially, by the Republican Party is one that is fair, because, frankly, it is not progressive. Inasmuch as it is not progressive, this chart demonstrates what happens.

For the bottom 60 percent of wage earners in America, those making $38,000 a year or less, a 10-percent across-the-board tax cut means a savings of $99 a year, about $8.25 a month—hardly enough to pay the cable TV bill, let alone change a lifestyle—$99 in tax cuts for the bottom 60 percent of wage earners in America.

The same Republican tax cut, though, for the top 1 percent of wage earners, those making over $833,000 a year—over $833,000 a year—for them the Republican tax cut is worth $20,697. Ninety-nine dollars for 60 percent of America; for 1 percent of America, $20,000 in tax breaks.

That offends me. And I think it is worthy of a debate. I think it is more sensible for us to focus tax breaks on working middle-income families—families who are trying to pay for day care, families who are trying to save a few dollars for their kids' college education, families who are trying to get by. Keeping this kind of a tax break for the wealthiest of Americans may make them happy but I do not think it is good for this country.

I think the single best thing for us to do with this surplus is to retire our public debt. The President's proposal of focusing 62 percent of it in retiring the debt in Social Security and another 15 percent into Medicare is eminently sensible. Before we take the money that could be used to save Medicare and give it away in tax cuts that really benefit the wealthiest of Americans, I hope we will stop and think twice and remember that only 2 years ago we heard passionate speeches on this floor that, without an amendment to the Constitution of the United States giving the Federal courts the authority to clamp down on Congress' runaway spending, deficits would loom for generations to come.

We have turned that corner. With the leadership of the administration, with the cooperation and leadership of a bipartisan Congress, we are here today discussing surpluses. Let us do it in a sensible way—retire the national debt, take that burden off future generations, put the money into Social Security and Medicare, so that those programs will be sound for generations to come.

I yield back the remainder of my time.

ADDITIONAL COSPONSORS—S. 311

Mr. WARNER. Mr. President, I ask unanimous consent that Senators INOUYE, KENNEDY and FEINGOLD be added as cosponsors to S. 311.

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

ADDITIONAL COSPONSOR—S. 258 AND S. 312

Mr. WARNER. Mr. President, I ask unanimous consent that Senator FEINGOLD be added as a cosponsor of S. 258 and S. 312.

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

SOLDIERS', SAILORS', AIRMEN'S AND MARINES' BILL OF RIGHTS ACT OF 1999

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 4, which the clerk will report.

The bill clerk read as follows:

A bill (S. 4) to improve pay and retirement equity for members of the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I first wish to inquire of our colleague if he felt he had adequate time to conclude his remarks. If not, I think we could accommodate him. Could someone ask the Senator to return momentarily?

Mr. LEVIN. If the Senator will yield, the Senator from Illinois did indicate to me he had completed. Thank you for your concern.

Mr. WARNER. Thank you.

Mr. President, we are ready to resume. I see the Senator from Texas.

Mrs. HUTCHISON. I think the Senator from Idaho has an amendment, after which I would like to be recognized to talk about an amendment as well.

Mr. WARNER. I thank the distinguished Senator.

Mr. President, fortunately we have a flurry of activity on this bill. We have an amendment to be offered momentarily by our distinguished colleague from Idaho. There are some 21 amendments that have been made known to the managers, Mr. LEVIN and myself. And I am confident we can make some strong gains today on this bill.

The leadership—and I presume in consultation with the Democratic leader—desire a vote at the conclusion of our two luncheon caucuses today. So after further consultation with the leadership, I think they will direct me to seek from the Senate an understanding that we will vote at about 2:15 on the amendment of the Senator from Idaho.

Mr. President, before we proceed further on the bill this morning, I would like to—each day as the bill is brought up, I am going to address what I call the overnight constructive criticism that is brought to bear on this piece of legislation. And I ask unanimous consent to have printed in today's RECORD an editorial from the Washington Post, dated Tuesday, February 23, 1999, entitled ''Bad Bill in the Senate.''

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

[From the Washington Post, Feb. 23, 1999]

BAD BILL IN THE SENATE

The Senate this week is scheduled to debate a showy military pay and pension bill whose enactment many members realize would be a mistake but which no one in either party seems prepared to oppose. The Republican leadership ordered it split off from the rest of the defense authorization bill to make it the first substantive bill of the year.

The goal is to demonstrate that Republicans do indeed have a legislative agenda, and to take back from the president a defense spending issue that Republicans regard as their own. He too proposed pay and pension increases in his budget. His were already more generous, particularly as to pensions, than military personnel needs can justify. No matter; the bill, which most Democrats as well as all Republicans on the Armed Services Committee supported, is more generous still.

The services are having trouble with both recruitment and retention in a strong economy. The pay raises in the bill may well be justified in light of this, and help the services compete. The pension proposals are the problem. They would undo a hard-won reform that Ronald Reagan joined in enacting in 1986, one purpose of which was to save money, another to improve retention. The system this bill would restore was dropped because it was thought to encourage experienced people to leave the serve, not stay.

The estimated cost when fully effective is in the neighborhood of $5 billion a year. The effect, if it happens, will be to squeeze other parts of the military budget that themselves are already tighter than they should be. The current uniformed chiefs, who support the step in part as a way of boosting morale, may not regret it, but their successors will.

Last year the leaders of the Armed Services Committee cautioned against a costly pension increase until the issue could be studied. Several major studies are soon to be completed, yet, for the flimsiest political reasons, the bill is being rushed to a vote without them. A hurry-up vote on an enormously costly bill with little to back it up can't possible be good politics. It surely isn't good policy. It's especially not good defense policy. A vote in favor will make the opposite of the showing the leadership intends.

Mr. WARNER. I will not take up too much time of the Senate here today, but I welcome constructive criticism, such as forwarded by this piece and others. And I am ready to meet it head on and reply and explain exactly what it is that this Senator intends to achieve through this bill.

We are faced every day that we get up with fewer and fewer young men and women willing to sign on the dotted line and take up an initial career in the U.S. military, and it is very serious for all the services. Every day we wake up, fewer and fewer men and women who have been in the services, who have received—in many instances, pilots the most notable—an extraordinary taxpayer investment in their training, are not seeking the opportunity to remain in the services. We have to address these two ''hemorrhaging'' problems. That is the purpose for driving this bill through.

I am confident when we emerge in conclusion of this bill, and we come to the final passage, we will probably have a better shaped instrument than is before the Senate at this time, but that shaping has to take place on this floor with constructive criticism such as the editorial sets forth.

This bill was driven by the testimony of the Chairman and the members of the Joint Chiefs in September and again in January.

I ask unanimous consent to have printed in the RECORD statements of the Chairman and Members of the Joint Chiefs of Staff.

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

RETIREMENT

GEN. HENRY H. SHELTON, USA, CHAIRMAN OF THE JOINT CHIEFS OF STAFF

September 29, 1998

First, we need to fix the so-called REDUX retirement system and return the bulk of our forces to a program that covers our most senior members—that is, a retirement system that provides 50 percent of average base pay upon completion of 20 years of service.

If we fail to address these critical personnel issues, we will put at risk one of our greatest achievements for the last quarter century, the all volunteer force.

It is the quality of the men and women who serve that sets the U.S. military apart from all potential adversaries. These talented people are the ones who won the Cold War and insured our victory in Desert Storm. These dedicated professionals make it possible for the United States to accomplish the many missions we are called on to perform around the world every single day.

I assure you, Mr. Chairman, that the troops and their families appreciate this very much. But as I have noted that alone will not be enough. As we develop the Fiscal Year 2000 budget proposal, we will take a hard look on what must be done on core compensation issues such as pay and retirement to maintain the quality of the people in the military. No task is more important in my view.

January 5, 1999

The ideal here would be the full retirement system. However the triad that we referred to we consider to be very important, and the reason in our recommendation initially was to go with the 50 percent retirement with the COLA, the CPI minus 1 percent retirement with a 2 percent floor, was because the full retirement was a very expensive system to restore and we wanted to make sure that we, in fact, could have money to apply to pay reform because we think that is very important too, that we reward performance vice just longevity and put it in those mid-grades

in the enlisted force as well as the officer force where we have got retention challenges today in addition the standard across the board raise of 3.6 in '99 and 4.4 percent in '00.

Chairman, this Congress has already taken an important step in this process by supporting the 3.6 percent pay adjustment for the military in 1999, preventing the pay gap from growing any wider still. And as the President has pledged support for a 4.4 percent pay raise in the Fiscal Year 2000 budget and for adjustments in subsequent years at the ECI rate, this will at least prevent a widening of the gap.

Senator Kempthorne, there was no specific agreement on that particular issue because, as we pointed out during the session with the President, there is a number of ways that this issue can be addressed. We are currently looking at various options and what the cost of this would be, not just for a single year, for '00, for example, but across the FYDP. So we had not reached that level of specificity when we met with the President. That is currently being worked within the Department of Defense.

Senator KEMPTHORNE. Do you feel you will see efforts in that direction with the Fiscal Year 2000 budget?

General SHELTON. The President's instructions to us were to come back to him and work with OMB. That certainly, as you have heard this morning, is high on our agenda, to make sure that we apply some of the resources to those two issues, pay and retirement.

STATEMENT BY DENNIS J. REIMER, CHIEF OF STAFF, U.S. ARMY

January 5, 1999

I would also say, Mr. Chairman and members of the committee, that the soldiers are very excited about the pay and compensation package. I would urge your immediate and prompt support of the total package.

Soldiers are concerned about what they read about the pay gap. Whether it is 8.5 or 13.5 percent, they know that there is a pay gap out there. They are concerned about a retirement system that is coming into being where we promised them 40 percent of take-home pay, but they are finding out that 40 percent of their take-home pay does not equal 40 percent of their base pay.

There is no set solution, and I do not think pay and retirement benefits alone is going to solve our problem, but it is vital that we send that message out there to those soldiers that we really care about them. But it is more about making them feel good about the contributions they have made. It is more about making them feel like they are doing the things they joined the army to do.

STATEMENT OF ADMIRAL JAY L. JOHNSON, U.S. NAVY, CHIEF OF NAVAL OPERATIONS

September 29, 1998

I would offer the following waterfront perspective having just returned from the Pacific Northwest. First of all, the resilience and esprit of our men and women is probably no surprise to you, but it is most gratifying to me. But they, indeed, have very serious concerns. They are working harder with no end in sight. They are underpaid relative to what is available to them on the outside. They believe the REDUX retirement system, as you have heard, is broken, and they are, frankly, tired of being asked to do more with less. These things are on their minds as they make career decisions.

In summary, my number one short-term concern is taking care of our people, pay, retirement, OPTEMPO, stability at home, and my number one long-term concern is building enough ships and enough aircraft to recapitalize the force we know we need.

January 5, 1999

I fully support Sec Cohen's initiative calling for a 4.4% across the board pay raise, pay table reform, and restoration of the 50% retirement package. This triad of initiatives is absolutely essential in FY00 if we are to reverse the negative trends in recruiting and retention.

I must reiterate a final point: I ask that you support Sec Cohen's triad of pay and retirement initiatives as the most critical of our needs with this FY00 budget.

GENERAL REIMER

January 5, 1999

There is no set solution, and I do not think pay and retirement benefits alone is going to solve our problem, but it is vital that we send that message out there to those soldiers that we really care about them. But it is more about making them feel good about the contributions they have made. It is more about making them feel like they are doing the things they joined the army to do.

STATEMENT OF GEN. CHARLES C. KRULAK, COMMANDANT OF THE MARINE CORPS, U.S. MARINE CORPS

January 5, 1999

Our unit commanders routinely cite dissatisfaction with the 40 percent retirement pension at 20 years of service (called REDUX) as one of the foremost reasons for separations prior to retirement eligibility. Originally intended to keep our military personnel in for longer periods of time, it has had the exact opposite effect. Marines who entered the service after 1986 are, 12 yrs later, just beginning to understand the importance of their future retirement. They note the disparity between their pension benefit and the 50 percent, ''traditional'' pension at 20 yrs afforded to their predecessors, and they wonder why their service is considered less significant. They are asking themselves whether 40 percent of basic pay at the earliest retirement date is adequate compensation for the level of sacrifice our Nation demands from them and their families. Their answer is not to stay in longer, as was the goal of REDUX, their answer is to get out. Their answer is not to make the services a career. The commanders' assessments indicate that Redux considerably reduced enticements for having a military career and will increasingly become a deciding factor regarding continued service. The negative impact on retention, in turn, will degrade the stability and quality of our officer and noncommissioned officer force. Readiness will eventually suffer as more experienced personnel leave for the civilian job market and are replaced by less experienced, and in some cases less qualified, Marines.

By restoring the traditional retirement plan, preserving benefit services, pursuing the reduction of the civilian-military pay gap, and enhancing their quality of life through appropriate equipment and infrastructure repair and replacement, we can demonstrate a clear and genuine appreciation for the selfless service provided by our Marines and their families. Your support for this goal was evident in the 3.6% pay increase for 1999. As we continue in our quest to further close the civilian-military pay gap and reduce this critical readiness challenge, we need your continued support for the planned 4.4% pay raise in 2000 and the proposed replacement of the Redux retirement plan.

STATEMENT OF GEN. MICHAEL E. RYAN, CHIEF OF STAFF, USAF

January 5, 1999

For the Air Force to continue attracting and retaining quality people, we must be competitive with contemporary labor markets. Restoring the retirement system as a retention incentive is our top priority.

ADMIRAL JOHNSON

January 5, 1999

Pay and retirement benefits rank among our Sailors' top dissatisfiers. We must be able to offer our Sailors a quality of life that is competitive with their civilian counterparts. The Congressionally approved pay increase of 3.6%, which took effect Jan 1, 1999, was greatly appreciated. However, the pay gap that exists and the reduced retirement package for those who joined the Navy after August 1986 continue to hamper our recruiting and retention efforts.

I fully support Sec. Cohen's initiative calling for a 4.4% across the board pay raise, pay table reform, and restoration of the 50% retirement package. This triad of initiatives is absolutely essential in FY00 if we are to reverse the negative trends in recruiting and retention.

I must reiterate a final point: I ask that you support Sec. Cohen's triad of pay and retirement initiatives as the most critical of our needs with this FY00 budget.

In summary, my number one short-term concern is taking care of our people, pay, retirement, OPTEMPO, stability at home, and my number one long-term concern is building enough ships and enough aircraft to recapitalize the force we know we need.

GENERAL KRULAK

January 5, 1999

By restoring the traditional retirement plan, preserving benefit services, pursuing the reduction of the civilian-military pay gap, and enhancing their quality of life through appropriate equipment and infrastructure repair and replacement, we can demonstrate a clear and genuine appreciation for the selfless service provided by our Marines and their families. Your support for this goal was evident in the 3.6% pay increase for 1999. As we continue in our quest to further close the civilian-military pay gap and reduce this critical readiness challenge, we need your continued support for the planned 4.4% pay raise in 2000 and the proposed replacement of the Redux retirement plan.

PAY

GEN. HENRY H. SHELTON

September 29, 1998

In our recent efforts to balance these important and competing requirements, we have allowed the pay of our soldiers, sailors, airmen, and marines to fall well behind that of the civilian counterparts.

One can argue about how large the pay gap is depending on the base year selected, but the estimates range from 8.5 percent to 13.5 percent, and very few deny that the gap is real.

If we fail to address these critical personnel issues, we will put at risk one of our greatest achievements for the last quarter century, the all volunteer force.

It is the quality of the men and women who serve that sets the U.S. military apart from all potential adversaries. These talented people are the ones who won the Cold War and insured our victory in Desert Storm. These dedicated professionals make it possible for the United States to accomplish the many missions we are called on to perform around the world every single day.

We must begin to close the substantial gap between what we pay our men and women in uniform and what their civilian counterparts with similar skills, training and education are earning.

I assure you, Mr. Chairman, that the troops and their families appreciate this very much. But as I have noted, that alone will not be enough. As we develop the Fiscal Year 2000 budget proposal, we will take a

hard look on what must be done on core compensation issues such as pay and retirement to maintain the quality of the people in the military. No task is more important in my view.

And, as I said earlier, there are various estimates about the magnitude of the pay gap and there are several time lines that could be considered for closing that gap. But we must act soon to send a clear signal to the backbone of our officers, that their leadership and this Congress recognize the value of their service and their sacrifices, and that we have not lost sight of our commitment to the success of the all volunteer force.

III. PERSONNEL

GEN. HENRY H. SHELTON

September 29, 1998

We already see troubling signs that we are not on the path to success in that effort. Our retention rates are falling, particularly in some of our most critical skills, like aviation and electronics, the very skills that are in demand in our vibrant economy. And we are having to work harder to attract the motivated, well-educated young people we need to operate our increasingly complex systems.

So, Mr. Chairman, my recommendation is to apply additional funding to two very real, very pressing concerns. First, we need to fix the so-called REDUX retirement system and return the bulk of our force to the program that covers our more senior members—that is, a retirement program that provides 50 percent of average base pay upon completion of twenty years of service. Second, we must begin to close the substantial gap between what we pay our men and women in uniform and what their civilian counterparts with similar skills, training, and education are earning.

The President has pledged support for a 4.4 percent pay raise in the Fiscal Year 2000 budget and for adjustments in subsequent years at the ECI rate to at least prevent further widening of the pay gap.

GEN. DENNIS J. REIMER

September 29, 1998

Personnel shortfalls were having an adverse impact on current readiness, and these concerns were clearly reflected in their Unit Status Reports (USRs).

The net effect of the drawdown and change process has been too few soldiers to fill too many requirements. That left us with too many undermanned and unmanned squads and crews, and shortages in officer and noncommissioned officer positions.

Today, funding concerns have replaced manning as the number one issue for commanders.

QUALITY OF LIFE

One can argue about how large the pay gap is depending on the base-year selected, but the estimates range from 8.5 percent to 13.5 percent. Few deny that the gap is real.

Another key factor seriously affecting our force today is the different retirement system for the most junior two-thirds of the force. In 1986, Congress changed the Armed Forces retirement system to one that is increasingly perceived by our military members as simply not good enough to justify making a career of military service.

GEN. DENNIS J. REIMER

September 29, 1998

As operations continue apace, the cost of maintaining excess capacity and inefficient business practices can only be supported at the expense of readiness and quality of life.

Over the past few years, commanders have resourced BASOPS and RPM at the absolute minimum in order to protect training.

ADM. JAY L. JOHNSON

September 29, 1998

The quality of life of our Sailors is the issue that concerns me above all others. Our ability to attract and retain an all-volunteer force is increasingly being tasted in the face of the strong national economy.

If we do not reduce the workload and provide Sailors with pay and benefits competitive with their civilian counterparts, they will leave the Service.

The very nature of our operation—forward deployed with a high OPTEMPO—is also taking a toll on our people. The frustrations our Sailors are experiencing is related to the increasing amount of time they are spending at sea while deployed and at work while nondeployed.

GEN. MICHAEL E. RYAN

September 29, 1998

We are especially interested in restoring the retirement system as a retention incentive. At the same time, we need to keep pace with inflation and close the gap between the military and private sector wages. Pay and retirement are not the only reasons of concern.

GEN. CHARLES C. KRULAK

September 29, 1998

Our austere military construction program also remains seriously underfunded, allowing us to focus only on meeting our most immediate readiness needs, complying with safety and environmental standards, and maintaining our commitment to bachelor quarters construction.

At current funding levels, our plant replacement cycle exceeds 190 years, compared with an industry standard of 50 years! Our goal is to replace our physical plant every 100 years be investing one percent of the plant value in new construction. Attainment of this goal would require an additional $75 million one year by investing one percent of the plant value in new construction. Attainment of this goal would require an additional $75 each year across the FYDP. If we attempted to achieve the industry standard, it would require an additional $275 million per year. We have a family housing deficit of 10,000 units which is not corrected under the current FYDP, and there are 12,000 houses which require revitalization. The Department of Defense goal is to eliminate all substandard housing by FY10. At current funding levels, we will not attain that goal until FY15. Essential rehabilitation as required by Department of Defense guidance would necessitate an additional $940 million.

Mr. WARNER. This committee has done a conscientious effort to react to the specific directions given to us by the senior military officers of the Army, the Navy, the Air Force, and the Marine Corps.

I thank the indulgence of the Chair, and I yield the floor.

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

AMENDMENT NO. 9

(Purpose: To repeal the reduction in military retired pay for civilian employees of the Federal Government)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAPO] proposes an amendment numbered 9.

Mr. CRAPO. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 39, between lines 8 and 9, insert the following:

SEC. 204. REPEAL OF REDUCTION IN RETIRED PAY FOR CIVILIAN EMPLOYEES.

(a) REPEAL.—(1) Section 5532 of title 5, United States Code, is repealed.

(2) The chapter analysis at the beginning of chapter 55 of such title is amended by striking out the item relating to section 5532.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the first month that begins after the date of the enactment of this Act.

Mr. CRAPO. Mr. President, this amendment is cosponsored by Senator LOTT. It is an amendment that will repeal the current statute that reduces retirement payment for regular officers of the uniformed service who choose to work for the Federal Government. The uniformed services include the Army, Navy, Air Force, Marine Corps, the Public Health Service, and the National Oceanographic and Atmospheric Agency.

If a retired officer from the uniformed services comes to work for the Senate, his or her retirement pay is reduced by about 50 percent, after the first $8,000, to offset for payments from the Senate.

The retired officer can request a waiver but the executive, legislative and judicial branches of government handle the waiver process differently on a case by case basis.

The dual compensation limitation is also discriminatory in that regular officers are covered by reservists and enlisted personnel are not covered by the limitation.

My amendment should be scored at zero because no additional discretionary funds are required to implement the change and the uniformed services retirement system is fully funded to pay retirees their full retirement benefit that they have earned.

In fact, because of this law, many of them are discouraged from seeking employment from the federal government. I have been unable to find one good reason to explain why we should want our law to discourage retired members of the uniformed services from seeking full time employment with the federal government. It deprives them of an important opportunity for employment and it deprives our government from their able expertise and service.

This amendment would fix this inequity, and give retired officers equal pay for equal work from the federal government and it would give the federal government access to a workforce that currently avoids employment with the federal government.

I hope this amendment will be accepted by all involved. I yield back my time.

Mr. WARNER. Mr. President, if I could just say a word about the amendment pending from the distinguished Senator from Idaho. I am prepared to support that amendment. It is long overdue, and I think it just removes

another one of the inequities that, regrettably, from time to time throughout history come up through our system. Those men and women who serve in the active forces for great periods of time should not be penalized when a Reserve officer or a Guard officer or others, don't have a comparable situation. So I commend the Senator.

Mr. DODD. Mr. President, I wanted to briefly explain my reasons for opposing this amendment to S. 4, the Soldiers', Sailors', Airmen's and Marines' Bill of Rights. This amendment may look alright on the surface, but it falls apart when it is closely examined. Apparently, no one has estimated how much this amendment would cost if it became law, and no one knows how we would fund the changes that this amendment would require in the pension system. I cannot in good conscience support a measure when we have not considered that basic information.

I fully support the goals of this bill and this amendment. I think that our men and women in uniform deserve good pay and benefits, but we must be responsible when we take these sorts of actions. Our uniformed personnel would be the first to tell us that. There have been no hearings on this amendment or this bill, and there is no evidence that this change in pension policy for military retirees will improve retention.

I want to focus on the issue of how we would pay for this amendment. It seems to me that a vote for this amendment is a vote to cut military procurement, research and development, military construction, or some other item in the defense budget. If it is not a vote to cut the defense budget, a vote for this amendment would have us dip into the surplus to cover the full pensions of military retirees. I would prefer to see the surplus go towards ensuring the long-term solvency of Social Security. Perhaps, though, the drafters of this amendment do not intend to find offsets in the defense budget or use the surplus. In that case, the only thing left to do to fund this amendment is to go into domestic spending. I would most certainly be opposed to that course of action. In short, none of the three possible options for funding this amendment appeals to me, and that is why I opposed it.

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

MILITARY HEALTH CARE

Mrs. HUTCHISON. Mr. President, I am going to offer an amendment later today which I hope can become a part of the bill and will be acceptable to the managers. I have been trying to work with everyone who is concerned about the military health care issue, and I look forward to having it be a part of this bill.

Today, I, along with one of my cosponsors, Senator EDWARDS from North Carolina, will talk about what is in this very important amendment. Both Senator HAGEL and Senator HELMS are also cosponsors of this amendment.

I have just finished touring every single base in Texas—Army, Navy, Air Force—and I have talked to young enlisted people, young noncommissioned officers, recruits. I went to Lackland and I talked to people who are in their first month in the Air Force. I talked to these young people, as well as people all the way up and down the line, about their concerns. Of course, we know that we are having the biggest retention problem that we have had in the military for a long time. In fact, for every pilot we keep in the Air Force, we lose two. We are also looking at tough recruiting.

We are looking for ways to say to our military personnel, we want you to come and be a part of our armed services because we are proud of the job that our armed services do; and we are saying to the experienced people in our military, we want you to stay because we need our experienced pilots and sailors and those who are on the ground. We need every one of you to stay in.

I talked about why they aren't staying in. First and foremost is pay. We are addressing that in the military bill of rights. Second to pay is health care. Health care is part of the package that we promised to our military personnel. It is part of the package that we say we are going to give to the military, to their families and to retirees. We say we will provide for your health care now and we will provide for it when you retire. That is part of the incentive for signing up for the military.

I became very concerned and started looking at the different military health care options. It differs around the country. TRICARE, which has been adopted by much of the military, is the system that really needs fixing. TRICARE says to community doctors, we will reimburse you to serve our military personnel. In fact, we have cut back on military health care facilities in the Base Closing Commission. There are fewer health care facilities, so we reached out into the community.

The problem is the bureaucracy. Getting a claim is causing the doctors to say, ''I don't need this, I can't deal with it. It is much worse than Medicare or any other government program with which we have worked.'' Doctors are saying, ''I'm not going to serve our military personnel.''

If you are in the town of Abilene and you can't get a pediatrician for the children of the military personnel, this is a problem.

I, along with Senators EDWARDS, HAGEL and HELMS, have introduced a bill called the Military Health Care Improvement Act of 1999. This is the amendment that we are offering today. Basically, what the amendment does is require that benefits be portable across the regions established in the current system so that once you have a TRICARE coverage and you move—which we know our military personnel do every 2 or 3 years—you will be able to keep that coverage as you cross regions. That will make it much easier for our personnel to know exactly the kind of care they are getting. We would ensure that military coverage is comparable to the average coverage available to civilian Government employees, many of whom work side by side with our military personnel. We think it should be comparable.

Third, we minimize the bureaucratic red tape and streamline the claims processing. This is one of the big problems. It will not cost money to fix—and probably will save money. If we could streamline the claims processing, it will be easier for the Department of Defense, and certainly easier for the person who is getting this health care. It would increase reimbursement levels to attract and retain qualified health care providers. Now, this is an option with the Department of Defense, where they need to be able to increase the coverage. It would allow the Department of Defense to say, all right, as an incentive to get this coverage for our personnel in this area, we will increase the reimbursement levels.

Fifth, it would increase the revenues to military treatment facilities by permitting reimbursement at Medicare rates from third party payers. Now, this is something that will be very important to our military hospitals, where they can get reimbursed at the Medicare level, or they can be reimbursed by Medicare through subvention. We want them to be able to do that. That will, in fact, help our Department of Defense get the same level of reimbursement into the military hospitals that anyone going to a civilian hospital would be entitled to.

So we are very hopeful that this amendment will just be accepted by the sponsors of the bill, because you can't have a military bill of rights that says we are going to deal with the biggest issues of recruiting and retention that we have in the military without addressing health care.

I want to commend the chairman and the distinguished ranking member of the Armed Services Committee for getting this bill up and out as the very first piece of major legislation we are going to pass in this session. They are increasing the pay, and that is the key issue for most people in our military. And they are bringing the pension up to the 50-percent level. I applaud them for that.

I want to add a third element of the problems that our military are facing, and that is quality health care. We have more military families than we have ever had in the military before. Back in the old days, many of our people in the military, the personnel, were single. That is not the case today. Now most of them are married and most of them have families. So we must deal with that reality and make the military family-friendly if we are going to keep the good people of our country who want to be married and have families, which is the normal thing that we

would like for people to have the option to do.

So that is the crux of our amendment. I think it is a good amendment. I believe the Department of Defense will have a lot of latitude to work with this issue. But it must be addressed. We cannot have shoddy health care coverage that differs in different regions of the country, depending on what the military health care facilities are. If you don't have a military hospital in a city that has a military base, you have to provide for that health care. We want it to be good quality health care.

I will never forget when I was over in Saudi Arabia visiting an Air Force base with our personnel. We were talking to these fliers and asked, ''What is your biggest problem?'' One flier said, ''Senator, my biggest problem is that I called home yesterday and my wife was in tears because we have a sick baby and not a doctor in the city will serve our baby. That is the biggest problem I have.'' And I said, ''Wait a minute, that is a problem we can fix.''

That is what the amendment that I and Senator EDWARDS and Senator HAGEL and Senator HELMS are offering today. We don't want one pilot in our military in Saudi Arabia or in Turkey or in Bosnia or in Italy or anywhere else to tell us that their biggest problem is that they called home last night and their wife is in tears with a sick baby who cannot get a pediatrician to see that baby.

So that is what our amendment will do. I appreciate the distinguished chairman of the committee allowing me to talk about this amendment. I really hope that he is going to accept this amendment because this could be the third part of the improvement that he is seeking, by increasing the pay, by increasing the pensions, and health care. I hope that we can do this so that we can say truthfully to everyone that comes into a recruiting office that we are going to give you the health care, the pay, and the pension that will make this a great job, because we want you to serve our country and protect our freedom.

Thank you.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I wish to commend our colleague from Texas. I express once again the regret of the Armed Services Committee that we could not keep her on that committee. We knew the demands of Texas were perhaps matched by the Appropriations Committee, where she also has the opportunity to work with the Defense Subcommittee on Appropriations so that she is still very much involved in defense issues.

This, I hope, is an amendment that we can accept. We will be working with the Senator from Texas throughout perhaps today and tomorrow. But she is absolutely right. My constituents, as I travel among the bases, bring this to my attention wherever I go. I commend the Senator for her leadership.

Mrs. HUTCHISON. I thank the chairman. If the Senator will make me an honorary member of the Armed Services Committee, I will be there in a flash.

Mr. WARNER. The Senator can come back tomorrow. We want to hear from our colleague who is going to address this bill.

Are we agreeable on the vote at 2:15?

Mr. LEVIN. I haven't seen that yet. If you will withhold on that.

PRIVILEGE OF THE FLOOR

Mr. WARNER. Mr. President, I ask unanimous consent that Larry Slade, a fellow in Senator MCCAIN's office, be allowed access to the Chamber during the discussion of S. 4.

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

Mr. LEVIN addressed the Chair.

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

Mr. LEVIN. First, relative to the amendment of the Senators from Texas and North Carolina, we understand that both of them have joined together in that amendment. We are very supportive of that effort. We think it is an important effort. Health care for themselves and mainly for their families is the number one concern of our uniformed military. This amendment would be very, very helpful.

I want to commend both Senator HUTCHISON and Senator EDWARDS for this amendment. I look forward to accepting this amendment. More important, I think the uniformed military and their families look forward to this improvement. I commend both of them. After Senator EDWARDS is recognized next, when we then go back to the amendment of the Senator from Idaho, I will have a question to ask of him.

I yield the floor at this time.

Mr. EDWARDS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina, Mr. EDWARDS.

Mr. EDWARDS. Mr. President, I thank my colleagues, Senator WARNER and Senator LEVIN for their comments. I rise today in support of Senator HUTCHISON's amendment. I think it is critically important that we set minimal standards for TRICARE, which provides health insurance care for all of our military personnel, their dependents, and retirees.

There are currently 6.6 million people who are enrolled in TRICARE and 350,000 who are located in North Carolina. So I want to talk briefly about why this amendment is critical not only to the country, but also to the people of North Carolina.

Comdr. Ronald Smith, who is in the Greensboro-High Point area of North Carolina, has warned me about the experiences of his soldiers with TRICARE. In all of Guilford County, which is actually one of the largest counties in the State of North Carolina in terms of population, not a single primary care manager is willing to see his soldiers or their dependents. The nearest TRICARE hospital available is Womack Army Hospital, which is almost a 2-hour drive away.

Just last week, one of his active duty female soldiers drove to another county to see one of the only two primary care providers available in that area, only to find that they would not let her leave without paying a copayment, even as an active duty member of the military.

Commander Smith tells me that local pharmacists are unwilling to fill military personnel prescriptions without up-front payment because they have had trouble getting reimbursed by TRICARE. Consequently, one second-class petty officer who recently came down with a bad case of the flu 4 days before payday was forced to take a no-interest loan in order to pay the prescriptions to treat her condition. Another active duty soldier held off on getting her blood pressure medication prescription refilled—she went without the medication for a week—because she couldn't afford the out-of-pocket expense for the medication.

All of this happens because local private physicians and pharmacist are unwilling to contract with TRICARE due to the lengthy waiting period for reimbursement and because reimbursement rates often fall below those allowed even by Medicare.

Recently in Onslow County, NC, the Onslow Hospital Authority voted unanimously to terminate the contract with TRICARE when it expires on May 1 and to renegotiate a new one. Onslow Memorial Hospital is currently owed more than $2 million in back claims from TRICARE.

Sgt. John Williams of Fayetteville, NC, recently wrote to me with his experience. His family is enrolled in TRICARE Prime. His daughter received a dermatologist consult in November from Womack Army Hospital. However, her appointments with the physician were canceled by the doctor's office three times, the last time with the explanation that the doctor had quit. In order to get an appointment with the new dermatologist, the girl had to go back through Womack. Sergeant Williams was told that if he chose to take her to a specialist at Duke of his own choice, TRICARE wouldn't pay and that a $300 charge would have to come out of his own packet.

Sabrina Williams had been waiting 81 days, at the time of Sergeant Williams' letter in January, to be seen by a dermatologist. In the meantime, the rash she was complaining of initially has spread over her entire body. She now has a second appointment with the dermatologist on March 1. Her first referral was on November 6 of last year.

As Senator HUTCHISON recognizes and as I recognize, we have to do better. Of course, I share everyone's concern about the cost of implementing this program. Indeed, I am concerned about

the cost of the whole bill. But after this TRICARE amendment, we have drafted a provision for assessing the cost of implementation within 6 months of enactment, and I am confident it will not cost much. We are aiming for increased efficiency with this, not increased costs.

I believe that the TRICARE system can be made to work if we work to make it better. This amendment takes the initial steps to addressing some of the main problems that are widely recognized by all of those participating in TRICARE.

Our service men and women deserve reliable, quality health care. We must show them that we value their commitment to our country by following through on our commitment to provide this fundamental benefit.

I urge my colleagues to support this measure. The TRICARE system has serious problems that need to be fixed. So I am proud to cosponsor Senator HUTCHISON's amendment.

Thank you. I yield the remainder of my time.

Mr. WARNER. Mr. President, we thank the Senators. Subject to concurrence by the distinguished ranking member and others, I hope we can arrive at a vote on this amendment this afternoon, with an opportunity preceding that vote with the sponsors to once again address it. I understand another Senator has indicated his desire to speak to this amendment.

So I hope we can put this up as a package and have it addressed by the Senate in the form of a vote this afternoon.

Mrs. HUTCHISON. Mr. President, if the Senator will yield, I would like to first say how much I appreciate Senator EDWARDS working with me on this amendment. This is a very important issue in North Carolina. He certainly understands it. I appreciate his statements.

I ask the chairman if we can have about 15 or 20 minutes in closing before we go to a vote once this is acceptable. Then we could hear from Senator HAGEL as well as Senator EDWARDS.

Mr. WARNER. Mr. President, that could be done. I would like to conclude the discussion on this amendment because we wish to go into recess at 12 o'clock and there are several other Senators desiring to be recognized. I thank the Senator from Texas.

At this time, Mr. President, I think it is in order—we have revised it. While we are waiting for that, it is my understanding Senator LEVIN has some questions for the Senator from Idaho.

Mr. LEVIN. Mr. President, if my good friend from Virginia will yield on this unanimous consent proposal which he is about to propound, I understand it is going to be revised.

Mr. WARNER. That is correct.

Mr. LEVIN. It has to be further amended, because we want to make sure that in the event there is a point of order—we don't know whether there will be one or not—but in the event there is a point of order, that a motion to waive that point of order would be debatable. I don't know that there will. But the Budget Committee folks are now apparently in a hearing. We can't get an answer from them as to whether or not there is an interest in making a point of order, assuming one lies. And I am not sure we even know yet whether or not a point of order lies. But we want to protect the rights of those Members.

So in order to do that, we have to protect the rights of anyone to make a point of order and to debate a motion to waive that point of order. That is being written.

Mr. WARNER. Mr. President, I assure my colleague that this is now being redrawn.

Mr. LEVIN. Mr. President, it needs to be redrawn further in order to protect the point of order and motion to debate.

Mr. WARNER. We will put that aside.

Mr. LEVIN. We can just add it. Perhaps, while we are waiting for that, I can ask our friend from Idaho a question.

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

Mr. LEVIN. I thank the Chair.

AMENDMENT NO. 9

Mr. LEVIN. I generally support the thrust of the Senator's amendment. But I also want to make sure that it accomplishes its goal in the Congress too.

One of the issues which has been raised is whether or not the amendment addresses the administrative cap that exists on salaries here in the Senate, and I understand there is a similar administrative cap that exists in the House as well. That is one of the issues as to whether or not changing the law here will, in effect, accomplish the purpose or then just create another inconsistency between Congress and the executive branch.

So that is one issue which perhaps the Senator can address. The other issue is just the concern that I have as a member of the Governmental Affairs Committee which is that we should give that committee an opportunity to take a look at this amendment, because there is a civil service aspect to this which they may have some feelings about and we were trying to see whether or not there is any desire on the part of either the chairman, ranking member of Governmental Affairs, or anyone else on that committee to speak on this amendment. We have been unable to ascertain that.

But taking the first question first, I am wondering whether or not the Senator would comment on the question whether or not his amendment would address the current administrative cap that exists on staff salaries here in the Senate.

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

Mr. CRAPO. I thank the Chair and the Senator from Michigan. I appreciate the Senator's commitment.

This amendment simply eliminates the dual compensation prohibition in the statute. It does not specifically address the administrative cap that Congress has on top of that limitation placed on those who seek employment with Congress.

It should be clarified that although it does not remove the cap that the Senate and House have administratively placed on their own circumstances, it does solve the problem for our military retirees in all other branches of Government. And with regard to the Congress, it solves the problem up to the cap that Congress has put into place, which is a significant benefit to those who now are not able to get any support from the circumstance after the first $8,000 of compensation.

I agree with what I assume to be the ranking member's concerns and would be very willing to work with them to try to address that situation with regard to the administrative cap imposed by the Senate and by the House. But we must solve these problems one step at a time, and the first step must be to eliminate the dual compensation prohibition in the statute.

Mr. LEVIN. Mr. President, I wonder if my friend from Virginia will address this issue as well. We have an administrative cap on staff salaries here in the Senate, and this amendment does not address that administrative cap. So we would be correcting one problem.

I happen to support the thrust of that, which is that we would not be putting our active duty retirees at a disadvantage compared to our Reserve retirees. But we are also creating, in a sense, another inequality because the executive branch now would have no restriction administratively, whereas we apparently will retain this administrative cap.

So I am concerned about that inequity that would be created between ourselves and the executive branch with the passage of this, and I simply want to point it out. I think the direction here is the right one. But I do think we are facing another inequity. We are creating, in effect, another equity by eliminating the executive branch statutory cap and eliminating our statutory cap, leaving in place the administrative cap that is already in there.

Mr. WARNER. Mr. President, my friend and colleague raises a very valid point, and I suggest that we address that in the course of this bill but allow this amendment to go forward, because numerically we are talking about a relatively small number of officers who, fortunately—and I underline ''fortunately''—have offered their service to the Congress in comparison to many others throughout other agencies and departments in the Government.

So I would not want the amendment by our distinguished colleague to be delayed from a vote subject to our reconsideration of this very important issue.

As you might imagine, I think it is incumbent upon primarily the two of us to consult with one of our more distinguished colleagues around here whose knowledge of the Senate and salaries gave rise to this amendment. I would certainly want his input before we tried to make any adjustment.

Why don't we leave it that we can go ahead with this amendment, and at a time convenient in the course of the deliberations on this bill we will address the other problem.

Mr. LEVIN. Mr. President, I thank my friend from Virginia for that response. I wonder if the Senator from Idaho has discussed with the persons who were involved actively in placing that administrative cap in the—relative to the issue of removing that cap, have there been any discussions and, if so, could he share those perhaps with the Senate.

Mr. CRAPO. Mr. President, no, I have not discussed removing the administrative cap with those who placed it, but I would be very willing, as I said before, to do so and to work toward that end because I agree that that is one more inequity that should be removed. I think it is an inequity that already exists and, as the chairman indicated, only applies—if this amendment passes, it only applies at the very highest levels of salary, then only to a very small number of personnel, but that inequity should also be removed, and I would be glad to work on that effort.

Mr. LEVIN. Mr. President, in a moment the chairman will be propounding a unanimous consent request which I will support.

I do want to have one caveat on it, however, and that is that the Governmental Affairs members, as far as I know, have not had an opportunity to review this. This is within their jurisdiction; it affects civil service, and I think we should alert—I am hereby alerting them that there would be a vote on this matter at 2:15—and I think that in the event that a member of that committee, or anyone else for that reason, that it is within the jurisdiction of another committee, wanted to speak on this amendment before it were adopted, I would support a request from such a member to have an opportunity to speak for a brief amount of time prior to the vote. It would require a change in the unanimous consent agreement, and I am going to support this unanimous consent agreement so we can sequence some votes at 2:15, but I do want to alert our colleagues particularly on the Governmental Affairs Committee that this is an amendment within their jurisdiction, and if any member of that committee or any other member wants to speak to it for that reason, that this is not in the jurisdiction of Armed Services but a different committee, I would support—that doesn't mean it will succeed, but I will support a modification in our unanimous consent agreement at 2:15 to permit a short period of time for such amendment.

Mr. WARNER. Mr. President, I suggest that I propound the request, then the Senator propound his amendment. And I am certain that I will agree to it.

So at this time, Mr. President, I ask unanimous consent that the vote occur on or in relation to amendment No. 9 at 2:15 today, and that no amendments be in order prior to the vote on amendment No. 9, and, further, no points of order be waived with respect to the amendment. I further ask that with respect to a motion to waive the Budget Act or portions thereof, the motion to waive be debatable.

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

Mr. WARNER. Mr. President, that concludes this amendment. There are two Senators seeking recognition, and therefore I am going to yield the floor momentarily.

Mr. President, I yield the floor.

Mr. ROBERTS. Mr. President, I have some general remarks about the bill. I know that under the previous order we are to recess at 12, and I will try to make my remarks as brief as possible. I know the senior Senator from Kansas has some remarks as well.

I know there is a lot of concern about the U.S. involvement in putting troops into Kosovo. I wish to bring to the attention of my colleagues a conference report that was passed last year as part of the defense appropriations bill that says—as a matter of fact it is law—the President and the administration must come to the Congress with a report of that deployment. Senator HUTCHISON and I will be making some remarks sometime later this afternoon in regard to this provision.

I ask unanimous consent to have this page of the Conference Report printed in the RECORD.

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

MAKING APPROPRIATIONS FOR THE DEPARTMENT OF DEFENSE FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1999, AND FOR OTHER PURPOSES—CONFERENCE REPORT (H. REPT. 105–746)

SEC. 8115. (a) None of the funds appropriated or otherwise made available under this Act may be obligated or expended for any additional deployment of forces of the Armed Forces of the United States to Yugoslavia, Albania, or Macedonia unless and until the President, after consultation with the Speaker of the House of Representatives, the Majority Leader of the Senate, the Minority Leader of the House of Representatives, and the Minority Leader of the Senate, transmits to Congress a report on the deployment that includes the following:

(1) The President's certification that the presence of those forces in each country to which the forces are to be deployed is necessary in the national security interests of the United States.

(2) The reasons why the deployment is in the national security interests of the United States.

(3) The number of United States military personnel to be deployed to each country.

(4) The mission and objectives of forces to be deployed.

(5) The expected schedule for accomplishing the objectives of the deployment.

(6) The exit strategy for United States forces engaged in the deployment.

(7) The costs associated with the deployment and the funding sources for paying those costs.

(8) The anticipated effects of the deployment on the morale, retention, and effectiveness of United States forces.

(b) Subsection (a) does not apply to a deployment of forces—

(1) in accordance with United Nations Security Council Resolution 795; or

(2) under circumstances determined by the President to be an emergency necessitating immediate deployment of the forces.

(c) Nothing in this section shall be deemed to restrict the authority of the President under the Constitution to protect the lives of United States citizens.

Mr. WARNER. Mr. President, if I might interject here——

Mr. ROBERTS. I would be delighted to yield to the distinguished Senator.

Mr. WARNER. On the question of procedure, there is an order for the Senate to go into recess at 12. I ask unanimous consent that that order be extended beyond the hour of 12 to accommodate Senators. How much time would the Senator like?

Mr. ROBERTS. I should be able to finish in 15 minutes.

Mr. WARNER. Perhaps a little less maybe.

Mr. ROBERTS. Maybe 13½.

Mr. WARNER. Would 10 do?

And the Senator from Kansas, how much time does he want?

Mr. BROWNBACK. I think I could do it in 7 minutes.

Mr. WARNER. And the Senator from Louisiana?

Ms. LANDRIEU. Four minutes.

Mr. WARNER. I ask unanimous consent that the Senate stand in recess at the hour of 12:15.

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

Mr. LEVIN. Mr. President, reserving the right to object, I would want to clarify it. That would then be the sequence of the remarks?

Mr. WARNER. That is correct.

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

Mr. ROBERTS. Mr. President I rise today to voice my strong support for this legislation that is designed to provide fair compensation, improved educational opportunities, enhanced financial saving program, and a fair retirement system for the men, women and families of the Armed Forces of the United States.

America is facing a serious crisis in the recruitment and retention of key members of the military. This crisis is a very complicated issue and one that has a complex answer. I am confident that the elements of this bill, S. 4, are an integral part of the solution to these problems. But I am also confident that passage alone will not correct all of the problems we face.

Near the end of the last Congress and after talking to soldiers in the field, senior enlisted and officer leadership of the US military, I was struck with the myriad of problems facing our service members. These problems are contributing to the rapid decline in mid grade

retention and the growing inability to recruit new members of our military.

I might add that I was just out to Fort Leavenworth, KS, and the Army is 40 percent short in regard to the recruiting targets they have to have to simply accomplish their mission. That is as of last week. I came to the floor and laid out what I saw as the key components of their discontent. Rather than restate my comments of last fall, let me just highlight my key points:

1. We have significantly increased the work load on a substantially smaller military.

Since the percentage of service members that are married has grown, this increased work load has amplified the negative effect of deployments on the morale of our troops and their families. The reluctance of families to continue to tolerate these separations contributes to the loss of mid-career personnel.

2. With a significantly increased deployment schedule on a substantially smaller force, the value and importance of today's missions impacts on the willingness of the men and women to join or commit to the military as a career.

Without clearly articulated mission goals and objectives founded in the fundamental of the U.S. vital national interest, the ability to recruit and retain motivated men and women for our military will remain difficult.

3. Although the skill level required of the men and women of our military continues to grow, the pay differential between the same skilled civilian and the military continues to widen.

The current pay of many of our young military families is so low that it is not adequate to keep them off of welfare programs. The prospect of continued and frequent, long deployments coupled with the opportunity to get better pay on the ''outside'' for the same work contributes to the inability to attract and retain the skills needed for today's military.

4. We ask our military to deploy at a much higher pace than ever before, we assign missions that do not meet the ''national interest'' threshold, we pay them less than they could get for the same or similar skills as a civilian, and in many cases we ask them to live in substandard housing.

It goes without saying that the culmination of these problems contribute to the dissatisfaction with the military as a career and its attractiveness to potential recruits.

5. The members of our military are working harder, deploying more, receiving less pay than civilians are for the same job, living in inadequate housing, and now are seeing a reduction in their retirement benefits.

It is not difficult to understand that with this collection of negatives, the military is experiencing problems in retention and recruiting.

As I have stated before, S. 4 does not solve all of the problems contributing to the crisis in retention and recruiting but it does strike at the heart of many of the problems facing our military. Specifically:

It works to close the gap between civilian and military pay for similar skills. Just as importantly, it reforms the military pay tables to better reward promotion rather than longevity.

It establishes a savings program by authorizing members of the military to put up to 5% of their basic pay in a thrift savings plan—a plan already available to other federal workers. Additionally, it allows service secretaries to focus some matching funds for the thrift savings plan to certain critical skills.

It corrects the problems of the current retirement system by giving service members a choice to stay on the current retirement plan and receive $30,000 to put in a savings plan for their future or opt to return to the pre 1986 retirement system. This $30,000 has been the subject of some discussion and perhaps some misunderstanding. I will address this issue later.

It works toward getting our military family off of food stamps by giving special pay to food-stamp eligible members. I find nothing more disheartening or embarrassing than to know that our military compensation is so marginal that we have families on food stamps.

It makes significant improvements to the Montgomery GI bill. The GI bill has long been a backbone in attracting and retaining military members.

S.4 takes significant progress toward relieving the stress on our military families but there are key contributors to that stress that a bill such as this cannot address.

This bill can not address the willingness of this administration to deploy our troops on mission that are not in our vital national interest.

This bill can not address the willingness of this administration to assign them to missions where there is no clearly defined strategy or desired end state.

This bill can not address the willingness of this administration to under fund the military for the many operations they are assigned.

This bill can not address the willingness of this administration to under fund critical modernization and procurement accounts.

The net result of the administration unwillingness to address the impact on the military by the high rate of long deployments, questionable mission quality, and under funding of critical accounts is a double whammy on the men and women of the military.

They are not only deploying longer and more frequently and therefore spending much more time away from their families, but when they return to their home base, they also are faced with long hours in repairing old equipment or making preparation for the next deployment. I am told that this the real pain for many in our military families—they can't even relax with their family after a long deployment.

Mr. President, I know some of my colleagues are concerned that there has been little study to show the elements of this bill are necessary or will give a return that is proportionate to the cost of this bill. Without doubt this is a very expensive bill but the cost to national security by not correcting the problems of retention and recruitment are not even calculable.

But before I discuss the lack of hard data, let me return to the $30,000 bonus for staying on the REDUX plan.

The concern voiced by some is that military members may spend the $30,000 on short term needs or even gratification such as a new car. That certainly could happen but I am counting on the solid leadership of military commanders to educate and explain the investing opportunity that money represents to the very bright, well educated men and women of today's military.

There are already several examples of how that $30,000 could grow over a career if reasonably invested. The very fact that our members are apparently concerned about their future retirement gives me comfort that if they choose to stay on REDUX and except the bonus, most will not squander this opportunity to invest for their retirement.

Some members of Congress are not convinced that REDUX is a problem at all and does not contribute measurably to the retention problem the military faces.

They are asking: Where is the study that shows REDUX is why many members are leaving the military? Mr. President, there is no study. There is only the alarm of the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, all of the Service Chiefs, and the senior enlisted members of all of the services.

Additionally, I do not find it surprising that there is no data because the people that are affected by REDUX are just now reaching the point in their career that they are thinking about the decision to stay in the military for a career or leave. I ask the members of Congress to remember that the decision to except or reject REDUX as a retirement plan or leave the military rests solely with each military individual and not because an analysts' projection of how many will accept or reject REDUX. Our senior leaders of our military are saying REDUX is a significant part of their decision to leave.

Shall we ignore them and wait until enough service members have left to satisfy the statistician? Do not forget we are also having a exceptionally difficult time recruiting new members. Nor can we forget that while we run this data gathering experiment, critical, un-replaceable skills are walking way from military service every day in alarming numbers.

Unfortunately, we are too accustomed to working with weapons systems that we can halt production until

the wing-drop problem is fixed, or until the required testing is completed to our satisfaction. Unquestionably the men and women are the key element to all of our weapon systems but they cannot be put on hold until the retention problem is clearly defined nor can we slow retirement or withhold pay until the theorist have the problems neatly packaged.

We do not have that luxury to delay or wait for all the data to be generated with the people that are willing to defend this Nation. We have created an ''all volunteer service'' and they volunteer to join and they will go home if they perceive they are not being treated fairly or the Nation does not care that they and their families make great sacrifices to serve in the defense of our country. We can only listen to them and their leaders and make our best judgment about the right course of action to recruit and retain the people we need for today's military. S. 4 makes significant progress toward addressing the problems they tell us are contributing to the crisis in retention and recruiting facing the United States military.

I strongly support the bill and urge my colleagues to do the same.

I yield the floor.

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

PRIVILEGE OF THE FLOOR

Mr. BROWNBACK. Mr. President, before I start, I ask unanimous consent that a member of my staff, Steve Thompson, be granted the privilege of the floor during debate and consideration of S. 4.

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

Mr. BROWNBACK. Mr. President, I am delighted to be here joining my colleague from Kansas and other Members, expressing support for S. 4, the Soldiers', Sailors', Airmen's and Marines' Bill of Rights Act of 1999.

This bill comes at a time when our services are facing increased difficulties in hiring and keeping quality personnel because of low pay, inadequate benefits, and increasingly frequent deployments. There is nobody who would say that what I just stated is untrue. Those are all true. They are all impacting our military personnel today. I join my colleague from Kansas, who serves on the Armed Services Committee, in strongly supporting this bill and saying that the first and foremost requirement of the Federal Government is to provide for the common defense and we are not providing adequately for the common defense. We have to do that. And, if we let down on that obligation because it does not show up high in the poll numbers or some other reason, we are failing our duty to this country to provide the first and foremost thing that we are required to do.

Let me remind my fellow Senators that defense spending has declined in real terms every year for the last 11 years and now comprises a lower percentage of our budget than ever before. We have seen a 19-percent decline in defense spending since 1992. Is the world that much of a safer place today? We have troops scattered everywhere around the world and we have had a 19-percent decline in defense spending since 1992. We have peacekeeping operations, we have had global contingencies in Somalia, Haiti, Bosnia, the Persian Gulf, and now we are facing deployment decisions in Kosovo. This is an extremely high operation tempo that is being maintained over this period of time, with an enormous strain on troops and on their families.

Even under adverse conditions, our troops have continued to perform their task superbly. The lower defense spending combined with an increased deployment schedule and inadequate benefits, though, have resulted in an all-time low enlistment and inability to retain quality personnel: Soldiers, sailors, airmen, and marines. America's service men and women and their families deserve a better quality of life. They put their lives on the line to protect our freedoms and the least we can do—the least we can do, I would think, is provide adequate pay, decent living conditions, and some educational opportunities.

This bill includes several provisions that will benefit our military personnel and increase retention and enlistment. It will include a 4.8-percent military pay raise. This, plus future pay raises at the employment cost index plus 0.5 percent, helps close the gap between military and civilian pay.

In addition, we have included military pay table reform that will increase pay for those personnel in midcareer points by up to about 10.3 percent. These are experienced personnel that we cannot afford to lose.

We also revised the military retirement system by allowing service personnel the option, after 15 years of service, to revert to the pre-1986 military retirement system or take a one-time $30,000 bonus if they remain under the current system. We allow Thrift Savings Plans, similar to what other Federal employees get. Our military members deserve to have the same opportunities that other Government employees have.

We also enhanced the Montgomery GI bill. This educational benefit has already sent hundreds of thousands of veterans to college and, I might add, has been a key fuel in pushing forward our economy. These educational benefits come back to the Federal Government in economic growth and opportunity and tax revenues. This is a good investment for everybody, and they will be transferable to immediate family members. But most important, this bill provides for a special subsistence allowance for enlisted personnel eligible for food stamps.

If you can imagine that, you are in the U.S. military, you are putting your life on the line and you are living on food stamps—living on food stamps. For those service members who demonstrate eligibility for food stamps, this bill provides them with a monthly allowance of $180 per month. This will keep our military personnel off food stamps and provide them with the support they need.

Mr. President, this to me is just unconscionable, that you really would put your life, your family at stake, and what are we paying you? We are not paying you enough if you can get food stamps, that you would qualify for food stamps. That is ridiculous, and we need to change it. This bill, S. 4, does change it.

I close by cautioning my fellow Members of the Senate that this may not be enough to stem the exodus of our service members. The Department of Defense and Congress must pursue additional remedies that will rectify the retention problem. This legislation takes a good first step, and I certainly urge my colleagues to support this bill.

Mr. President, I yield the floor.

Ms. LANDRIEU addressed the Chair.

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

Ms. LANDRIEU. Thank you, Mr. President. I rise today, along with my colleagues, in support of S. 4, the Soldiers', Sailors', Airmen's and Marines' Bill of Rights Act. Our military has the finest hardware and equipment in the world, but, as any general or admiral will tell you, the real source of America's strength is America's fighting men and women. We spend billions of dollars to train and equip our troops. I believe the investment has paid off, but we have neglected one very important aspect of this equation. As we now have an all-volunteer force, our training and weapons will be wasted if we cannot keep quality personnel in our Armed Forces.

Everyone has seen, I think, the recent press accounts about the personnel shortfalls, particularly in the Navy and Air Force. The discussion in the Washington Post about the status of the U.S.S. *Harry Truman*, our newest aircraft carrier, provided dramatic evidence of how deep this crisis has grown in our inability to man this vessel.

Fortunately, the Senate is able to act now to begin to reverse this trend. S. 4 provides us with a very significant across-the-board minimum pay increase of 4.8 percent. In addition, there will be other increases staggered on top of this targeted to specific areas of the military.

As Secretary Cohen has stated, I do not believe we can pay our troops too much, but I do believe we can pay them too little. That is the state we find ourselves in today. In a booming economy, Mr. President, with low unemployment, our well-trained soldiers and sailors can walk off a base and often double their salary for less work. It has made retention very difficult, and we are taking a great stride in alleviating the situation with S. 4.

The value of this bill is not just in the actual pay increase, it is also an

important gesture that tells our fighting men and women that their Government cares about their well-being and appreciates the very difficult task that we ask them to perform and we are hearing them loudly and clearly.

We will keep in mind that pay increases alone, however, cannot solve this problem, as many of my colleagues have said earlier this morning. The military will never be competitive with the private sector on a dollar-for-dollar basis.

My friend, Senator CLELAND from Georgia, made a similar remark in committee the other day that stuck with me. I think he was quoting someone else, but he said the armed services may recruit a soldier, but we retain a family. And that is so true.

When we talk about keeping our troops in the service, we have to remember that the quality-of-life issues for the family is really the core issue—soldiers wanting to be good spouses, soldiers wanting to be good parents, soldiers wanting to have a good quality of life for their family.

So while pay is certainly part of the equation, it also extends to housing, medical care, education benefits for spouses and children, day care, operations tempo, and a myriad of other issues that make up a family's quality of life. There is still much to do. This bill is only a beginning, but it is a good step.

One of the important steps taken in this bill—and it is quite innovative and I thank, again, the Senator from Georgia for bringing this up in committee—is that we will allow military personnel to transfer their Montgomery GI bill benefits to their spouses or dependents. For midcareer, officer or enlisted person, the knowledge that their children will have access to a quality education by enabling them to use their benefits is a smart incentive and one that is cost effective for us. It is an example of how we can tailor our benefits in a way that meets the needs of precisely the kind of people we want to retain.

I also believe it is very important for us to remember the contribution of our Guard and Reserve forces in these discussions. For this reason, I have a series of amendments that address some of the inequity between the benefits programs for our regulars and the Guard and the Reserve units.

With a leaner military, Mr. President, we cannot perform the complex missions of our military without a strong Guard and strong Reserve component. We must always keep our eyes on this reality when addressing retention issues.

I am proud of the statement that the Senate is making with this legislation. I commend our chairman and our ranking member for bringing this bill to the floor this early in this Congress. I hope that this will not be the end of our work, but rather a strong beginning, a bipartisan beginning. I look forward to working with my colleagues on the committee to make the real difference in the quality of life for America's military personnel.

I thank you, Mr. President.

RECESS

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

Thereupon, at 12:08 p.m., the Senate recessed until 2:16 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. INHOFE).

SOLDIERS', SAILORS', AIRMEN'S AND MARINES' BILL OF RIGHTS ACT OF 1999

The Senate continued with the consideration of the bill.

AMENDMENT NO. 9

The PRESIDING OFFICER. The question occurs on agreeing to amendment No. 9 offered by the Senator from Idaho. The yeas and nays have not been ordered.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the Chair.

The order provides that at 2:30 we will proceed to a vote. But it also provided for the opportunity for anyone to express, through an objection, such concerns as they may have. I suggest perhaps just a minute or two here before we commence. And I say to the Chair, it is our expectation this vote will go forward, but I do want to protect the rights, for 1 minute, of those who might wish to come forward.

I am informed that the Democratic caucus is still in progress; is that it? I think it has broken up now. We are ready on this side. Mr. President, I am informed that we are ready to go.

The PRESIDING OFFICER. The Chair thanks the Senator.

Mr. WARNER. I just wanted to protect the rights of others.

The PRESIDING OFFICER. The question occurs on agreeing to amendment No. 9 offered by the Senator from Idaho.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on agreeing to amendment No. 9. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. GORTON (when his name was called). Present.

Mr. NICKLES. I announce that the Senator from Alabama (Mr. SHELBY) is necessarily absent.

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

The result was announced—yeas 87, nays 11, as follows:

[Rollcall Vote No. 20 Leg.]

YEAS—87

Abraham	Durbin	Lugar
Akaka	Edwards	Mack
Allard	Enzi	McConnell
Ashcroft	Feinstein	Mikulski
Baucus	Fitzgerald	Moynihan
Bayh	Frist	Murkowski
Bennett	Graham	Murray
Biden	Gramm	Reed
Bingaman	Hagel	Reid
Bond	Harkin	Robb
Boxer	Hatch	Roberts
Breaux	Helms	Rockefeller
Brownback	Hollings	Roth
Bryan	Hutchinson	Santorum
Bunning	Hutchison	Sarbanes
Burns	Inhofe	Schumer
Byrd	Inouye	Smith Bob (NH)
Campbell	Jeffords	Smith Gordon H (OR)
Chafee	Johnson	Snowe
Cleland	Kennedy	Specter
Cochran	Kerrey	Thomas
Collins	Kerry	Thurmond
Conrad	Kohl	Torricelli
Coverdell	Landrieu	Voinovich
Craig	Lautenberg	Warner
Crapo	Leahy	Wellstone
Daschle	Levin	Wyden
DeWine	Lieberman	
Domenici	Lincoln	
Dorgan	Lott	

NAYS—11

Dodd	Gregg	Sessions
Feingold	Kyl	Stevens
Grams	McCain	Thompson
Grassley	Nickles	

ANSWERED ''PRESENT''—1

Gorton

NOT VOTING—1

Shelby

The amendment (No. 9) was agreed to.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I want to alert our colleagues to a fact which was not clear the last time we spoke on the subject of this amendment which we just adopted. There was not certainty as to whether that amendment would have been subject to a point of order had a point of order been made. We protected that possibility in our unanimous consent agreement in the event the Parliamentarian ruled that it would have been subject to a point of order.

In fact, we now understand that it would have been subject to a point of order, and therefore we have now another provision in the bill that is in violation of the Budget Act because it is not paid for. That is something which we should really be very conscious of as we go along here and very concerned about.

But we did protect our colleagues in the event that that was the ruling, and none of our colleagues decided to raise the point of order. But in fact it could have been raised. And we should take very serious note of any of the violations of the Budget Act as we proceed, because at some point we are going to have to pay for the amendments we add as well as the bill itself.

I thank the Chair.

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 11

(Purpose: To make a limitation on tuition assistance for members of the Armed Forces inapplicable to members deployed in support of a contingency operation or similar operation)

Mr. ENZI. Mr. President, I rise to offer an amendment to S. 4. The amendment has already been sent to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. ENZI) proposes an amendment numbered 11.

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

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

The amendment is as follows:

At the end of title I, add the following:

SEC. 104. INCREASED TUITION ASSISTANCE FOR MEMBERS OF THE ARMED FORCES DEPLOYED IN SUPPORT OF A CONTINGENCY OPERATION OR SIMILAR OPERATION.

(a) INAPPLICABILITY OF LIMITATION ON AMOUNT.—Section 2007(a) of title 10, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; and''; and

(3) by adding at the end the following:

''(4) in the case of a member deployed outside the United States in support of a contingency operation or similar operation, all of the charges may be paid while the member is so deployed.''.

(b) INCREASED AUTHORITY SUBJECT TO APPROPRIATIONS.—The authority to pay additional tuition assistance under paragraph (4) of section 2007(a) of title 10, United States Code, as added by subsection (a), may be exercised only to the extent provided for in appropriations Acts.

Mr. ENZI. Mr. President, I offer an amendment to S. 4, the Soldiers', Sailors', Airmen's and Marines' Bill of Rights Act of 1999.

The need for this bill is obvious. The Army, Navy, and Air Force are all experiencing recruitment and retention problems that threaten to further degrade our already overstressed military. By every measure, quality of life issues are the center of the problem. Fortunately, our military personnel don't join to get rich. In this all too material age, it is refreshing to note that their motivations to remain in uniform do not include financial gain.

Nonetheless, it is a fact that our current military is not the military of our fathers. It currently includes the highest percentage of families in its history. The pay, the retirement, and the medical benefits are issues that must be addressed. This bill seeks to do that.

Educational opportunities are also important to our service people, especially those who perhaps are not career oriented. We cannot lose sight of the fact that what we do here today will benefit not just our military personnel by increasing knowledge, eliminating boredom, and stimulating the mind, but are all things that improve the capability of our young men and women in our armed services.

Our society at large will benefit especially with regard to educational opportunities. Today's corporal studying in his off-duty hours for his bachelor's degree might well be tomorrow's small business employer. Nevertheless, his extra effort will improve his job performance immediately. The Department of Defense has long offered excellent opportunities for active duty personnel to better themselves through education. The administrators of these programs are enthusiastic and devoted to the uniformed people they serve. There is one thing we can do, however, to fine tune the regulations they must follow, and my amendment is designed to do just that.

Currently, secretaries of each branch of the service are authorized to pay up to 75 percent of college tuition and related instructional costs for most personnel pursuing additional education in their off duty hours. However, for Navy personnel deployed aboard ship, the Secretary of the Navy is authorized to pay the full 100 percent of such costs by virtue of their PACE program. PACE is an acronym for ''Program for Afloat College Education.'' Therefore, a soldier on deployment in Bosnia may only be receiving reimbursement for 75 percent of his tuition costs, while just offshore, a sailor deployed aboard ship is receiving 100 percent.

My amendment would authorize all service secretaries to pay up to 100 percent of tuition costs for personnel deployed on a contingency basis. It does not require that a specific percentage be paid. It simply gives a service secretary that option. And because the exercising of that option is contingent on the availability of funding, no additional appropriation is required.

This amendment will equalize the playing field between the services as well as make the difficult deployments to such places as Bosnia and Saudi Arabia a bit more beneficial to those service people who wish to take advantage of the opportunity. It is supported by the Defense Department and is indisputable in the interests of our young men and women in uniform. I ask my colleagues for their support of this amendment.

I yield the floor.

Mr. ALLARD. Mr. President, my colleague from the State of Wyoming has done a great job on the amendment. It is discretionary and begins to put on par the Army and Air Force with the Navy program. We think it is the right solution and the right direction for this. So we are not going to object to the ENZI amendment.

The PRESIDING OFFICER. Do other Senators wish to be heard?

The Senator from Michigan.

Mr. LEVIN. Mr. President, I commend the Senator from Wyoming for his amendment. It is a very good amendment. It equalizes the Army and the Air Force with what already exists for the Navy and the Marines. The reason we should equalize it is because when our Army and Air Force personnel are deployed, they are effectively in the same situation and need this tuition assistance to the same extent that the Navy and the Marines already have it authorized. As Senator ALLARD said, it is discretionary with our service secretaries. That means that it hopefully will be accomplished and hopefully can be done within their budgets but does not raise a Budget Act problem.

I commend our friend from Wyoming, and we support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment (No. 11) was agreed to.

Mr. ALLARD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. LEVIN. Mr. President, will the Senator from Virginia yield for a unanimous consent request?

Mr. ROBB. The Senator from Virginia is delighted to yield to the ranking member for a unanimous consent request.

PRIVILEGE OF THE FLOOR

Mr. LEVIN. Mr. President, I ask unanimous consent that Matthew Varzally and John Bradshaw of Senator WELLSTONE's staff have floor privileges during consideration of S. 4.

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

The Senator from Virginia.

Mr. ROBB. Thank you, Mr. President.

AMENDMENT NO. 8

(Purpose: To increase the amount of certain bonuses and special pay and to authorize payment of certain additional special pay and bonuses)

Mr. ROBB. Mr. President, I call up amendment No. 8 previously filed at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia (Mr. ROBB), for himself, Mr. CLELAND, Mr. KENNEDY, and Mr. BINGAMAN proposes an amendment numbered 8.

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

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

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

Mr. ROBB. Mr. President, I rise to offer the special incentive pay amendment to S. 4.

I am pleased to be joined in offering this legislation by our colleague from

Massachusetts, Senator KENNEDY, Senator CLELAND from Georgia, Senator KERREY from Nebraska, and Senator BINGAMAN from New Mexico.

Yesterday, Mr. President, a number of our colleagues, among them Senator ALLARD, described the acute challenges that are faced by the Navy as it struggles to retain sufficient numbers of critical personnel like Navy SEALS, surface warfare officers, nuclear-qualified officers, and career enlisted fliers.

While S. 4, with its significant pay raises, improved retirement and enhanced GI bill benefits is an important step in the right direction, we still have big problems in these smaller categories of military service where we have been only marginally successful in our retention efforts.

This amendment begins to address the downward retention trends the Navy is experiencing in these areas by aligning pay increases with problem specialties.

S. 4's compensation approach begins to address the services' broad recruiting and retention concerns, but it won't assure that the undermanned, highly skilled warfare specialists that Senator ALLARD described so eloquently yesterday will get well any time soon.

Special incentive pay and bonuses have been the shaping tools of choice to fill the breach. The experience of the military services is that historically targeted kinds of bonuses have proven highly effective and very cost efficient in attacking retention problem areas within specific communities.

This year, the Navy and Air Force would like to make even greater use of this proven strategy. They have fully funded in their budgets, and have asked us to support, establishing two new bonuses and expanding authority for four others.

This amendment to S. 4 provides these targeted fixes. Specifically, it addresses enlisted recruiting and retention shortfalls by increasing the maximum authorization of the enlistment bonus, or EB as it is referred to, and selective reenlistment bonus, or SRB. And it addresses the critical shortfalls in the unrestricted line communities by providing two new continuation bonuses, one for surface warfare officers, and another for special warfare officers.

Finally, several existing bonuses are increased, including those for divers, nuclear-qualified officers, linguists, and other critical specialties. These pay increases will target specific job skills at experience levels to cost-effectively attract, retain, and distribute highly trained personnel at critical points in their career.

The Nation simply cannot afford to continue to pay as much as we do to recruit and train these talented individuals only to see them leave the service out of frustration over the inadequacies of their pay and benefits and the promise of better compensation in the private sector.

Mr. President, as I stated yesterday, the special incentive pay amendment to S. 4 is exactly the kind of targeted fix Congress can and should support. I hope our colleagues will join us in sending a signal to our men and women in uniform that we have listened to them and that we understand their needs.

With that, Mr. President, I yield the floor and ask for its adoption.

Mr. KENNEDY. Mr. President, I support this amendment. We are all concerned about reports of declining retention in our Armed Forces. Our midgrade officers and enlisted personnel are leaving the service at alarming rates. This amendment directly addresses this critical problem by focusing special and incentive pays on areas where the Armed Forces face the greatest retention challenges.

The readiness of our Armed Forces must be a top priority. Our service men and women are an indispensable part of our Nation's defense. We must act to improve retention in order to ensure the readiness of our Armed Forces. In today's tight budget environment, it is imperative that we efficiently use our taxpayers' dollars. Special and incentive pays are an effective way to increase retention while being mindful of costs.

Our amendment responds to the needs of the Armed Services by authorizing programs that the services specifically want and that are ready to be implemented. These programs have been thoroughly researched by the services and will have an immediate impact on retention.

At the Senate Armed Services Readiness Hearing in January, Admiral Jay Johnson, the Chief of Naval Operations, agreed with my assessment that current Navy retention rates will result in the Navy having 50 percent fewer Surface Warfare Officers than needed. Officers in these positions have never been authorized to receive special pay incentives, and retention of these men and women is now among the lowest of any officer community in the Armed Forces. This amendment gives the Navy a flexible means to address this critical retention issue, and will give the same flexibility to the other services in the specific areas where the most attention is needed.

In these critical times for recruiting and retention of military personnel, we must enact sensible legislation that provides the services with effective flexibility in the management of their personnel challenges. No one knows the full effects of retention problems more than the services themselves. We need to give the services the tools they need so they can help ensure the readiness of our Armed Forces. I urge my colleagues to join me in support of this amendment and I commend Senator ROBB and Senator CLELAND for their leadership on this amendment.

The PRESIDING OFFICER. Is there further discussion? If not, the question is on agreeing to amendment No. 8.

The amendment (No. 8) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Nebraska.

Mr. HAGEL. Mr. President, I rise to add my enthusiastic support for S. 4.

The most important responsibility a nation has is to its people's security, ensuring a nation's freedom. As all of us in life, nations and governments are no different. We must prioritize. We must prioritize our resources. We must prioritize our agendas. We must prioritize the focus that we give to our people.

As important as is Social Security, and Medicare, and tax cuts, and education and all that compose a society that helps develop a culture, national security is the highest priority, the highest priority of a government, and its most important responsibility.

There will be much debate, as there should be much debate, over the next year and a half about the priorities of this Nation as we move into the next century. None will be more important than the debate that is occurring in this Chamber today, because what we are saying, the message we are sending to our people, to our friends and our foes alike around the world, is that, first, we will address the important issues confronting our national security interests; second, we will put into play and into our national security interests the resources necessary to maintain a national security system second to none. We will, in fact, prioritize our national security so that it will, as history has shown, guarantee our foreign policy, our export expansion, our trade reform. All of these are part of an overarching policy that connects, and we cannot have one without the other. We know—we have heard today, we have heard over the last 2 days—the problems that now confront our military—readiness, retention, recruitment.

Any measure we take of our national security today comes up short, comes up wanting, and it is the responsibility of this Congress to lead; it is the responsibility of the President to lead, and it is the responsibility of America to prioritize the national security interests of our country.

We need, more than ever before, the best, the brightest, young men and women to make a military career a career not only they can be proud of, our Nation can be proud of, but a career that serves our interests.

When we look at what has happened to this military in the last 10 years—longer deployments, more deployments, losing our senior enlisted halfway through their 20 years, pilots dropping out, the investment our society puts in these men and women—we find we are perilously close to the edge as

to how far we can continue to defend not only our freedom but our interests in the world. And make no mistake about this, Mr. President. We just don't have select interests in the world; all the world is in our interests. Does that mean we are the international policemen? No. What it does mean is, because we do live in a globally connected world, a very competitive world, that in every corner of the world our interest is peace, stability, freedom; the development of democratic governments and market economies are in the interests of all of our people.

So, this is not esoteric. This is relevant. And as we close the debate on this issue, we are talking about more than just putting the necessary resources into our national security commitments and capabilities, but we are sending a message to our people, to our culture, to our society, that in fact we very much value the men and women who make defending our freedoms their life. What we are saying, as well, to the families of these men and women is: We value you. We know the hardships that you deal with. We know about those long deployments. Not since Vietnam—and I see my colleague, Senator ROBB, standing across the way—not since Senator ROBB and I served in Vietnam has there been any addressing of the pay scale of our military. That is embarrassing. That is not worthy of a great nation and a great people.

So, again, I say this is not only in the best interests of our country, but it is making a very specific and definite statement to our people, to our culture, to our society that duty, honor, and country count. Duty, honor, and country count. We want people to be proud to serve our country in uniform. We want to acknowledge them, not just by increasing their pay and their benefits—because that is, in part, a measurement of their worth and a way to keep score—but by saying: We know your worth. We know how important you are and we value that. We need you.

For those reasons and many more that we have heard today and we will hear tomorrow, I strongly support S. 4.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I want to recognize in a public way the fine statement of my colleague from Nebraska and his hard work on this and many other pieces of legislation coming before the Senate. It is always good to hear from somebody who has personally served in Vietnam and been under fire, so to speak. I want everybody to know it is people like my colleague from Nebraska and their dedication to this country and to freedom which is the reason we think this bill is so important. This is the first major increase in military pay since 1982.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, let me also commend Senator HAGEL for his speech. He inevitably is on the floor when we have a defense authorization bill or an item related closely to it, as this bill is. He is here, fervently urging support of our men and women in our uniformed military. I just want to say that voice is a particularly powerful voice, given Senator HAGEL's background. I again compliment him and thank him for the ongoing commitment. He has not forgotten where he came from, as we sometimes say, and it is very important that we hear such strong voices as Senator HAGEL's.

Mr. HAGEL. I thank my colleague.

AMENDMENT NO. 8

Mr. LEVIN. Mr. President, while I am on my feet, if I could also thank Senator ROBB for the previous amendment. I was not here. I had to leave for a moment. But it is a very important amendment which we just adopted. We did it in a few moments, but this increased special and incentive pay provision that Senator ROBB has now inserted in this bill is targeted at critical specialties where services are having a significant retention problem. It is very important that we do that.

This provision was in the budget which was submitted to us, but it was not included in this pay bill. It should have been. I think it was a significant oversight that it was not. That oversight has been corrected by Senator ROBB, who is here, as always, watching very, very closely and carefully to make sure that we do the right thing by our troops and by our defense and by our security needs. I thank him for determining that this was left out of a bill which is aimed at supporting our troops, and should not have been. Because of his energy and his perception, it is now back in the bill. I thank him for it.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. Mr. President, if I may, I thank the ranking member for his kind words and his leadership on the Armed Services Committee. I join in paying tribute to my fellow Vietnam veteran, Senator HAGEL from Nebraska. It was for all of us who shared that experience a distinct pleasure to have a fellow warrior, comrade in arms, with us who not only understood the causes for which we fought and the trials and tribulations of those who wear the uniform of our country, but was willing to continue to stand up and be counted in those particular instances where it really matters to those we ask ultimately to place themselves in harm's way for our country's benefit.

So I join in the tribute that the Senator from Colorado made and commend him, as well, for the eloquent speech he made yesterday in underscoring the need to address the critical concerns about retention, particularly in some of the critical MOSs.

AMENDMENT NO. 15

(Purpose: To amend title 37, United States Code, to improve the aviation career officers special pay)

Mr. ROBB. With that, 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 Virginia [Mr. ROBB], for himself, Mr. MCCAIN, and Mr. BINGAMAN, proposes an amendment numbered 15.

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

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

The amendment is as follows:

On page 28, between lines 8 and 9, insert the following:

SEC. 104. AVIATION CAREER OFFICER SPECIAL PAY.

(a) PERIOD OF AUTHORITY.—Subsection (a) of section 301b of title 37, United States Code, is amended—

(1) by inserting ''(1)'' after ''AUTHORIZED.—'';

(2) by striking ''during the period beginning on January 1, 1989, and ending on December 31, 1999,'' and inserting ''during the period described in paragraph (2),''; and

(2) adding at the end the following:

''(2) Paragraph (1) applies with respect to agreements executed during the period beginning on the first day of the first month that begins on or after the date of the enactment of the Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999 and ending on December 31, 2004.''.

(b) REPEAL OF LIMITATION TO CERTAIN YEARS OF CAREER AVIATION SERVICE.—Subsection (b) of such section is amended—

(1) by striking paragraph (5);

(2) by inserting ''and'' at the end of paragraph (4); and

(4) by redesignating paragraph (6) as paragraph (5).

(c) REPEAL OF LOWER ALTERNATIVE AMOUNT FOR AGREEMENT TO SERVE FOR 3 OR FEWER YEARS.—Subsection (c) of such section is amended by striking ''than—'' and all that follows and inserting ''than $25,000 for each year covered by the written agreement to remain on active duty.''.

(d) PRORATION AUTHORITY FOR COVERAGE OF INCREASED PERIOD OF ELIGIBILITY.—Subsection (d) of such section is amended by striking ''14 years of commissioned service'' and inserting ''25 years of aviation service''.

(e) TERMINOLOGY.—Such section is further amended—

(1) in subsection (f), by striking ''A retention bonus'' and inserting ''Any amount''; and

(2) in subsection (i)(1), by striking ''retention bonuses'' in the first sentence and inserting ''special pay under this section''.

(f) REPEAL OF CONTENT REQUIREMENTS FOR ANNUAL REPORT.—Subsection (i)(1) of such section is further amended by striking the second sentence.

(g) TECHNICAL AMENDMENT.—Subsection (g)(3) of such section if amended by striking the second sentence.

(h) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the first day of the first month that begins on or after the date of the enactment of this Act.

Mr. ROBB. Mr. President, this amendment is the aviation career officer special pay amendment to S. 4. I am very pleased to be joined in offering

this amendment by the distinguished Senator from Arizona, Senator MCCAIN. He has been a major force in taking care of our military aviators for many years, and I am very pleased to have Senator MCCAIN as a cosponsor as well as the distinguished Senator from New Mexico, Mr. BINGAMAN.

Mr. President, my colleagues on the Senate Armed Services Committee are all very much aware of the serious retention problems now faced by DOD, and especially those pertaining to pilots. The Air Force, for example, is losing three pilots for every two pilots it trains. You don't need to have a math degree to understand the implications of that statistic. To quote Air Force Chief of Staff Gen. Mike Ryan, this is ''one of the most serious pilot force challenges in Air Force history.'' And the Navy's situation is no less daunting.

Current law allows aviation officers from O–1s to O–5s with 6 to 13 years of service to receive a bonus of up to $25,000 a year if the officer agrees to complete 14 years; or up to $12,000 per year if the officer agrees to complete 1, 2, or 3 additional years.

While existing law was intended to fix retention problems in specific aviation communities such as the F/A–18 community, retention problems are now showing up across the board. This amendment is straightforward. Its intent is to give DOD maximum flexibility to stop the widespread hemorrhaging of pilots. The provision broadens eligibility from anywhere from 1 to 25 years of service and allows for up to $25,000 for each year of extended duty.

DOD's retention and recruiting problems can grow rapidly. Indeed, many problems that DOD did not even report just a year ago were reported with alarm just 6 months ago. We need to give the Department the flexibility and the headroom to manage a serious and unpredictable problem that cannot be adjusted only once a year by the Congress.

To address concerns that we are ceding too much authority to DOD, this authority must be renewed after 5 years, and the Secretary of Defense will be required to report annually to the defense committees on the impact of this increased authority on the retention of aviators.

This provision is supported by the Department of Defense and is included in the budget request. The flexibility afforded by this provision reflects a consensus of service views developed and will allow each service the ability to tailor compensation programs to meet their specific retention challenges and to accommodate their unique career path requirements.

During a period of excessive and costly resignations, we simply cannot afford not to give DOD the tools it needs to fix the retention problem. I urge my colleagues to support this provision and help us to address one of our most serious readiness dilemmas.

I yield the floor. I ask for whatever action the managers may wish to take on this amendment.

The PRESIDING OFFICER. Is there further debate? The Senator from Colorado.

Mr. ALLARD. Mr. President, I compliment my colleague for his hard work on the Armed Services Committee. I do agree with him; the idea of giving discretionary authority to the Secretaries to meet certain retention challenges that come up with qualified pilots is extremely important.

The question I would like to ask my friend from Virginia with regard to his amendment is that I understand that the funds to cover the cost of this amendment are in the fiscal year 2000 defense budget; is that accurate?

Mr. ROBB. Mr. President, I respond to the distinguished Senator from Colorado by saying that the information provided to this Senator is that it is, in fact, included. There was some concern about one of the services having an objection to this provision at one point. I understand that was cleared up, and it is now in the budget. If there is any information to the contrary, because we haven't actually had the presentation of those details, I will inform the committee before any additional action is taken on this amendment.

Mr. ALLARD. Mr. President, in that case, if this has all been cleared within the budget, then we have no objection to this amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. I thank the Chair. Mr. President, let me, again, commend our friend from Virginia for his leadership in this area. This is one of our greatest areas of shortfall. It is one of our greatest retention problems. We have to try to do better to retain our pilots, and this amendment will go a long way, indeed, the administration proposal—hopefully it is in their proposal—will go, we believe at least, some way in terms of retaining pilots as its goal. It is a very important goal.

I, again, thank the Senator from Virginia for his leadership in zeroing in on some of the greatest problems that we face in our defense budget, and that is the retention problem of pilots. So we very strongly support this amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment offered by the Senator from Virginia, Mr. ROBB.

The amendment (No. 15) was agreed to.

Mr. ROBB. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. ROBB. Mr. President, I yield the floor, and I thank my colleague from Michigan.

Mr. KERRY. Mr. President, the overall goal of this bill is to address the critical recruitment and retention problems facing our military today. I strongly support that objective. We have heard that recruitment numbers are down; that the Navy is 20,000 sailors short of what it needs to meet our national interests at sea; that within the last three months the Army was 2,300 soldiers short of its recruitment goal; and that increasingly pilots are leaving the service to take more lucrative jobs with private airlines. These are serious problems requiring serious attention.

At a time when we are asking our Armed Forces to undertake more different kinds of missions, we need to provide incentives to men and women to serve and to be able to keep those who are currently serving. A 1998 Youth Attitude Tracking Study of 10,000 young men and women found that the desire to serve in our military remains strong. In fact, more than 25% of the men surveyed said they wanted to join one of the active duty services. The percentage of women who expressed interest actually increased by a percentage point from last year, reaching 13% for 1998. Therefore, if the initial desire is there, we should not allow it to be clouded by fears of low pay, frequent deployments and insufficient retirement benefits once they sign up. We must do everything we can to ensure that high quality men and women will continue to join the United States Armed Services maintaining a force that is second to none in the world. The U.S. military maintains its stature because of the people who serve in it.

We cannot afford to lose them or lower the standards of recruitment just to fill in the holes.

Unfortunately, the reality is that we are losing them and we are being forced to look at ways of lowering the bar so that each service can meet its recruitment goal for the coming years. A strong economy able to boast of high paying jobs in the private sector is causing extreme recruitment and retention problems for the Department of Defense. S. 4 attempts to reverse these problems by offering high pay raises, reforming the pay table, establishing a retirement savings plan and expanding Montgomery GI bill benefits for those who serve and will serve in the military. Specifically, it provides for a 4.8% pay raise for every member of the Armed Services. It changes the pay scale to recognize and reward meritorious service rather than the number of years served. It establishes a thrift savings plan similar to the one available to Federal civil employees and available to many in the private sector by way of 401–K plans. It also provides a monthly subsistence allowance for those service personnel eligible to receive food stamps and expands current Montgomery GI Bill benefits both in the amount of money provided and in the number of people who can use it, among many other things.

When I read through this bill, I find many things that I believe can improve the current system and I support the general thrust of this legislation. I believe that significant pay increases are necessary both to help those currently serving in the military and those who might serve in the future. The Administration did not ignore the call for pay increases coming from many personnel, as well as the Joint Chiefs. They are in the President's budget request. It is clear that military pay must be competitive with wages paid in the private sector.

It truly saddens me that about 12,000 of the brave men and women who have chosen to serve their country by defending the flag, to which we all pledge allegiance, are on food stamps. These people should not be forced to make a decision between serving their country and bringing home enough money to make ends meet. At a time when our economy is growing and higher paying jobs require the kind of skills that are taught in the military, it must be very difficult not to look at the greener pastures.

There is another part of this bill that I want to address because it is one of the reasons why I am going to vote in favor of it. I sincerely believe that the Montgomery GI Bill should be revamped and am pleased that this legislation takes a step in that direction. When this body passed the GI Bill in 1984, the average annual cost of tuition at a four-year university was about $5,200. That number has since doubled with costs reaching above $11,000 for the school year 1996 to 1997. However, we are still offering basically the same amount of financial assistance per month and requiring that those eligible to use it first pay $1200 before they can receive anything back. I wholeheartedly agree that we should do away with that requirement and increase the amount of monthly assistance provided. It is the right thing to do. I also support the provision in this bill that allows immediate family members also to benefit from the education allowances. I am pleased that my friend—and fellow veteran—MAX CLELAND introduced this portion of the bill and that it was incorporated into the final version we are debating today.

I don't believe there is a single one of us who would argue that we shouldn't do more for our Armed Services personnel. That is clear. There is no question that they need increases in their basic pay and an expansion of their education and retirement benefits. But it seems to me that we ought to be careful and at least examine—if not critically analyze—how best to go about addressing our recruitment and retention problems without trying to fast-tract a bill which has significant increases in funding, above and beyond what the Administration has requested, without adequately explaining how to pay for it.

I believe that we owe it to our military men and women to determine how we are going to pay for this bill and how funds used for this purpose will affect overall spending and military readiness. What are the sources for funding this bill? Is this coming out of other accounts within the Pentagon's budget? Is it coming out of domestic spending? Is it going to be off-budget? Can we really afford to pay for this across all the pay scales? Are we going to tap into our large budget surplus? It is not clear to me that these critical questions have been answered.

This bill requires funding for 10 years, not just this fiscal year. We don't have any ironclad promises that our economy will prove as strong tomorrow as it is today. I think we ought to be sure that the commitments we make now can be met in the future.

I remain concerned that we are moving this bill in the absence of hearings by the Armed Services Committee and an overall discussion about how our defense dollars should be spent. However, I will support this bill because as a veteran, I understand how important it is to know that your country is behind you and to know that your country recognizes and rewards the service you have given it.

AMENDMENT NO. 9

Mr. GORTON. Mr. President, earlier today, the Senate voted on an amendment to S. 4 offered by my colleague Senator CRAPO from Idaho. I voted ''present.''

The amendment would eliminate a federal law that reduces the military retirement pay of those retirees who continue their public service by working for the federal government as civilians. As a Senator who would personally benefit from the amendment's passage, I am subject to a clear conflict of interest and thus cannot properly vote.

As many of my colleagues know, I am retired Air Force Reserve officer. As such, my retirement pay from the Air Force would increase significantly if the Crapo amendment were signed into law. With that in mind, I voted present.

Mr. SMITH of New Hampshire. Mr. President, I rise today to wholeheartedly endorse this Soldiers', Sailors', Airmen's, and Marines' Bill of Rights. With this bill, the members of the Senate Armed Services Committee are making a pledge to the men and women who so bravely defend our freedoms: we honor them, we respect them, they and their families are important to us, and we are going to take care of them. We have been asking them to get by for too long, with too little. Starting now, we are going to make good on our debt of gratitude.

In my view, this bill addresses three key areas that must be fixed if we are going to be able to keep quality people in uniform. The largest pay raise since 1982, and annual raises that outpace inflation, will shrink a double-digit pay gap that has been growing for 20 years. Service men and women know they will never make as much as their civilian counterparts, and they serve proudly anyway. But we cannot tell them their contributions to America are invaluable, and then stand by and watch their earning power erode more and more each year without any plan for stopping the erosion. They deserve to provide their families with an honorable standard of living, and we are committed to doing that.

In addition, Mr. President, raises for mid-level officers and enlisted personnel are designed to retain critical personnel and reward performance over longevity. Currently, some leaders are paid less than their subordinates due to an over-emphasis on years served rather then results achieved. We win or lose wars based on results, not seniority, and the pay chart ought to reflect that reality. We want to encourage and reward those who go ''above and beyond,'' and reinforce a culture dedicated to achievement and success.

Restoring previously reduced retirement benefits to their original levels shows a commitment to our veterans' long term security and the value of a career of honorable service. Our troops spend an entire career living in danger, sacrificing their own interests and putting their country's needs ahead of their family's. We cannot in good conscience reward their service by cutting their retirement benefits.

In closing, Mr. President, more than just voicing a commitment to our service men and women, we must take bold, swift action to put that commitment to work. We must provide them a long overdue increase in pay, we must reform the pay table to reward performance over longevity, and we must repeal the Redux retirement plan.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

PRIVILEGE OF THE FLOOR

Mr. ALLARD. Mr. President, I ask unanimous consent that William Adkins, a National Security fellow on the staff of Senator ABRAHAM, be granted floor privileges during consideration of S. 4.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEVIN. 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. LEVIN. Mr. President, I ask unanimous consent, if it is OK with the floor managers, that immediately following disposition of an amendment

which I understand is going to be offered by Senator CLELAND, that the Chair then recognize the Senator from Kansas.

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

The Senator from Georgia is recognized.

PRIVILEGE OF THE FLOOR

Mr. CLELAND. Mr. President, thank you very much.

Mr. President, I ask unanimous consent that my legislative fellow, Deborah Buonassisi, be granted floor privileges to assist me during the debate of S. 4.

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

AMENDMENT NO. 4

(Purpose: To extend authorities relating to payment of certain bonuses and special pays)

Mr. CLELAND. Mr. President, I offer an amendment to S. 4. I think the clerk has the amendment. It is a 3-year extension of special pay bonuses.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Georgia (Mr. CLELAND) proposes an amendment numbered 4.

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

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

The amendment is as follows:

At the end of title I, add the following new sections:

SEC. 104. THREE-YEAR EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF CERTAIN BONUSES AND SPECIAL PAYS.

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking ''December 31, 1999,'' and inserting ''December 31, 2002,''.

(b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(c) ENLISTMENT BONUSES FOR MEMBERS WITH CRITICAL SKILLS.—Sections 308a(c) and 308f(c) of title 37, United States Code, are each amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(d) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(e) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(f) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of title 37, United States Code, is amended by striking ''any fiscal year beginning before October 1, 1998, and the 15-month period beginning on that date and ending on December 31, 1999'' and inserting ''the 15-month period beginning on October 1, 1998, and ending on December 31, 1999, and any year beginning after December 31, 1999, and ending before January 1, 2003''.

SEC. 105. THREE-YEAR EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

(a) SPECIAL PAY FOR HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302g(f) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(b) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(c) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(d) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(e) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(f) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(g) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(f) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(h) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of title 10, United States Code, is amended by striking ''January 1, 2000'' and inserting in lieu thereof ''January 1, 2003''.

SEC. 106. THREE-YEAR EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY AUTHORITIES FOR NURSE OFFICER CANDIDATES, REGISTERED NURSES, AND NURSE ANESTHETISTS.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(b) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting ''December 31, 2002''.

(c) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of title 37, United States Code, is amended by striking ''December 31, 1999'' and inserting in lieu thereof ''December 31, 2002''.

Mr. CLELAND. Mr. President, I am pleased to bring before the Senate my amendment to S. 4, the Soldiers', Sailors', Airmen's and Marines' Bill of Rights Act of 1999, which would extend key bonuses and special payments to the men and women of our armed forces for another three years.

Mr. President, the Secretary of Defense, the Joint Chiefs of Staff, and the Service Secretaries have all testified and stated for the record that recruiting and retention are the most important challenges facing our military today.

With a strong economy and the perception of a reduced military threat abroad, the incentives to leave the military, or to not enlist in the military, are greater than ever before. However, even with the end of the cold war, we have increased our military commitments around the world, in such places as Bosnia, Iraq, and Somalia. We are now facing a possible use of American forces in Kosovo. Those brave individuals, who are preparing to respond to our Nation's call deserve our every consideration and effort on their behalf. That is the whole reason of S. 4.

The amendment I am now offering seeks to correct an oversight in the pending bill: namely, an extension of the authority for the services to provide special pay incentives for positions which have been hard to fill.

The authority for many of these special pays and bonuses will expire in December 1999. My amendment would simply extend funding authority through the end of 2002. It would give the Services the certainty that these essential retention tools will continue to be available.

These incentives affect many positions within our military, ranging from bonuses for aviation officers to special pay for health professionals. Passage of this amendment will reinforce S. 4's message that we as a nation take seriously our commitment to give our military the ability to continue to recruit and retain the finest servicemen and women in the world. I urge my colleagues to further that objective by adopting this amendment.

Thank you, Mr. President.

The PRESIDING OFFICER. Is there further debate?

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, it is my understanding that this is included in the budget. So we don't have an objection on this side. We view it as an important retention use to help keep our enlisted men and women in the armed services.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, let me commend our friend from Georgia for this amendment. He has made a number of major contributions already to this bill, most particularly in the transferability provision of the education benefits under the GI bill. That is a huge gain for our men and women in the military and for this Nation.

Again, as I pointed out earlier, I thank him for the initiative that he took to have that provision added in committee.

The amendment he is offering this afternoon is an important amendment. It will extend the authority for 3 years to pay bonuses and special pay which are so critical to both recruiting and retention of our military members, and we strongly support this amendment.

Mr. ALLARD. Mr. President, before we vote, I want to recognize that Senator CLELAND is my ranking member on the Personnel Subcommittee. He is working hard. And I am looking forward to continuing to work on these issues that will come up during this year. I think our subcommittee is going to have some of the toughest challenges of any subcommittee on Armed Services. It is good to have somebody such as Senator CLELAND out

there to help, and have somebody who served in the military and who walked in the shoes of the people whom we are passing legislation to have an impact on.

With that, I yield the remainder of my time.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Georgia.

The amendment (No. 4) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

KOSOVO

Mr. ROBERTS. I thank the Presiding Officer. I thank the distinguished Senator from Michigan and my distinguished friend and colleague from Colorado for their time.

This is sort of a news update on Kosovo, if I could describe it that way, because several Senators have indicated a strong desire to offer amendments to this bill in regard to the United States' role in Kosovo. I hope that we won't do that. We need this bill to be expedited to send a strong message to our American men and women in uniform. This is not to say, however, that we do not need a frank discussion of ongoing discussions about the United States' role in regard to Kosovo.

I have, as of 3 o'clock this afternoon—we are about an hour after that—the latest report from the peace talks in Rambouillet, France. Secretary of State Albright has just indicated that:

After 17 days of laborious negotiations, Secretary of State Madeleine Albright said today that ethnic Albanians have agreed to sign a Kosovo peace agreement within two weeks but the Serbs continue to balk at a deal.

I will go on with this very briefly.

According to senior U.S. officials, the Serbs still refuse to permit ethnic Albanians to have a president and are unwilling to cooperate with a war crimes tribunal looking into atrocities against civilians.

* * * * *

At a news conference by the six-nation Contact Group overseeing the talks, French Foreign Minister Hubert Vedrine announced that a new conference on the Kosovo conflict would be held in France beginning March 15.

So we have a lull. So the peace talks can continue. A cynic might say we drew a line in the sand. And yet, at another time we have gone beyond that line in the sand and our credibility is at stake.

Robin Cook, Foreign Secretary of Great Britain, called for the parties to ''use these three weeks, use them to build peace. . . . We have done a lot here, even if we have not done enough.''

The agreement came 1½ hours after the deadline for the peace conference had passed. However, in regard to the Serbs, the news is not that good, to say the least. Their Deputy Prime Minister has described the talks as a bust, blaming the United States officials, who he said ''want the blood of the Serbs.''

He said, ''I am afraid the Rambouillet conference failed and we must say very clearly who is guilty for that. But peace appeared as elusive''—right during these talks, Mr. President. ''New fighting''—or continued fighting. Actually, it is old and continued and new fighting—''broke out between the Yugoslav army troops and the Serb police and the ethnic Albanian rebels.''

So we still have war.

The reason I brought all of that up is that there was an article in Monday's Washington Post written by Dr. Henry Kissinger. I think Dr. Kissinger has pretty well summed up some of the concerns, at least, and the frustrations that many Senators have in regard to the lack of clarity in regard to the situation in Kosovo. And, of course, it affects everything we do in the Balkans, not to mention Bosnia.

Dr. Kissinger said this:

In Bosnia, the exit strategy can be described. The existing dividing lines can be made permanent. Failure to do so will require their having to be manned indefinitely unless we change our objective to self-determination and permit each ethnic group to decide its own fate.

But in Kosovo, Dr. Kissinger certainly pointed out that option doesn't exist. There are no ethnic dividing lines and both sides actually claim the entire territory. Our attitude, the U.S. attitude toward the Serbs attempts to insist that their claim has been made plain. It is the threat of bombing. But how do we and NATO react to Albanian transgressions? Are we prepared to fight both sides and for how long?

As a matter of fact, Secretary Albright indicated if the Albanians didn't get along, we could not bomb the Serbs. That seems to me to be a little bit unprecedented and unique. As a matter of fact, I think it is a little nutty.

But at any rate, are we prepared to fight both sides and for how long?

In the face of issues such as these, the unity of the contact group of powers acting on behalf of NATO is likely to dissolve. Russia surely will increasingly emerge as the supporter of the Serbian point of view.

And then Dr. Kissinger goes on, and I will not take the time of the Senate in regard to his entire statement, but he sums up by saying: ''Each incremental deployment into the Balkans is bound to weaken our ability to deal with Saddam Hussein and North Korea.''

You draw the line in the sand. That time expires, and it is a problem in terms of our credibility.

The psychological drain may be even more grave. Each time we make a peripheral deployment, the administration is constrained to insist that the danger to American forces is minimal—the Kosovo deployment is officially described as a ''peace implementation force.''

Such comments have two unfortunate consequences: They increase the impression among Americans that military force can be used casualty-free,—

And obviously that is a big concern on the part of everyone—

and they send a signal of weakness to potential enemies. For in the end our forces will be judged on how adequate they are for peace imposition, not peace implementation.

I ask unanimous consent that the full statement of Dr. Kissinger be printed in the RECORD.

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

[From the Washington Post, Feb. 22, 1999]

NO. U.S. GROUND FORCES FOR KOSOVO

LEADERSHIP DOESN'T MEAN THAT WE MUST DO EVERYTHING OURSELVES

(By Henry Kissinger)

President Clinton's announcement that some 4,000 troops will join a NATO force of 28,000 to help police a Kosovo agreement faces all those concerned with long-range American national security policy with a quandary.

Having at one time shared responsibility for national security policy and the extrication from Vietnam, I am profoundly uneasy about the proliferation of open-ended American commitments involving the deployment of U.S. forces. American forces are in harm's way in Kosovo, Bosnia and the gulf. They lack both a definition of strategic purpose by which success can be measured and an exit strategy. In the case of Kosovo, the concern is that America's leadership would be impaired by the refusal of Congress to approve American participation in the NATO force that has come into being largely as a result of a diplomacy conceived and spurred by Washington.

Thus, in the end, Congress may feel it has little choice but to go along. In any event, its formal approval is not required. But Congress needs to put the administration on notice that it is uneasy about being repeatedly confronted with ad hoc military missions. The development and articulation of a comprehensive strategy is imperative if we are to avoid being stretched too thin in the face of other foreseeable and militarily more dangerous challenges.

Before any future deployments take place, we must be able to answer these questions: What consequences are we seeking to prevent? What goals are we seeking to achieve? In what way do they serve the national interest?

President Clinton has justified American troop deployments in Kosovo on the ground that ethnic conflict in Yugoslavia threatens ''Europe's stability and future.'' Other administration spokesmen have compared the challenge to that of Hitler's threat to European security. Neither statement does justice to Balkan realities.

The proposed deployment in Kosovo does not deal with any threat to American security as traditionally conceived. The threatening escalations sketched by the president—to Macedonia or Greece and Turkey—are in the long run more likely to result from the emergence of a Kosovo state.

Nor is the Kosovo problem new. Ethnic conflict has been endemic in the Balkans for centuries. Waves of conquests have congealed divisions between ethnic groups and religions, between the Eastern Orthodox and Catholic faiths; between Christianity and Islam; between the heirs of the Austrian and Ottoman empires.

Through the centuries, these conflicts have been fought with unparalleled ferocity because none of the populations has any experience with—and essentially no belief in—

Western concepts of toleration. Majority rule and compromise that underlie most of the proposals for a ''solution'' never have found an echo in the Balkans.

Moreover, the projected Kosovo agreement is unlikely to enjoy the support of the parties for a long period of time. For Serbia, acquiescing under the threat of NATO bombardment, it involves nearly unprecedented international intercession. Yugoslavia, a sovereign state, is being asked to cede control and in time sovereignty of a province containing its national shrines to foreign military force.

Though President Slobodan Milosevic has much to answer for, especially in Bosnia, he is less the cause of the conflict in Kosovo than an expression of it. On the need to retain Kosovo, Serbian leaders—including Milosevic's domestic opponents—seem united. For Serbia, current NATO policy means either dismemberment of the country or postponement of the conflict to a future date when, according to the NATO proposal, the future of the province will be decided.

The same attitude governs the Albanian side. The Kosovo Liberation Army (KLA) is fighting for independence, not autonomy. But under the projected agreement, Kosovo, now an integral part of Serbia, is to be made an autonomous and self-governing entity within Serbia, which, however, will remain responsible for external security and even exercise some unspecified internal police functions. A plebiscite at the end of three years is to determine the region's future.

The KLA is certain to try to use the ceasefire to expel the last Serbian influences from the province and drag its feet on giving up its arms. And if NATO resists, it may come under attack itself—perhaps from both sides. What is described by the administration as a ''strong peace agreement'' is likely to be at best the overture to another, far more complicated set of conflicts.

Ironically, the projected peace agreement increases the likelihood of the various possible escalations sketched by the president as justification for a U.S. deployment. An independent Albanian Kosovo surely would seek to incorporate the neighboring Albanian minorities—mostly in Macedonia—and perhaps even Albania itself. And a Macedonian conflict would land us precisely back in the Balkan wars of earlier in this century. Will Kosovo then become the premise for a NATO move into Macedonia, just as the deployment in Bosnia is invoked as justification for the move into Kosovo? Is NATO to be the home for a whole series of Balkan NATO protectorates?

What confuses the situation even more is that the American missions in Bosnia and Kosovo are justified by different, perhaps incompatible, objectives. In Bosnia, American deployment is being promoted as a means to unite Croats, Muslims and Serbs into a single state. Serbs and Croats prefer to practice self-determination but are being asked to subordinate their preference to the geopolitical argument that a small Muslim Bosnian state would be too precarious and irredentist. But in Kosovo, national self-determination is invoked to produce a tiny state nearly certain to be irredentist.

Since neither traditional concepts of the national interest nor U.S. security impel the deployment, the ultimate justification is the laudable and very American goal of easing human suffering. This is why, in the end, I went along with the Dayton agreement insofar as it ended the war by separating the contending forces. But I cannot bring myself to endorse American ground forces in Kosovo.

In Bosnia, the exit strategy can be described. The existing dividing lines can be made permanent. Failure to do so will require their having to be manned indefinitely unless we change our objective to self-determination and permit each ethnic group to decide its own fate.

In Kosovo, that option does not exist. There are no ethnic dividing lines, and both sides claim the entire territory. America's attitude toward the Serbs' attempts to insist on their claim has been made plain enough; it is the threat of bombing. But how do we and NATO react to Albanian transgressions and irredentism? Are we prepared to fight both sides and for how long? In the face of issues such as these, the unity of the contact group of powers acting on behalf of NATO is likely to dissolve. Russia surely will increasingly emerge as the supporter of the Serbian point of view.

We must take care not to treat a humanitarian foreign policy as a magic recipe for the basic problem of establishing priorities in foreign policy. The president's statements ''that we can make a difference'' and that America symbolizes hope and resolve'' are exhortations, not policy prescription. Do they mean that America's military power is available to enable every ethnic or religious group to achieve self-determination? Is NATO to become the artillery for ethnic conflict? If Kosovo, why not East Africa or Central Asia? And would a doctrine of universal humanitarian intervention reduce or increase suffering by intensifying ethnic and religious conflict? What are the limits of such a policy and by what criteria is it established?

In my view, that line should be drawn at American ground forces in Kosovo. Europeans never tire of stressing the need for greater European autonomy. Here is an occasion to demonstrate it. If Kosovo presents a security problem, it is to Europe, largely because of the refugees the conflict might generate, as the president has pointed out. Kosovo is no more a threat to America than Haiti was to Europe—and we never asked for NATO support there. The nearly 300 million Europeans should be able to generate the ground forces to deal with 2.3 million Kosovars. To symbolize Allied unity on larger issues, we should provide logistics, intelligence and air support. But I see no need for U.S. ground forces; leadership should not be interpreted to mean that we must do everything ourselves.

Soonor or later, we must articulate the American capability to sustain a global policy. The desire to do so landed us in the Vietnam morass. Even if one stipulates an American strategic interest in Kosovo (which I do not), we must take care not to stretch ourselves too thin in the face of far less ominous threats in the Middle East and Northeast Asia.

Each incremental deployment into the Balkans is bound to weaken our ability to deal with Saddam Hussein and North Korea. The psychological drain may be even more grave. Each time we make a peripheral deployment, the administration is constrained to insist that the danger to American forces is minimal—the Kosovo deployment is officially described as a ''peace implementation force.''

Such comments have two unfortunate consequences: They increase the impression among Americans that military force can be used casualty-free, and they send a signal of weakness to potential enemies. For in the end our forces will be judged on how adequate they are for peace imposition, not peace implementation.

I always am inclined to support the incumbent administration in a forceful assertion of the national interest. And as a passionate believer in the NATO alliance, I make the distinctions between European and American security interests in the Balkans with the utmost reluctance. But support for a strong foreign policy and a strong NATO surely will evaporate if we fail to anchor them in a dear definition of the national interest and impart a sense of direction to our foreign policy in a period of turbulent change.

Mr. ROBERTS. The reason that I brought this up is that we have several Senators who are considering amendments on Kosovo. One I think would simply say that the Congress would have to vote before any deployment of any American pilot in any kind of a military mission and/or ground troops would set foot on Kosovo. That is the extra step, if you will, to certainly include the Congress in any decisionmaking. But I would point out to my colleagues, and I made mention of this when I spoke on behalf of this bill, i.e., the bill in regard to retirement reform and pay reform, and I pointed out that we have in the law—and let me just point out it is Public Law 105–262, October 17, 1998. It is a public law, and the President signed it. And there is section 8115(a), and we say:

None of the funds appropriated or otherwise made available under this Act may be obligated or expended for any additional deployment of forces of the Armed Forces of the United States to Yugoslavia, Albania, or Macedonia unless and until the President, after consultation with the Speaker of the House of Representatives, the Majority Leader of the Senate, the minority leader of the House of Representatives, and the minority of the Senate, transmits to Congress a report on the deployment that includes the following:

And I want my colleagues to understand this. This is the law of the land. And the National Security Council is aware of this. As a matter of fact, my staff just an hour ago contacted the staff at the National Security Council, and we said, ''Where is the report?'' We keep hearing about progress and incremental steps or lack of progress with the peace talks and yet we have 4,000, 5,000, maybe 7,000 American troops ready to deploy in regard to Kosovo. This requires the administration to come to the Congress and report on the following things:

The President's certification that the presence of those forces in each country to which the forces are to be deployed is necessary in the national security interests of the United States.

That is pretty basic. Does our involvement really involve our vital national security interests? Can a case be made?

Now, the President spoke to it in terms of his radio address. I think that is good. That is the first time he has spoken to it on national radio. But we really need to know why is our intervention in Kosovo in our vital national security interests? Is it the future of NATO? I think so to some degree. Are we talking about we don't want another Palestine in the middle of Central Europe? I know that. But vital national security interests? I don't know.

(2) The reasons why the deployment is in the national security interests. . . .

(3) The number of United States military personnel to be deployed. . . .

(4) The mission and objectives of forces to be deployed.

(5) The expected schedule for accomplishing the objectives of the deployment.

(6) The exit strategy—

Mr. President, the exit strategy—

for United States forces engaged in the deployment.

We are talking about a 3-year engagement here. This is 4 years in regard to Bosnia.

The costs associated with the deployment and the funding sources for paying those costs.

Now, I have quite a bit of blood pressure in this regard since we have spent literally billions of dollars in Bosnia but we didn't pay for it up front. We didn't pay for it with a supplemental. We do pay for it when the pressure comes on the appropriators to come up with an emergency funding request. So we need to find out what the costs would be in regard to this deployment.

And finally:

The anticipated effects of the deployment on the morale, retention and effectiveness of United States forces.

I made mention that one of the considerations why the people are leaving the service today is the quality of mission, and we have the situation where 60 percent of our service people today are married, obviously part of families, and they go to Bosnia, and perhaps Kosovo, and the Mideast and Korea, and we do not have enough people to really fill those billets now so they are deployed for 6 months, 9 months, come back for a month, bang, they are right over there again, plus the Reserve and the Guard. That is one of the considerations in regard to operation tempo, personnel tempo, as to why people are leaving the service, but mission quality is also a good reason. That is No. 8 in regard to the anticipated effects of the deployment on the morale, the retention and effectiveness of U.S. forces.

Now, we say if there is an emergency here in terms of our national security, obviously the President can intercede.

Now, I want to see this report. We met with Secretary Albright, Secretary Cohen, and our national security director, Sandy Berger, about 2 weeks ago during the impeachment trial. It was early in the morning. We made them aware of this particular provision in this report. Now, I understand from staff of the NSC that a report will be coming, because in the words of the staff member, ''There is a lull over in Kosovo.'' We have a 3 week time period to try to work something else out in regard to the peace agreement.

Let me just point out something, Mr. President. The Secretary of State said that we would not commit American men and women to a peacekeeping role in Kosovo unless there were benchmarks for peace. I would only remind this administration and my colleagues, on behalf of all those in the military, that if you are a peacekeeper, there better be a peace to keep because when there is not a peace to keep, you become a target. That is a whole different situation.

So, consequently, I am very hopeful that the National Security Council will be coming forth with this report and giving the report to our leadership and the appropriate committee chairs. Since this is the law, perhaps we can think about delaying any other amendments to this bill in regard to the Kosovo situation.

I yield the floor.

The PRESIDING OFFICER. Does any Senator seek recognition?

Mr. WARNER. Mr. President, we are making progress on this bill. I hope in short order we can address the pending amendment by the Senators from Texas and North Carolina, but I am not ready yet. I am trying my very, very best to determine what are the cost ramifications of each of these amendments as they come along. At the moment, we are close to isolating the financial repercussions of the amendment of the Senators from Texas and North Carolina.

I see the Senator from Maine, so at this moment I will yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. SNOWE. I thank the Chair.

Mr. President, I am honored to serve as an original co-sponsor of the Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999 in the name of the hundreds of thousands of men and women trained to deter, fight, and win our wars.

I also thank Senators WARNER, ALLARD, LEVIN, and CLELAND for their bipartisan support of the legislation's universal 4.8 percent pay raise and thrift savings proposals as well as the constructive amendments on G.I. bill reform incorporated in the committee-reported version of the bill.

The Bill of Rights Act legalizes the concept that military personnel should receive the same retirement benefits based not on the arbitrary factor of when they joined, but on the timeless standard of willingness to sacrifice.

It is notable, therefore, that the Senate's opening legislation of the year increases soldier pay for the first time in a generation and strips away the layers of unfairness in a military retirement system based solely on the date of entry rather than the length of service. Unilke the current arrangement, which is more generous to active duty personnel who started working before 1986, our proposal of benefits and bonuses offers the same retirement package to all men and women in uniform who build a military career of at least 20 years.

Today, we also commit ourselves to a comprehensive pay raise of 4.8 percent—the largest since 1982—that narrows the gap between military and civilian salaries.

We commit ourselves, as Secretary Cohen did last month in recommending salary increases for noncommissioned and mid-grade commissioned officers, to retention and promotion bonuses that reward the skills of 21st century war fighters.

We commit ourselves for the first time ever to making long-term savings plans available to uniformed service members so that they can build a foundation for family security.

We commit ourselves to increases the monthly G.I. benefit for Service people who serve at least for 2 years while eliminating the punitive $1,200 entry fee for young men and women who want to take advantage of a college education under this historic program.

And we commit ourselves to financial independence for the junior enlisted ranks by making available a special subsistence allowance of $180 per month as an alternative to food stamp subsidies. This provision will remove from the welfare rolls an estimated 11,900 military personnel in the lowest pay grades.

Beginning last September and continuing through the new year, the committee constructed a public record of the financial and operational strains that our military people have endured in recent times.

We found that the total value of the Army's retirement package had eroded by 25 percent since 1986. We also found that inadequate pay left the Navy short of 7,000 sailors, the Air Force short of 2,000 pilots, and the Marine Corps short of combat engineers by a threshold of 30 percent.

Last month, General Henry Shelton, the nation's senior official in uniform, told the Armed Services Committee that ''reforming military retirement remains the Joint Chiefs highest priority.''

Echoing General Shelton, the Air Force Chief of Staff told the committee that ''restoring the retirement system as a retention incentive is our top priority.''

The Commandant of the Marine Corps told the committee that ''unit commanders routinely cite dissatisfaction with . . . retirement . . . as one of the foremost reasons for separation.''

And the Chief of Naval Operations told the Committee that ''pay and retirement benefits rank among our sailors' top dissatisfiers.''

As the chairwoman of the Armed Services Seapower Subcommittee, I must report that inadequate pay has directly strained our maritime Special Operations forces—famously known as the Navy SEALS.

The SEALS conduct vital intelligence-gathering and enemy infiltration activities in advance of, or as an alternative to, higher risk conventional military campaigns. Intense training schedules and exciting missions have traditionally held SEAL recruitment and retention levels traditionally exceed those for most other naval components by between 20 and 30 percent.

But today, the SEAL re-enlistment rate exceeds that for the rest of the Service by only 2 percent. The SEALS now face an overall shortfall of 300 men, and the senior enlisted member of

the organization told the San Diego Tribune last week that while morale was still high, the pay was too low.

Beyond the SEALS, Mr. President, the Navy struggles with skilled personnel shortages throughout the Service. Thirty-five percent of naval aviators elect to take retention bonuses while the Pentagon's goal in this area stands at 50 percent. Enlisted retention overall has decreased 6 to 8 percent below normal requirements.

Finally, the most acute turnover rates faced by our sailors come from the ranks of those who lead them: the mid-level officers who command our surface ships and submarines.

The Bill of Rights Act responds in an aggressive way to these disturbing developments. With this law, we declare that while Congress cannot equalize the financial benefits of all Armed Services and private sector jobs, it can devise compensation plans upholding the value of military careers regardless of the state of the economy.

It's fair to ask, Mr. President, why the Joint Chiefs did not identify problems like a ballistic missile strike from North Korea or Iraq's chemical weapons as more serious threats to military preparedness than pay levels or retirement benefits.

The answer rests with a fundamental but overlooked fact: only people can deliver the capabilities to protect America and her interests overseas. We must therefore ensure that the military's pay and retirement policies provide strong retention incentives to skilled and motivated troops.

Military strength not only comes from adequate spending on technology and hardware. It also comes from compensation packages that inspire officers and enlisted personnel alike to remain in service with fair pay and to anticipate a secure retirement with a fair pension.

Because the Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999 recognizes the critical human dimension of defense preparedness, I urge the Senate's enthusiastic support for this bill.

I yield the floor.

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

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

Mr. WARNER. Mr. President, in consultation with the ranking member here, and with the respective offices of the leadership, it is our hope and expectation that we could have a vote at 5:30 on the amendment proposed by the Senator from Texas and the Senator from North Carolina. I urge all those who wish to address remarks concerning that amendment to proceed to the floor. And as they arrive, hopefully they can seek recognition. This is a very important bill. It is one in which there will be further discussion.

Our colleague from Minnesota has an amendment, it is my understanding.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, first of all, let me thank both my colleagues, the Senator from Virginia and the Senator from Michigan.

AMENDMENT NO. 16

(Purpose: To provide for enhanced protections of the confidentiality of records of family advocacy services and other professional support services relating to incidents of sexual harassment, sexual abuse, and intrafamily abuse)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk on behalf of myself and Senator MURRAY.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself and Mrs. MURRAY, proposes an amendment numbered 16.

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

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

Mr. WELLSTONE. I thank the Chair.

The amendment is as follows:

On page 46, after line 16, add the following:

SEC. 402. REPORT AND REGULATIONS ON DEPARTMENT OF DEFENSE POLICIES ON PROTECTING THE CONFIDENTIALITY OF COMMUNICATIONS WITH PROFESSIONALS PROVIDING THERAPEUTIC OR RELATED SERVICES REGARDING SEXUAL OR DOMESTIC ABUSE.

(a) REQUIREMENT FOR STUDY.—(1) The Comptroller General shall study the policies, procedures, and practices of the military departments for protecting the confidentiality of communications between—

(A) a dependent of a member of the Armed Forces who—

(i) is a victim of sexual harassment, sexual assault, or intrafamily abuse; or

(ii) has engaged in such misconduct; and

(B) a therapist, counselor, advocate, or other professional from whom the dependent seeks professional services in connection with effects of such misconduct.

(2) The Comptroller General shall conclude the study and submit to the Secretary of Defense a report on the results of the study within such period as is necessary to enable the Secretary to satisfy the reporting requirement under subsection (d).

(b) REGULATIONS.—The Secretary of Defense shall prescribe in regulations the policies and procedures that the Secretary considers necessary to provide the maximum possible protections for the confidentiality of communications described in subsection (a) relating to misconduct described in that subsection, consistent with:

(1) the findings of the Comptroller General;

(2) the standards of confidentiality and ethical standards issued by relevant professional organizations;

(3) applicable requirements of federal and state law;

(4) the best interest of victims of sexual harassment, sexual assault, or intrafamily abuse; and

(5) such other factors as the Secretary in consultation with the Attorney General, may consider appropriate.

Mr. WELLSTONE. Mr. President, this amendment is simple and it is important. It calls on the Defense Department to issue new guidelines that will strengthen the privacy rights of victims of domestic violence who are spouses and children of our military employees.

Just a little bit of background. And it calls for this to be done in an expeditious manner, I think within a 9-month period.

Mr. President, domestic violence—actually, I am sorry to say on the floor of the Senate—is a huge problem and a huge issue in our country. About every 15 seconds a woman is battered in her home. A home should be a safe place, but all too often it is not. And this affects women and children. And I say this is nationwide, because I would not want any colleague to think that the focus here is just on the military.

Battering is one of the single greatest causes of injury to women. According to the Department of Justice statistics, of the 1.4 million hospital emergency room admissions in 1994, about a quarter of them were treated for injuries from domestic violence. The prevalence of violence against women associated with the U.S. Armed Forces is deeply disturbing. The dependent victims of violent crimes in the Armed Forces are particularly vulnerable due to isolation, the mobile lifestyle, and financial security—some of which we are trying to deal with in our legislation.

The Department of Defense data estimates that on average 23.2 per 1,000 spouses of military personnel experienced domestic violence in the last 5 years. According to an Army survey released to Time Magazine, spousal abuse is occurring in one of every three Army families each year. So unfortunately it is a problem.

Here is the problem that we are trying to rectify: In civilian society we recognize the confidentiality of communications so that if a woman sees a doctor or she sees someone else, a mental health worker or someone she needs to see to give her help, there is confidentiality. But we do not have the same confidentiality for spouses of our Armed Forces personnel and their children. And so what we are trying to do is to make sure that we have the same guarantees of confidentiality.

When you do not have the confidentiality—and, again, we believe and we agree that our military is absolutely correct that when it comes to those that are enlisted in the military, there is a problem with confidentiality because you want to know what is going on with that soldier if you are about to put that soldier in a combat situation. But I am not talking actually about the military; I am talking about the spouses and the children. We want to make sure that the victims are not retraumatized.

What happens too often, I say to my colleagues, right now—and I think there is an acknowledgement of this; I

think this amendment is a positive step; I really do—what happens all too often is that many women are afraid to step forward because the conversation they have with their doctor, or wherever they go, is not confidential; it becomes public, it becomes released to too many people. And therefore what happens is she has to worry that her husband may, in fact, take action against her. So many women are afraid. They are afraid to tell anyone about what is happening to them. They are afraid to tell anyone that they themselves are being battered or that their children are being battered.

So let me just kind of conclude with an example. Annette—I do not want to use any full names—is the former wife of a naval chief petty officer and the mother of two young children. She was routinely beaten by him from June 1994 through 1996. Military protective orders and civilian restraining orders failed to protect her and her children. Her ex-husband was charged with 21 offenses by the U.S. Navy, including eight assault charges involving Annette. He was ultimately court-martialed.

During the military's investigation of abuse, she was interviewed in the presence of her batterer, and her batterer's command was notified, which resulted in a brutal escalation of the violence toward Annette. At his court-martial proceedings, her dating and marital history were reviewed publicly by prosecuting attorneys.

We need to ensure that military wives and dependents like Annette are given the same rights of privacy and confidentiality as civilian victims. That is what this is about. It calls on the Defense Department to basically issue some guidelines that will give these military wives and dependents the same rights of privacy and confidentiality that any other civilian victim has right now.

This will make an enormous difference, I say to my colleagues. We bring these amendments to the floor. I am so pleased it is supported. I thank both my colleagues for this. I certainly hope that we will keep this in conference committee. I hope I will have their support because this really will make an important difference. It is really very important.

I thank Senator MURRAY. I hope she will have time to come down. I thank both my colleagues for their support.

(Disturbance in the Visitors' Galleries.)

The PRESIDING OFFICER. The gallery will please refrain from commenting on comments made by Senators.

Mrs. MURRAY. Mr. President, I come to the floor to urge my Colleagues to support the pending Wellstone amendment. I want to thank Senator WELLSTONE for his efforts on behalf of battered spouses in the military and commend him for his diligence on this issue.

As many of you know, both Senator WELLSTONE and I have worked hard to address the needs of victims of domestic violence. Stopping domestic violence should be a priority regardless of whether or not the batterer is a civilian or member of the military. Unfortunately, we have not yet done enough to protect military dependants who are victims of abuse.

The Wellstone amendment would protect the privacy of military dependent's medical and counseling records. Currently, dependents of the military are not afforded the same assumption of privacy as civilian are for their medical records. If a spouse of a member of the military is battered and she seeks health care services for the treatment of the abuse, her records should not become public where they could later be used against her.

We know one of the most important factors for domestic violence victims is privacy. If a battered woman seeks help in an emergency room or through a counselor, her medical records remain private. The records cannot be released without her consent. This assumption of privacy is crucial for women to come forward and ask for help. Because there is no assumption of privacy for military dependents, the chances that these women to will seek medical help and counseling is severely reduced.

We have heard from advocates that work with battered military dependents. They have seen how this lack of privacy protection affects their ability to help victims of domestic violence and their children. They have told us that this change is necessary and important. I urge my Colleagues to listen to the recommendations of those who are truly on the front lines in preventing domestic violence. They know this is the right thing to do.

This amendment has been adopted in the past by the Senate and I urge my Colleagues to again send the message to battered military dependents that they should never fear seeking medical help or counseling and that they do not have to remain in violent, abusive relationships.

I urge my Colleagues to vote ''yes'' on this amendment.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. We thank the Senator for bringing this important initiative to the attention of the committee. And the committee accepts this amendment. I hope that it will be accepted by all of our colleagues. Does the Senator require a rollcall or a voice vote?

Mr. WELLSTONE. I am pleased not to have a call for the yeas and nays, but rather a voice vote.

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

Mr. LEVIN. Mr. President, let me congratulate our good friend from Minnesota for this amendment. This is a very, very, perceptive amendment.

What he is doing here is requiring that the Comptroller General make a study in a report to the Department of Defense on policies that would protect the confidentiality of communications between military dependents who are victims of sexual harassment, sexual assault or intrafamily abuse or who have engaged in such misconduct; and therapists, counselors and advocates from whom the victim seeks professional services. The Senator has pointed out that without this confidentiality, the victims of this kind of abuse and behavior are a lot less likely to use what is available to them in terms of counseling, medical services and protection. This becomes a very essential ingredient in protecting the victims of this kind of abuse. Without this confidentiality, we don't have the necessary protection that will give the assurance to these victims.

I want to commend Senator WELLSTONE and Senator MURRAY for this amendment. I hope it has prompt and swift approval of this body.

Mr. WELLSTONE. I thank my colleagues. Before we have the voice vote, I thank Charlotte Oldham-Moore of my staff for doing a lot of work, and I thank the people around the country for helping us.

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

The amendment (No. 16) was agreed to.

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I wish to advise colleagues that we are proceeding toward a vote at 5:30. I am anxious to receive the further comments from those Senators actively supporting the bill of the Senator from Texas and the Senator from North Carolina. I anticipate their appearance here very shortly.

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

The PRESIDING OFFICER (Mr. SMITH of Oregon). Without objection, it is so ordered.

Mr. WARNER. Mr. President, leadership has now authorized the managers of the bill to advise the Senate that there will be a vote at 5:30 tonight on the amendments of the Senators from Texas and North Carolina. I see both Senators present. I yield the floor for their concluding remarks.

I wonder if I might just propound a question that I hope the Senator will address in the course of her remarks. My colleague and I, as managers of the bill, want to be careful about trying to limit the amount of additional funds put on. After careful study of the Senator's amendment, it is my view that

all authorization and funding is discretionary. Am I correct in that?

Mrs. HUTCHISON. Yes. I say to the distinguished chairman that we are obviously saying to the Department of Defense that we want to improve the TRICARE system if they find that it is feasible to do so. Obviously, they are going to have to find it feasible. But the priorities that are set will improve TRICARE and particularly allow immediately—well, when the amendment takes effect a year from now. But there will be no cost to allowing people to be able to go to another base and keep their TRICARE system in place. There is no cost in that.

Mr. WARNER. So the Secretary of Defense would have the discretion to exercise within his appropriated fund budget in the health care account. Am I correct on that item?

Mrs. HUTCHISON. That is correct.

Mr. WARNER. Is the Senator from North Carolina agreeing to that?

Mr. EDWARDS. That is correct.

Mr. WARNER. Therefore, it is the joint judgment of both sponsors that there is no point of order.

Mrs. HUTCHISON. Absolutely. In fact, I think what we are trying to do, of course, is to give the Department the ability to do some of the things that it would like to be able to do to improve the service.

Mr. WARNER. I thank both of my colleagues. Thank you very much. I yield the floor. We will have a vote at 5:30.

First, has the Chair established that vote at 5:30?

The PRESIDING OFFICER. Does the Senator wish to make that in the form of a unanimous consent?

Mr. WARNER. I so make that request of the Chair.

Mr. LEVIN. We have no objection.

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

AMENDMENT NO. 18

(Purpose: To improve the TRICARE program.)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for herself, Mr. Edwards, Mr. HAGEL, Mr. HELMS, Mr. FITZGERALD, Mr. COVERDELL, Mr. JOHNSON, Mr. KENNEDY, Mr. BINGAMAN, and Mr. SANTORUM, proposes an amendment numbered 18.

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

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

The amendment is as follows:

On page 46, after line 16, add the following:

TITLE V—MISCELLANEOUS

SEC. 501. IMPROVEMENT OF TRICARE PROGRAM.

(a) IMPROVEMENT OF TRICARE PROGRAM.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1097a the following new section:

"§ 1097b. TRICARE: comparability of benefits with benefits under Federal Employees Health Benefits program; other requirements and authorities

"(a) COMPARABILITY OF BENEFITS.—The Secretary of Defense shall, to the maximum extent practicable, ensure that the health care coverage available through the TRICARE program is substantially similar to the health care coverage available under similar health benefits plans offered under the Federal Employees Health Benefits program established under chapter 89 of title 5.

"(b) PORTABILITY OF BENEFITS.—The Secretary of Defense shall provide that any covered beneficiary enrolled in the TRICARE program may receive benefits under that program at facilities that provide benefits under that program throughout the various regions of that program.

"(c) PATIENT MANAGEMENT.—(1) The Secretary of Defense shall, to the maximum extent practicable, minimize the authorization or certification requirements imposed upon covered beneficiaries under the TRICARE program as a condition of access to benefits under that program.

"(2) The Secretary of Defense shall, to the maximum extent practicable, utilize practices for processing claims under the TRICARE program that are similar to the best industry practices for processing claims for health care services in a simplified and expedited manner. To the maximum extent practicable, such practices shall include electronic processing of claims.

"(d) REIMBURSEMENT OF HEALTH CARE PROVIDERS.—(1) Subject to paragraph (2), the Secretary of Defense may increase the reimbursement provided to health care providers under the TRICARE program above the reimbursement otherwise authorized such providers under that program if the Secretary determines that such increase is necessary in order to ensure the availability of an adequate number of qualified health care providers under that program.

"(2) The amount of reimbursement provided under paragraph (1) with respect to a health care service may not exceed the lesser of—

"(A) the amount equal to the local usual and customary charge for the service in the service area (as determined by the Secretary) in which the service is provided; or

"(B) the amount equal to 115 per cent of the CHAMPUS maximum allowable charge for the service.

"(e) AUTHORITY FOR CERTAIN THIRD-PARTY COLLECTIONS.—(1) A medical treatment facility of the uniformed services under the TRICARE program may collect from a third-party payer the reasonable charges for health care services described in paragraph (2) that are incurred by the facility on behalf of a covered beneficiary under that program to the extent that the beneficiary would be eligible to receive reimbursement or indemnification from the third-party payer if the beneficiary were to incur such charges on the beneficiary's own behalf.

"(2) The reasonable charges described in this paragraph are reasonable charges for services or care covered by the medicare program under title XVIII of the Social Security Act.

"(3) The collection of charges, and the utilization of amounts collected, under this subsection shall be subject to the provisions of section 1095 of this title. The term 'reasonable costs', as used in that section shall be deemed for purposes of the application of that section to this subsection to refer to the reasonable charges described in paragraph (2).

"(f) CONSULTATION.—The Secretary of Defense shall carry out any actions under this section after consultation with the other administering Secretaries.".

(2) The table of sections at the beginning of chapter 55 of such title is amended by inserting after the item relating to section 1097a the following new item:

"1097b. TRICARE: comparability of benefits with benefits under Federal Employees Health Benefits program; other requirements and authorities.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect one year after the date of the enactment of this Act.

(c) REPORT ON IMPLEMENTATION.—(1) Not later than 6 months after the date of the enactment of this Act, the Secretary of Defense, in consultation with the other administering Secretaries, shall submit to Congress a report assessing the effects of the implementation of the requirements and authorities set forth in section 1097b of title 10, United States Code (as added by subsection (a)).

(2) The report shall include the following:

(A) An assessment of the cost of the implementation of such requirements and authorities.

(B) An assessment whether or not the implementation of any such requirements and authorities will result in the utilization by the TRICARE program of the best industry practices with respect to the matters covered by such requirements and authorities.

(3) In this subsection, the term "administering Secretaries" has the meaning given that term in section 1072(3) of title 10, United States Code.

(d) INAPPLICABILITY OF REPORTING REQUIREMENTS.—The reports required by section 401 shall not address the amendments made by subsection (a).

Mrs. HUTCHISON. Mr. President, I want to announce the cosponsors for whom I am offering this amendment. The cosponsors are Mr. EDWARDS, Mr. HAGEL, Mr. HELMS, Mr. FITZGERALD, Mr. COVERDELL, Mr. JOHNSON, Mr. KENNEDY, Mr. BINGAMAN, and Mr. SANTORUM.

Mr. President, this is an amendment that I think goes very well in the bill before us. This is a military Bill of Rights. This bill is going to try to help alleviate a very bad situation that we have with our military. Right now we are having a hard time recruiting. We have had the worst recruiting year in the Army for the United States since 1979. We are having a hard time retaining our best people. For every two pilots that we lose, we are only gaining one to replace those pilots. So you can see, if we are losing two pilots and gaining one, pretty soon we are going to have a pilot shortage in the Air Force, and the time has come.

It is also going to add to the expense of training the pilots in the Air Force. The Navy has had to lower its educational standards to recruit. This is not good. So many of us in Congress on a bipartisan basis said, What can we do? What can we do to make sure we are giving quality of life to those who are giving their lives to protect our freedom? What can we do to make it worthwhile for them?

The basic things we have heard that are a problem that cause us to lose personnel are pay, health care, and pension benefits. This bill, with our

amendment, will address all three. The bill before us today is a pay raise. It does increase pension benefits. But what it hasn't addressed until our amendment is health care. And when I go across my State or when I visit a base in Saudi Arabia, or Tuzla, Bosnia, I hear that people are worried about health care. They are worried that their families back home are not able to get the quality health care they need.

So the amendment that Senator EDWARDS and I are proposing today, along with all of our cosponsors, would reform the TRICARE system. It would require that benefits be portable across the regions that are established in the current system.

We all know that military personnel have to move every 2 to 3 years. We want them to be able to take the benefits of their TRICARE system with them when they go to another base. That costs nothing, but it certainly does help ease the transition for the military family.

We would ensure military coverage as comparable to the average coverage available to civilian Government employees. Many times on our bases we have civilian Federal employees working side by side with military personnel. We want them to have comparable health care. So within the bounds that the Department of Defense can produce, we want to try to make that comparable and equal if we can get it there. We want to minimize the bureaucratic red tape and streamline the claims processing.

One of the big complaints of the doctors who serve our military personnel from the community is that there is so much bureaucratic red tape that they can't get their claim, and it is not worth the hassle. So what happens? The doctor says, ''I'm not going to serve military families.''

Well, we want to stop that right now. We would increase the reimbursement levels to attract and retain quality health care providers. Where a base city does not have the capability to attract pediatricians or OB-GYN or key areas of specialty to serve the military families, we want to authorize the Department of Defense to reimburse at greater levels in order to attract that service for our military families. That is what the amendment does.

We also allow our military treatment facilities, our military hospitals, to be reimbursed at Medicare rates from third party givers. This is not adding a cost. In fact, it will help these military hospitals to be reimbursed at a better rate so that they will be able to give better care to our military participants.

So that is what our amendment does. We think it is a good amendment, that the Department of Defense will be able to do some of the things they have said they want to be able to do to get better health care in the TRICARE system, and our amendment will allow them to do it.

So I appreciate very much that the distinguished chairman and ranking member of the Armed Services Committee are supporting this amendment. I think it is essential to make a true improvement in the quality of life for our military to improve their health care benefits at the same time that we are giving them pay raises.

At this time, I would like to yield to the Senator from North Carolina, my cosponsor, Senator EDWARDS.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. I thank the Chair.

It is a great honor for me to help cosponsor this particular piece of legislation. The truth is that the TRICARE system, which covers over 6 million Americans and over 300,000 North Carolinians is broken and it needs to be fixed.

Senator HUTCHISON's amendment goes a long way toward addressing the problems of the TRICARE system. It begins by setting minimum standards which the system clearly needs.

What I would like to do is talk just briefly today about why this is so important to Americans, and why it is so important to the people of North Carolina. And there are three or four examples that I think show that very clearly.

We have had lots of correspondence, lots of calls about problems with the TRICARE system. Comdr. Ronald Smith, who is from the Greensboro area in North Carolina, Guilford County, which is one of the most populous counties in North Carolina, tells us stories about the fact that in Greensboro there is no primary care provider who is willing to provide medical care for his soldiers and their dependents.

One example of the problem that creates is of a female soldier who had to travel to a different county to be treated, and when she went there, she had to actually write a check for a copayment before they would allow her to leave.

A second problem that Commander Smith tells us about is the problem pharmacies have getting reimbursed for their prescriptions. An example he gave was a soldier who had a case of the flu, a bad case of the flu, and needed prescription medication. But when the soldier went to get the prescription medication, she learned that she had to make a payment, cash payment, and didn't have the money. So this soldier had to actually go out and obtain a loan in order to get the prescription medication that she needed to treat the flu.

Another example of this problem is a soldier who was taking blood pressure medication that was critical to that soldier's health. The soldier put off for over a week taking the blood pressure medication because she didn't have the money to pay the cash that was needed to get the prescription medication.

This is a serious problem. These are problems that need to be addressed. A Sergeant Williams, who is from Fayetteville, NC, where the Womack Army Hospital is located, told me a story about his daughter which was really amazing. His daughter had a problem with a small rash. She went to the Womack Army Hospital and got a dermatology consult. That was easy to do because the hospital is located nearby.

Then he tried to schedule a number of office appointments for his daughter, but they kept being canceled. And then he decided, well, maybe I need to take her to see a private physician, perhaps at Duke in Durham, which is a little over an hour away. And he was told if he did that, he would have to make an out-of-pocket cash payment of $300 to have her seen. He was finally able to get something scheduled for her. At the time of his letter to me, it had been over 80 days since her initial consult and this rash, which began as a very small, inconsequential rash, had then spread over her entire body.

This is a serious problem. It is one that needs to be addressed, and it is one that Senator HUTCHISON's amendment addresses very directly. I do think that what we are here about is not increasing health care costs, but increasing efficiency. I think Senator HUTCHISON has some wonderful provisions in this amendment to address that problem.

We have an obligation to honor the commitment that the soldiers and their dependents have made to this country, and we need to provide quality health care to these folks. They deserve it. They have made an extraordinary commitment to this country. This country needs to show its commitment to the soldiers who have served and are serving and their dependents. I strongly urge my colleagues to vote for this amendment. This TRICARE system needs to be fixed, and this amendment goes a long way towards fixing it. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I really appreciate the one-on-one experiences that Senator EDWARDS has mentioned because that really brings it home, when that poor child started with a small rash and by the time she could get an appointment with a doctor the rash had covered her body. That is a terrible story, and I have heard stories like that as well. It is why I became interested in trying to fix a problem that was really hurting the military families and our ability to retain those military families.

Just last week I toured Lackland Air Force Base. That is the basic training base for all Air Force personnel. A young drill instructor came up to me and said, ''Senator, keep up the good work and fix TRICARE.'' I told him that we would. Certainly, this is the answer to that drill instructor, because he clearly was having a hard time getting care for his family.

In a letter that was written to me recently, a retired veteran explained the difficulties he was experiencing with TRICARE. But, he said, ''Senator,

please don't concentrate your efforts on my individual problems—this is a systemic problem * * *''

It is a problem. We are losing access to care because of the nightmare associated with claims processing and the dismal rate of reimbursement for services. In fact, if you go to a smaller community that has a base, often you cannot see a heart surgeon because they just will not see a military person because they know the rate of reimbursement is so low. We cannot allow that to be the case for our military personnel.

General Dennis Reimer is the Chief of Staff of the Army. He recently said, ''This is about readiness and this is about quality of life linked together. We must ensure that we provide those young men and women who sacrifice and serve our country so well * * * the quality medical care that is the top priority for them * * *'' General Reimer said, ''We must help them or else we're not going to be able to recruit this high quality force.''

When we are talking about readiness, we are talking about the high quality people that make up our Armed Forces and we are talking about keeping them. The last thing we want is a lot of great equipment but not people to run that equipment.

We have to realize that times have changed in the military. No longer are most of our military personnel unmarried. They are now married and they have families. They expect to have health care for those families and housing and good pay. That is what they expect, and that is what they deserve. We need to give it to them.

That is why our amendment is so important, to be part of adding to the quality of life of our military. We cannot allow the retention problems to continue to erode the powerful military that we have. Our military strength is based on people, good people, quality people, people who are dedicated, people who care about this country and want to protect it. They want to protect our freedom. If they are going to give their lives to protect our freedom, I think in return they deserve a quality of life for themselves and for their families that would make us all proud.

That is why Senator EDWARDS and I, Senator HAGEL, Senator HELMS, Senator FITZGERALD, Senator COVERDELL, Senator JOHNSON, Senator SANTORUM, Senator KENNEDY, Senator BINGAMAN, and Senator SESSIONS have come together on this amendment to try to add quality health care and improvements to the TRICARE system to the military pay raise and the pension improvements that are already in this bill.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. WARNER. Mr. President, on behalf of the leadership, there will be no further votes after the vote now scheduled to begin at 5:30. I wish to advise Senators that we are scheduling votes for tomorrow morning at 9:45 a.m. It is a vote on an amendment by myself and Senator SARBANES relating to civil service pay. That would be followed—and I presume with a 10-minute vote—by an amendment by Senator CLELAND, who will address that vote tonight. But it is a further expansion, and an important one, of the Montgomery GI bill provisions, which Senator CLELAND put in the basic bill.

So I just wished to give those pieces of information to our colleagues.

PRIVILEGE OF THE FLOOR

Also, I ask unanimous consent that a fellow with Senator JEFFORDS, Ernie Audino, be granted the privilege of the floor during the pendency of S. 4.

Mrs. HUTCHISON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. WARNER. Mr. President, in just a moment we are about to request an order for the two votes in the morning. I say to my colleagues, I certainly appreciate the cooperation of Senators. I think this bill has moved along at a very good pace. We had good debate on important subjects. I especially thank our two leaders, Senator LOTT and Senator DASCHLE, for giving strong support to the managers.

Having said that, I now ask unanimous consent the Chair place an order that we will have two votes in the morning, at 9:45 a.m., on the Warner-Sarbanes amendment, and a second vote to follow thereafter, not to exceed 10 minutes, on an amendment by the distinguished Senator from Georgia, Senator CLELAND. He will lay that down immediately following the 5:30 vote. We will have a certain amount of debate, and it will be pending the following day.

Do I have the concurrence of my colleague?

Mr. LEVIN. No objection. We support that.

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

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, if there is a moment, I wish to commend the Senator from Texas and the Senator from North Carolina again on their amendment. The DOD has been working hard to improve the delivery of medical care through the TRICARE program. This amendment gives strong encouragement to the Secretary of Defense to broaden the services which were provided under the TRICARE system. It is important that these services be provided to military members and their families. It is important to improve the claims and the reimbursement process, and to make benefits under the TRICARE program uniform across the country. So, again, I thank the Senators from Texas and North Carolina and their supporters for their leadership on this issue.

Mr. WARNER. Mr. President, if I may, I associate myself with those remarks. Indeed, it is a very important contribution. I have counseled with the good Senator from Texas for some several months. This has been a very important part of her overall legislative goals for a period of time.

Now is the time. I think we are about ready.

Mr. President, I think the hour of 5:30 having arrived—are the yeas and nays ordered on that?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to the amendment of the Senator from Texas. The clerk will call the roll.

The bill clerk called the roll.

The result was announced, yeas 100, nays 0, as follows:

[Rollcall Vote No. 21 Leg.]

YEAS—100

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

The amendment (No. 18) was agreed to.

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, we have two Senators desiring to lay down amendments tonight which will be voted on tomorrow, pursuant to an order entered into a short time ago, beginning at 9:45, back to back.

The first amendment is from my distinguished colleague, the Senator from

Maryland, and I am his principal cosponsor; the second amendment is from the Senator from Georgia.

I yield the floor.

AMENDMENT NO. 19

(Purpose: To express the sense of Congress that there should continue to be parity between the adjustments in the compensation of members of the uniformed services and the adjustments in the compensation of civilian employees of the United States)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Mr. SARBANES], for himself, Mr. WARNER, Mr. ROBB, and Ms. MIKULSKI, proposes an amendment numbered 19.

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

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

The amendment is as follows:

On page 28, between lines 8 and 9, insert the following:

SEC. 104. SENSE OF CONGRESS REGARDING PARITY BETWEEN ADJUSTMENTS IN MILITARY AND CIVIL SERVICE PAY.

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

(1) Members of the uniformed services of the United States and civilian employees of the United States make significant contributions to the general welfare of the United States.

(2) Increases in the levels of pay of members of the uniformed services and of civilian employees of the United States have not kept pace with increases in the overall levels of pay of workers in the private sector so that there is now up to a 30 percent gap between the compensation levels of Federal civilian employees and the compensation levels of private sector workers and a 9 to 14 percent gap between the compensation levels of members of the uniformed services and the compensation levels of private sector workers.

(3) In almost every year of the past two decades, there have been equal adjustments in the compensation of members of the uniformed services and the compensation of civilian employees of the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that there should continue to be parity between the adjustments in the compensation of members of the uniformed services and the adjustments in the compensation of civilian employees of the United States.

Mr. SARBANES. Mr. President I will be very brief. I appreciate the courtesy of the distinguished Senator from Georgia in allowing me to present this amendment before he presents his. We will take this up in the morning. There will be a very limited amount of time.

Very simply, this is a sense-of-the-Congress resolution that there should be parity between the adjustments and the compensation of members of the uniformed services and the adjustments and the compensation of civilian employees of the United States. In almost every year over the past two decades, there have been equal adjustments in the compensation of members of the uniformed services and the compensation of civilian employees of the United States, and this expresses the sense of the Congress that this parity in adjustments should continue.

I know a number of Members wish to join in cosponsoring, and I add Senators ROBB and Senator MIKULSKI as cosponsors at this point. Members will obviously have a chance to do that first thing in the morning. Senator WARNER and I can speak to it briefly in the morning.

It is a very straightforward amendment. I don't know of any opposition to it. I very strongly urge my colleagues to be supportive of this amendment.

I again thank the Senator from Georgia for his kindness, and I yield the floor.

Mr. WARNER. Mr. President, this is my 21st year in the Senate, and I have had the privilege to work with my good colleague and other members of the delegation from Maryland and Virginia through these many years. I think we have done our duty as trustees to protect the parity of the civil servants who are just as key players in defense and other areas as any other individuals. So many of them have made their lifetime careers serving the country. Many of them are very highly technically qualified.

Mr. President, I rise today to cosponsor a sense of Congress amendment to S. 4 along with my colleagues Senator SARBANES, Senator MIKULSKI, and Senator ROBB on behalf of the hard working federal civilian employees.

This sense-of-Congress amendment states that there should continue to be parity between the adjustments in the compensation of members of the uniformed services and the adjustments in the compensation of civilian employees of the United States. In the past, military employees and federal civilian employees have received equal pay adjustments in compensation.

Throughout my tenure in the Senate, I have fought to ensure the fair and equitable treatment of all of our federal employees. Our federal employees play an important role in the efficient and intelligent operation of our government. These dedicated public servants should be compensated justly.

Mr. President, increases in the levels of pay of members of the uniformed services and of civilian employees of the United States have not kept pace with increases in the overall levels of pay of workers in the private sector so that there is now up to a 30 percent gap between the compensation levels of Federal civilian employees and the compensation levels of private sector workers. Retention and labor shortage issues in areas related to high technology jobs, and specialized trade occupants in the current economy poses significant gaps in pay for our federal civilian employees from their private sector counterparts. This is particularly prevalent in the Greater Metropolitan Washington area due to the high demand for high tech workers in the private sector where salaries continue to increase.

Mr. SARBANES. Will the Senator yield?

Mr. WARNER. Yes.

Mr. SARBANES. I want to add that there was a time not too far back when Maryland and Virginia watermen used to shoot at each other on the Potomac River and the Chesapeake Bay. I am happy to report that has never been the tenor of the relationship between myself and the distinguished Senator from Virginia. I have enjoyed working in cooperation with him on a whole range of issues which have been to the benefit of our respective constituencies, and, indeed, to the benefit of the country. I am delighted to be aligned with him once again on an important issue.

Mr. WARNER. I thank my distinguished colleague.

It is quite true, there were vicious battles—over oysters primarily. I hope now the striped bass matter—and crabs—will not further engender that type of dispute.

Mr. President, that will be the first vote in the morning.

The distinguished Senator from Georgia has been patiently waiting, and therefore I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

AMENDMENT NO. 6

(Purpose: To permit members of the Ready Reserve to contribute to the Thrift Savings Plan for compensation attributable to their service in the Ready Reserve)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. CLELAND], for himself, Mr. JEFFORDS, Mr. BINGAMAN, and Ms. LANDRIEU, proposes an amendment numbered 6.

Mr. CLELAND. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 33, line 16, strike ''for a period of more than 30 days'' and insert ''and a member of the Ready Reserve in any pay status''.

On page 34, beginning on line 10, strike ''**on active duty**'' and insert ''**: members on active duty; members of the Ready Reserve**''.

On page 35, strike lines 3 through 6 and insert the following:

''(c) MAXIMUM CONTRIBUTION.—(1) The amount contributed by a member of the uniformed services for any pay period out of basic pay may not exceed 5 percent of such member's basic pay for such pay period.

''(2)(A) Subject to subparagraph (B), the amount contributed by a member of the Ready Reserve for any pay period for any compensation received under section 206 of title 37 may not exceed 5 percent of such member's compensation for such pay period.

''(B) Notwithstanding any other provision of this subchapter, no contribution may be made under this paragraph for a member of the Ready Reserve for any year to the extent that such contribution, when added to prior contributions for such member for such year under this subchapter, exceeds any limitation under section 415 of the Internal Revenue Code of 1986.

On page 35, line 9, insert '', or out of compensation under section 206 of title 37,'' after ''out of basic pay''.

On page 35, line 12, strike ''308a, 308f,'' and insert ''308a through 308h,''.

On page 36, in the matter following line 15, strike ''on active duty'' and insert '': members on active duty; members of the Ready Reserve''.

Mr. CLELAND. Mr. President, I am extremely pleased to offer an amendment to S. 4 with my colleagues, Senator JEFFORDS, Senator BINGAMAN, and Senator LANDRIEU. Of course, S. 4 is the Soldiers', Sailors', Airmen's and Marines' Bill of Rights Act of 1999. This legislation will give the men and women of the National Guard and Reserve the opportunity to participate in the Thrift Savings Plan. S. 4 offers this benefit to their active duty counterparts. Our amendment will offer this to men and women of the National Guard and Reserve.

The Thrift Savings Plan is an excellent way for military families to save for the future. It is not meant to take the place of a retirement system. It is a tax-deferred savings plan that will grow while a service member is actually serving, unlike the delayed benefits of the military retirement system. Furthermore, the Thrift Savings Plan is a portable benefit that can be rolled over into a civilian 401(k) plan, in the event the service member, for whatever reason, must leave military service.

In my opinion, the men and women of the Guard and Reserve must be given the same opportunity to participate in this excellent savings pan as their active duty counterparts. Although the amount of money they will be able to deposit in the Thrift Savings Plan may not be substantial at first, every dollar counts. The Thrift Savings board themselves allows contributions ''as little as a dollar each pay period.''

With the increase in worldwide taskings, Guardsmen and Reservists are participating significantly above and beyond their mandatory one-weekend-a-month and two-weeks-a-year duty, their contributions will grow over time. While some Guardsmen and Reservists may have savings plans through their civilian employers, allowing them to participate in the Thrift Savings Plan allows them to contribute based on their military earnings. For many Guardsmen and Reservists, their military duty has become a second job.

Since the end of the cold war, the services have increasingly relied upon their Reserve components to meet worldwide obligations. The active duty force has been reduced by one-third, yet worldwide commitments have increased dramatically.

In recent years, thousands of Reservists and Guardsmen have supported contingencies, peacekeeping operations and humanitarian missions around the world: in the Persian Gulf, Bosnia, Somalia, Haiti, and Kenya, just to name a few. Guard and Reserve units responded immediately to requests for assistance after Hurricane Mitch, delivering over 10 million pounds of humanitarian aid to devastated areas in Central America.

Closer to home, Reserve and National Guard personnel answered the cries for help after devastating floods struck in our Nation's heartland. They braved high winds and water to fill sandbags, provide security, and transport food, fresh water, medical supplies, and disaster workers to affected areas. The Air Force Reserve's ''Hurricane Hunters'' routinely fly into tropical storms and hurricanes in specially configured C–130s to collect data to improve forecast accuracy, which dramatically minimizes losses due to the destructive forces of these storms.

As we transition into the high-tech 21st century, the Guard and Reserve will continue to take on new and exciting roles. The Guard and Reserve now have units performing satellite control and security functions in order to maintain our country's lead in space-based technology. And, because our country faces the increased threat of chemical and biological weapons, the White House, the Department of Defense, and Congress have joined to develop a ''Homeland Defense'' policy designed to respond to threats against the United States. The Guard and Reserve will play a significant role in the implementation of the policy, because their knowledge of local emergency response plans and infrastructure is critical to an effective response.

The days of holding our Reserve Component forces ''in reserve'' are long gone.

Just who are these citizen soldiers, sailors, airmen, and marines? They are doctors, they are lawyers. They are farmers, grocers, teachers and small business owners. They have long-standing roots in communities across our great country. And, like their active-duty counterparts, they have volunteered to serve. Remarkably, they must balance their service with the demands of their full-time civilian jobs and families.

In September 1997, Secretary of Defense Cohen wrote a memorandum acknowledging an increased reliance on the Reserve Components. He called upon the services to remove all remaining barriers to achieving a ''seamless Total Force.'' He has also said that without Reservists, ''we can't do it in Bosnia, we can't do it in the Gulf, we can't do it anywhere.

Giving the men and women who serve in the Reserve Components the opportunity to participate in the Thrift Savings Plan would carry on the spirit of Secretary Cohen's Total Force policy. This amendment has received the resounding support of the Reserve Officers Association, the National Guard Association of the United States, the Enlisted Association of the National Guard of the United States, and other members of the military coalition representing 5.5 million active and retired members.

The Reserve Components face many of the same challenges and dangers as their active duty counterparts in this time of high operations tempo. We should give them the same opportunity to participate in the Thrift Savings Plan. It is important to send the right message to our citizen soldiers, sailors, airmen, and marines: that we recognize and appreciate their sacrifices. It's the right thing to do.

Mr. President, I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I, first, want to state my complete support and concurrence for the amendment which we will have tomorrow morning by our distinguished colleague and member of the Armed Services Committee jointly. The provisions relating to the GI bill, this benefit, originated with our colleague. I thank him for his participation. He has this Senator's strong support, and I anticipate the Senate's as a whole. I thank our colleague very much.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

USE OF FORCE IN KOSOVO

Mr. SPECTER. Mr. President, I had intended to offer a joint resolution on the subject of the use of force in Kosovo for this bill, but events have overtaken this issue as the picture is now unfolding. I did want to put this joint resolution in the RECORD. I did want to talk about it for a few minutes. I discussed it with the distinguished chairman of the committee.

The concern I have is on the repeated use of force that constitutes acts of war by the President of the United States without authorization by Congress, in violation of the constitutional provision that only the Congress of the United States has the authority to involve the United States in war.

We have seen an erosion of the congressional authority in modern times on many, many occasions. Perhaps the strongest, sharpest example is the Korean war, a subject on which I have questioned nominees for the Supreme Court of the United States, trying to get a delineation on the power of the Commander in Chief under the Constitution, contrasted with the authority of Congress. But where we have had the air and missile strikes recently in Iraq, I raised the same question challenging or questioning the authority of the President. And as it has appeared in the past several days, there has been discussion of using force, air-strikes, perhaps missile strikes, in Kosovo, and it seems to me this is a matter that ought to be decided by the Congress.

I do think there is a good bit to be said in support of the United States participating in the air-strikes in light of what has gone on there, and I shall not speak at any length. The issues are submitted in this joint resolution. I

would like to engage my colleague, the distinguished Senator from Virginia, as to his sentiments on this subject.

Mr. WARNER. Senator, you and I came to this marvelous institution roughly two decades ago, give or take a year or so. We have witnessed on this floor spirited debates on the very issues that you raise, more or less circling around the War Powers Act legislation that followed the war in Vietnam and legislation which, in the judgment of many, is questionable to constitutional standing. I think it is time that we had another debate on this issue because it is very important.

Mr. President, had we used force in Kosovo, it would have been the fourth time President Clinton has directed force against a sovereign nation. Now, I must say, in the course of the deliberations in Rambouillet, France, and prior thereto, I think the administration tried to take an almost unmanageable situation and do the best they could. Frankly, I am relieved that force at this moment is not to be used. I have not had the opportunity in the last 4 or 5 hours to get the latest situation, given that I have been on the floor managing this bill. But I believe the talks are at a virtual stalemate; am I not correct?

Mr. SPECTER. I think the Senator is correct. It does not appear that the United Nations, with the United States' participation, will engage in strikes.

Mr. WARNER. Well, Mr. President, I think it is timely that the Senate went back and, once again, as we did in years past, take a look at the War Powers Act, take a look at the proposal that the distinguished Senator from Pennsylvania has, not by way of criticism at the moment of the President, because you have two situations—one in Kosovo, and, of course, the parallel in Bosnia, and then you have Iraq.

I have said from time to time, as we have had deliberations among ourselves in small groups, if anybody has a better idea how to manage it, come forward. They are the most complex situations that I have had in my tenure here in the Senate, and prior thereto in the Department of Defense, in terms of the complexity and the difficulty to resolve it.

I would encourage the Senator, and I would be happy to participate in that debate at some future date.

Mr. SPECTER. Mr. President, I thank my colleague from Virginia for those comments. It was 8 years ago in early January—I believe January 10—where we had a much publicized debate on this floor about the use of force in the gulf war. A number of the people who are on the floor today, the Senator from Michigan, the Senator from Virginia, and I, participated in that debate with our distinguished then-colleague, Senator Nunn.

I do believe, as I have said, there is much to recommend of U.S. participation in Kosovo. But I do not like to see further erosion of the congressional authority. I think too often the Congress stepped aside.

About a year ago this time there was a key issue about the use of force against Iraq. We discussed it on the floor to some extent. We had a winter recess. By the time we got back, the issue had not matured. But force was used in Iraq in December. It was not authorized by the Congress. I think that the Congress ought to take a stand one way or another before force is used in accordance with the Constitutional provisions.

In the interest of brevity, Mr. President, I send this joint resolution to the desk and ask that it be printed since it makes a fuller statement on this subject.

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

S.J. RES. 12

Whereas, Congress strongly supports the men and women of our military forces;

Whereas, bomber and missile strikes constitute acts of war;

Whereas, only Congress has the Constitutional prerogative to authorize war;

Whereas, the unilateral Presidential authorization of military strikes, however well-intentioned, undercuts that power established clearly in the Constitution for Congress to make such decisions;

Whereas, the autonomy of Kosovo, a region in southern Serbia, was abolished by the Serbian leader, Yugoslav President, Slobodan Milosevic in 1989 and 1990;

Whereas, conflict between ethnic Albanians in Kosovo and Serbian police led by President Slobodan Milosevic has resulted in over 2000 deaths since the end of February 1998 and has displaced nearly 400,000 people;

Whereas, over one-third of Kosovo's villages and an estimated 4,000 homes have been deliberately damaged or destroyed;

Whereas, the assault on the civilian population has been reported to include atrocities which could be considered war crimes, crimes against humanity and genocide;

Whereas, the international community has spoken out repeatedly against Serbian human rights abuses in Kosovo;

Whereas, the instability in the Kosovo represents a significant regional threat;

Whereas, Yugoslav and Serbian officials, reportedly led by Slobodan Milosevic, similarly instigated, organized and directed aggressive action against civilians in Croatia in 1991, and in Bosnia-Herzegovina from 1992 to 1995;

Whereas, peace was only restored to the region of the former Yugoslavia in 1995 when Yugoslav and Serbian officials, including Slobodan Milosevic, were confronted with the clear resolve of the international community to use force against them;

Whereas, on Jan. 30, 1999, the NATO allies authorized Secretary-General Solana to order air-strikes anywhere in Yugoslavia, if a peace settlement was not accepted by the deadline of February 20, 1999 and subsequently extended to February 23, 1999;

Whereas, the United States participation in NATO military operations is important in maintaining the strength of the NATO alliance generally;

Whereas, Congressional support and cooperation with our NATO allies will send an important signal of national resolve that would strengthen the ability of the United States to bring the two sides together toward a peace agreement in Kosovo;

Resolved, by the Senate and House of Representatives of the United States of America Congress assembled, That the President is authorized to conduct air operations and missile strikes against the Federal Republic of Yugoslavia (Serbia and Montenegro) for the purpose of bringing about a peaceful resolution of the conflict in Kosovo.

Mr. SPECTER. I thank the Chair. I yield the floor.

Mr. WARNER. Mr. President, before the Senator departs, I think the RECORD should reflect that in connection with the action taken against Iraq in the fall, and then in connection with the proposed sending of ground troops as part of the NATO force and U.S. contingent of up to 4,000, there was confrontation with leadership in the Senate and the House in both instances. I think there has been a level—whether it is up to the expectations of my colleagues, it is individually for them to say —a level of confrontation in both sequences. We must bear in mind that under the Constitution, the President is the Commander in Chief. He has the right to direct the deployment of our Armed Forces in harm's way when he thinks hopefully it protects the vital security interests of the United States, and only under those situations because oftentimes the Congress has dispersed—it is in recess, and the like—and those decisions have to be made quickly. Nevertheless, we have a coequal responsibility with the President regarding the welfare and the state of our men and women in uniform and the circumstances under which they are employed, particularly in harm's way.

I commend the Senator.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, by way of a very brief supplemental comment, it is true that the President has authority as Commander in Chief. When he exercises his authority in the deployment of some 4,000 U.S. troops, it is another question. He has a stronger claim to do that under his power as Commander in Chief than he does to have air-strikes or missile strikes, in my opinion. Those air-strikes and missile strikes are acts of war. If he deploys U.S. troops, if they go into a hostile situation, that may trigger the War Powers Act, which is a little different consideration with the Constitutional provision which authorizes only the Congress to declare war. But I do think that we in the Congress do need to consider these issues, debate them, and make decisions about them. We have the authority by restraining spending in the Department of Defense to stop the deployment of troops. I am not saying we should do it, but I think there is too much of a tendency on the part of Congress to sit back and not to make these kind of tough decisions. If things go wrong, there is always the President to blame. If things go right, we haven't impeded Presidential action.

But these raise very, very serious Constitutional issues. There is a continuing erosion. Before the President

uses force, we have a chance to intervene. If it is an emergency situation, that is different; he has to act as Commander in Chief.

But we have had ample opportunity to consider this Kosovo issue. And it is on the back burner now. But if it reappears, I will reactivate my resolution.

Mr. WARNER. Mr. President, I again commend our colleague. I thank him for recalling the history of the 1991 debate. I recall it well because I was one of the floor managers. It was legislation that I had drawn up in accordance with the directions of Senator Dole, then-leader. We had a vigorous debate for some 3 days, and it is interesting. There we had in place a half million men and women in the Armed Forces. We had seen the most atrocious form of aggression by Saddam Hussein down through the gulf region, primarily Kuwait. Yet, that debate took 3 days. And by only a mere margin of five votes did the Senate of the United States express its approval for the President of the United States, in the role as Commander in Chief, to use force in that situation.

I thank the Chair. I thank my colleague.

MORNING BUSINESS

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Members permitted to speak therein for up to 10 minutes.

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

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

RECOGNIZING THE TUKWILA SCHOOL DISTRICT'S ''NEW FRIENDS & FAMILIES'' PROGRAM

Mr. GORTON. Mr. President, today I recognize the Tukwila School District from my home state of Washington and the district's ''New Friends & Families'' program.

The Tukwila School District has seen its ethnic diversity grow by more than 1,000 percent in the last seven years. Out of the district's 2,500 pupils, 50% are students of color, 20% are enrolled in bilingual education, and all told, they speak about 30 different languages. To meet the challenge of integrating this immigrant population into the school system and the community, the Tukwila School District, the City of Tukwila, and the local Rotary Club created ''New Friends & Families.'' It is a one-night, once a year program designed to engage these hard-to-reach immigrant and refugee students and their families to make them aware of community services and to encourage parental involvement in their children's education.

Clearly, when more than 20% of Tukwila's students are unfamiliar with their new surroundings, they face a serious impediment to quality learning. The ''New Friends & Families'' program has met this challenge head on with local creativity, local initiative, and local resources. This shows that local communities know best how to deal with unique local problems. By teaming up with local government and local businesses, the school district has found innovative ways to turn its challenges into successful education.

It is programs like ''New Friends & Families'' that illustrate that local innovation works in our schools. The answer to improving our local schools is not more intrusion and red tape from Washington, DC bureaucracies but rather, more freedom and more flexibility for local educators to use federal resources to meet the unique needs of each community in teaching our kids. During last week's recess, I visited Foster High School in the Tukwila District and presented my first ''Innovation in Education Award'' to Superintendent Michael Silver in recognition of the creative work he and his district have accomplished through ''New Friends & Families.''

To recognize the importance of local communities in educating our children, I will be presenting this ''Innovation in Education Award'' once a week to recognize individuals, schools, and educational programs in Washington state that demonstrate the importance of local control in education. I will also take to the floor of the Senate every week to share with my colleagues these examples of locally driven successes in education in an effort to remind all of us working here in Washington, DC that local communities really do know best.

For the past 35 years, Washington, DC's response to crises in public education has been to create one new program after another—systematically increasing the federal role in classrooms across the country. While the federal government has a role in targeting resources to needy populations and in holding schools accountable for results, it should not tie the hands of districts like Tukwila. That only serves to stifle the local innovation that is fundamental to educational success. I have long been an advocate of local control in education and I plan to introduce legislation this spring that will transfer more control from federal agencies back to local educators where it belongs.

(The remarks of Mr. JEFFORDS and Mr. SPECTER pertaining to the introduction of S. 445 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

THIRD ANNIVERSARY OF THE TELECOMMUNICATIONS ACT OF '96

Mr. LOTT. Mr. President, the Telecommunications Act of 1996 is another year older and another year stronger. As Congress recognizes the third anniversary this month, it now becomes appropriate to reflect on some of the Act's goals and on some of its accomplishments.

First, let me remind my colleagues that the Telecommunications Act was 10 years in the making. It took time for Congress to understand exactly what was needed to reach consensus and balance among all sectors of the industry and to update America's telecommunications public policy. Congress took a deliberate path to make sure that, at the end of the day, consumers would have new and real choices. Time is still needed before passing final judgment, but clearly the Act has produced positive, tangible results.

I am proud to say that I worked closely with Senator Pressler, then the Chairman of the Commerce Committee, Senator STEVENS, Senator HOLLINGS, and others on the act. It took time, it took patience, it took compromise. But in the end, the act boldly embodied Congress' vision for competition and for choice. More choices and better choices in a new age of communication.

When the act was drafted, a number of delicate balances were struck to transform our monopolistic market into many competitive ones. The bottom line for Congress was based on a simple principle: consumers benefit from competition. As simple as this sounds, creating competition in the local telephone market is a fairly complicated process. Competitive carriers require things like collocation, dialing parity and unbundled network elements. Congress knew it would not be easy. That is why the act was structured to provide a centerpiece, a set of instructions on ways for opening the local markets to force competition.

Mr. President, the act is working. Americans are beginning to see the fruits of the seeds sown three years ago.

Many critics point to the lack of local competition or the absence of incumbent local carriers in long distance as the only way to measure or grade the bill. This is wrong. Consumer choices, new choices, and new technologies are the true tests of success.

As far as local competition goes, several state public utility commissions are working closely and collaboratively with incumbents and new entrants. A multitude of competitors have gained authority to provide local telephone service. This choice is a reality for businesses nationwide, and it will be a reality for residents too—not just for basic dial tone but for advanced services such as broadband access to the Internet. It takes significant capital and commitment to build the necessary infrastructure, but numerous companies and Wall Street are answering the challenge by investing billions of dollars to build this foundation for competition. This level of resource deployment does not happen overnight, but it is happening, and in ways Congress intended—with cable television companies revamping their

networks to provide two-way telephone service and with utilities and fixed wireless companies getting into the business. In fact, I would say this shifting of assets in under three years is a fitting testament to the act's ability to move America's telecommunications policy forward—a true commitment and investment by Wall Street.

Mr. President, I firmly believe the act's goals of local competition and consumer choices will be fulfilled, and America will be better off. The best way to ensure that investment continues is to keep the law in full force.

When the act passed in 1996, Congress also knew that it would take a while to sort out the rules to produce local competition. More importantly, Congress knew that whatever rules the FCC adopted would be challenged in court. Congress was correct on both counts. This does not mean the law is flawed. To the contrary, this reflects the complexity of the issues and the intensity of the competition. Remember, it took a decade to write the law, and it will take time to implement it. I believe, though, that the majority of Members who worked on the act understand its success cannot be measured over a one or two year period. Courtroom battles did cloud the course toward local competition. This litigation did slow the pace for customer choice, but I am pleased to report that just 2 weeks ago the Supreme Court upheld most of the FCC's local telephone interconnection rules and affirmed that the local phone companies must open their markets in a meaningful way. It is my hope that opportunities for competition will now move forward swiftly and be afforded a proper chance to flourish in the marketplace.

Mr. President, Americans today are witnessing a convergence of technologies that was but a dream in 1996. Cable lines will provide American households with local telephone service and high speed Internet access. This is good. Traditional telephone companies will offer cable video service. This is good. More Americans are using wireless phones for personal and professional convenience. This is good. More Americans have personal computers with an ever-growing range of capabilities. This is good. The Internet is exploding as a means of commerce, research, or for just saying hello to a faraway friend. This is good. Television viewing will become an interactive experience with digital transmission, enabling consumers to personalize their own video programming or to go directly to a web site. This is good.

Mr. President, all of these significant and solid activities tells me something—Congress got it right 3 years ago. Patience will lead to other applications in the future that I, and some of my other colleagues, cannot even imagine right now. Mr. President, this is the kind of communications marketplace Americans deserve.

During this continued period of transition, it will be important for Congress to make sure that the Federal Communications Commission is properly structured. That it has the right tools to foster and further the ongoing evolution. Chairman Kennard's analogy—old regulatory models are a thing of the past, much like the old, black rotary phones—rings true. The FCC indeed must change, and Congress should start empowering the FCC rather than criticizing its individual decisions.

Mr. President, the Telecommunications Act is beginning to deliver the benefits of competition to the American consumer. The process of achieving the act's central goals is well on its way. I do not believe any of us want to turn back the clock to 1996 and take away all the new technologies, new companies, and new choices that have emerged and are now coming our way. Let's not put stumbling blocks on this path to progress. Let's keep America moving forward.

TRIBUTE TO THE HONORABLE SANDRA K. STUART ASSISTANT SECRETARY OF DEFENSE FOR LEGISLATIVE AFFAIRS

Mr. LOTT. Mr. President, I would like to take this opportunity to recognize the outstanding work of the Honorable Sandra K. Stuart as the Assistant Secretary of Defense for Legislative Affairs. After nearly five years in this position, Ms. Stuart is leaving government service to pursue other opportunities in the private sector. She definitely will be be missed by many of my colleagues on both sides of the aisle.

I have enjoyed working with Ms. Stuart on a wide range of matters affecting the Department of Defense. I always found her to be extremely knowledgeable and very effective in representing the Department's views. Despite the sometimes contentious nature of national security matters, Ms. Stuart always maintained a friendly and constructive approach to her work which served our Nation very well.

Ms. Stuart had the difficult tasks of coordinating the Department of Defense's legislative agenda. She has deftly balanced a wide range of Defense-related issues, including Bosnia, missile defense, health care, readiness, acquisition reform, and modernization. Because Ms. Stuart earned the trust and confidence of those with whom she worked, she was able to promote the Department's views very effectively in Congress.

Ms. Stuart's experience with the Congress predated her current position as the Assistant Secretary of Defense for Legislative Affairs. Before joining the Department of Defense in 1993, Ms. Stuart served as Chief of Staff to Representative Vic Fazio of California who recently retired from Congress. In addition to managing his Congressional staff, Ms. Stuart handled appropriations matters before the House Committee on Appropriations.

Ms. Stuart's legislative experience also includes work as an Associate Staff Member of the House Budget Committee and as the Chief Legislative Assistant to Representative BOB MATSUI of California.

Ms. Stuart is a graduate of the University of North Carolina at Greensboro and attended the Monterey College of Law. She is the mother of two sons, Jay Stuart, Jr. and Timothy Scott Stuart. She is married to D. Michael Murray.

Ms. Stuart earned the respect of every Member of Congress and their staffs through hard work and her straightforward nature. As she now departs to share her experience and expertise in the civilian sector, I call upon my colleagues on both sides of the aisle to recognize her outstanding and dedicated public service and wish her all the very best in her new challenges.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, now that we are back to doing the people's business, it may be of interest that despite the so-call budget surplus, the federal debt continues to increase by an average of $248 million a day. Some ''surplus''!

Congress and the Administration have been BUSILY creating new federal programs which in turn appear to absorb more taxpayer money than produce desired benefits for the American people. If we continue with this spend—spend—spend mentality, the American people's average portion of the federal debt will further escalate from its present sum of $20,650.78.

With these thoughts in mind, Mr. President, I begin where I left off in the 105th Congress:

At the close of business yesterday, Monday, February 22, 1999, the federal debt stood at $5,617,212,277,099.84 (Five trillion, six hundred seventeen billion, two hundred twelve million, two hundred seventy-seven thousand, ninety-nine dollars and eighty-four cents).

Five years ago, February 22, 1994, the federal debt stood at $4,540,132,000,000 (Four trillion, five hundred forty billion, one hundred thirty-two million).

Ten years ago, February 22, 1989, the federal debt stood at $2,722,208,000,000 (Two trillion, seven hundred twenty-two billion, two hundred eight million).

Fifteen years ago, February 22, 1984, the federal debt stood at $1,454,396,000,000 (One trillion, four hundred fifty-four billion, three hundred ninety-six million).

Twenty-five years ago, February 22, 1974, the federal debt stood at $467,489,000,000 (Four hundred sixty-seven billion, four hundred eighty-nine million) which reflects a debt increase of more than $5 trillion—$5,149,723,277,099.84 (Five trillion, one hundred forty-nine billion, seven hundred twenty-three million, two hundred seventy-seven thousand, ninety-nine dollars and eighty-four cents) during the past 25 years.

COUNTLESS FRIENDS MOURN VINEGAR BEND MIZELL

Mr. HELMS. Mr. President, one doesn't lose a friend like Wilmer Mizell without experiencing a deep and penetrating sadness. And, by the way, Mr. President, my reference to ''Wilmer'' just now is one of the few times I have ever called him that. Sure, that's the name on his birth certificate; he was officially identified as Wilmer for the very good reason that Wilmer is the name given him by his parents.

At least 95 percent of his thousands of friends knew him as ''Vinegar Bend'', or sometimes as just ''Vinegar''. And everybody who knew him loved him. (He was born in Vinegar Bend, Alabama, 68 years ago.)

Vinegar Bend died this past Sunday while visiting his wife's family in Texas. He suffered a severe heart attack some weeks ago, but had bounced back and was apparently feeling well until the fatal attack on Sunday.

Vinegar Bend Mizell served three terms in the U.S. House of Representatives from 1969 through 1974. His first wife, Nancy, was exceedingly popular among Members of the House and Senate until her death several years ago. He and his second wife, Ruth Cox Mizell, were a devoted couple.

Mr. President, I have at hand a newspaper account regarding Vinegar Bend's death. I ask unanimous consent that the article, published Monday in The Greensboro (N.C.) News and Record, headed ''Former Ballplayer; N.C. Congressman Mizell Dies at 68'' be printed in the RECORD.

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

[From the Greensboro (NC) News and Record, Feb. 22, 1999]

FORMER BALLPLAYER, N.C. CONGRESSMAN MIZELL DIES AT 68

(From Staff and Wire Reports)

Wilmer ''Vinegar Bend'' Mizell spent 10 years in the majors and three terms in Congress.

HIGH POINT.—Former congressman and Major League Baseball pitcher Wilmer ''Vinegar Bend'' Mizell died Sunday while visiting his wife's family in Texas. He was 68.

Mizell, whose folksy, country-boy ways made him popular with voters in central North Carolina and with baseball fans in St. Louis and Pittsburgh, may have died from lingering effects of a heart attack suffered last October while attending a highs school football game, said his son, David Mizell who is coach at High Point Andrews High School.

David Mizell's team was playing North Davidson in Welcome, near the Midway community where Mizell has lived since the early 1950s when he pitched for the minor league team in Winston-Salem.

Mizell, after a 10-year career in the Major Leagues, became a Davidson County commissioner and then served three terms in Congress from the 5th Congressional District which included Davidson and Forsyth counties. He was defeated in 1974 by Democrat Stephen Neal, a year in which Republican candidates nationwide suffered losses in the aftermath of the Watergate scandal.

Mizell later held sub-cabinet posts in the Commerce and Agricultural departments under President Ford and Reagan. For Reagan, Mizell was the agricultural department's top lobbyist in the halls of Congress.

Mizell was known for his flat-top haircut. His nickname came from his hometown of Vinegar Bend, Ala. In the majors, Mizell pitched for the St. Louis Cardinals from 1952 until 1960 when he was traded to the Pittsburgh Pirates. He helped the Pirates win the National League pennant that year. Mizell pitched a losing game in the World Series that followed.

He finished his career with the New York Mets in 1962. His career record was 90 wins and 88 losses, with an earned run average of 3.85.

Mizell died in Kerrville, Texas, while he and his second wife, Ruth Cox Mizell, were visiting her family. Besides Midway, the couple also had a home in Alexandria, Va., David Mizell said.

Funeral services will be Thursday in Midway.

(Pursuant to the unanimous consent agreement of February 12, 1999, pertaining to the impeachment proceedings, the following statements were ordered to be printed in the Record:)

Mr. DASCHLE. Mr. Chief Justice, my colleagues, in just a few moments, each of us will be called upon to do something that no one has done in American history. We will be voting on two articles of impeachment against an elected President of the United States.

Having listened carefully to nearly 50 of our colleagues who share my point of view, it is both difficult and unnecessary to attempt to reiterate the powerful logic and the extraordinary eloquence of many of their presentations.

I share the view expressed by so many that this body must be guided by two fundamental principles. I recognize that we are not all guided by these principles, but I and others have been guided, first, by this question: Has the prosecution provided evidence beyond a reasonable doubt; and, second, if so, do the President's offenses rise to the level of gravity laid out by our founders in the Constitution?

After listening to both sides of these arguments now for the past 5 weeks, I believe—I believe strongly—that the record shows that on both principles the answer is no—no, the case has not been proven beyond a reasonable doubt, and, no, even if it had been it would not reach the impeachable level.

I also share the view expressed by many of my colleagues on the process which brought us here: an investigation by an independent counsel which exceeded the bounds of propriety; a decision by the Supreme Court subjecting sitting Presidents to civil suits—it is my prediction that every future President will be faced with legal trauma as a result—a deeply flawed proceeding in the House Judiciary Committee, which in an unprecedented fashion effectively relinquished its obligation to independently weigh the case for impeachment; the disappointing decision to deny Members of the Senate and the House the opportunity to vote on a censure resolution, even though I believe it would be supported by a majority in both Houses; and finally, the bitterly partisan nature of all the actions taken by the House of Representatives in handling this case.

But as deeply disappointed as I am with the process, it pales in comparison to the disappointment I feel toward this President. Maybe it is because I had such high expectations. Maybe it is because he holds so many dreams and aspirations that I hold about our country. Maybe it is because he is my friend. I have never been, nor ever expect to be, so bitterly disappointed again.

Abraham Lincoln may have been right when he said, ''I would rather have a full term in the Senate, a place in which I would feel more consciously able to discharge the duties required, and where there is more chance to make a reputation and less danger of losing it, than 4 years of the Presidency.''

Maybe it is because of my disappointment that I was all the more determined to help give the Senate its chance to make a reputation, as Lincoln put it, at this time in our Nation's history.

The Senate has served our country well these past 2 months. And I now have no doubt that history will so record. There are clear reasons why the Senate has succeeded in this historic challenge.

First is the manner in which the Chief Justice has presided over these hearings. We owe him a big, big debt of gratitude. He has presented his rulings with clarity and logic. He has tempered the long hours and temporary confusion with a fine wit. In an exemplary fashion, he has done his constitutional duty and has made it possible for us to do ours.

The second reason is our majority leader. Perhaps more than anyone in the Chamber, I can attest to his steadfast commitment to a trial conducted with dignity and in the national interest. He has demonstrated that differences—honest differences—on difficult issues need not be dissent, and in that end the Senate can transcend those differences and conclude a constitutional process that the country will respect, and I do.

Third is our extraordinary staff—the Chaplain, my staff in particular, Senator LOTT's staff, the floor staff, the Parliamentarians, the Sergeant at Arms, the Secretary of the Senate. They have served us proudly. Their professionalism and the quality that they have demonstrated each and every hour ought to make us all proud.

Finally, if we have been successful, it has been because of each of you—your diligence, your deportment, your thoughtful arguments on either side of these complex, vexing questions. This experience and each of you—each of you—have made me deeply proud to be a Member of the U.S. Senate.

Growing up in South Dakota, I learned so much, as many of us have, from relatives and from the people in

my hometown, and my parents especially. Something my father admonished me to do so many, many times in growing up is something I still remember so vividly today. He said, ''Never do anything that you wouldn't put your signature on.'' I thought of that twice during these proceedings—once when we signed the oath right here, and again last night when I signed the resolution for Scott Bates.

I will hear Scott Bates' voice when I hear my name called this morning. My father passed away 2 years ago. He and Scott are watching now. And I believe they will say that we have a right to put our signature on this work, on what we have done in these past 5 weeks, for with our votes today we can now turn our attention to the challenges confronting our country tomorrow. And, as we do, I hope for one thing: That we will soon see a new day in politics and political life, one filled with the same comity and spirit that I feel in the room today, one where good governance is truly good politics, one which encourages renewed participation in our political system. It is a hope based upon a fundamental belief which is now 210 years old, a belief that here in this country with this Republic we have created something very, very special, a belief so ably articulated by Thomas Paine as he wrote ''Common Sense.''

The sun will never shine on a cause of greater worth. This is not the affair of a city, a county, a province, or a kingdom, but of a continent. This is not the concern of the day, a year, or an age.

Posterity is are virtually involved in the contest, and will be more or less affected even to the end of time by the proceedings now.

So it is as we cast our votes today and begin a new tomorrow.

Each of us understands that the decision we must make is the most demanding assigned to us, as Senators, by the Constitution. The Framers did not believe it a simple matter to remove a President. They did not intend that it occur easily.

Only a certain class of offenses—treason, bribery and other high crimes and misdemeanors—could justify the President's removal. Only a supermajority—two-thirds of the Senate—could authorize it.

The Framers made as plain as they could that each Senator must judge, on all the circumstances of the case, whether the facts support this extraordinary remedy.

As I look at this case, I am compelled to consider it from beginning to end—from the circumstances under which the House fashioned and approved the articles, to the trial here in the Senate when the House pressed its arguments for conviction. And I find a case troubled from beginning to end—one marked by constitutional defects, inconsistencies in presentation, surprising concessions by the Managers against their own position, and even damage done to that position by their own witnesses.

In short, the case I have seen is one that I do not believe can bear the weight of the profound constitutional consequences it is meant to carry.

Its constitutional defects began in the House.

Rather than initiating its own investigation, and making its own findings, the House rested on the referral from Independent Counsel Kenneth Starr.

Never before has the House effectively relinquished its obligation to independently weigh the case for impeachment.

But this time it did, relinquishing that obligation to Mr. Starr.

Mr. Starr's 454-page referral became the factual record in the House. The arguments he made in that referral served almost exclusively as the basis for the articles prepared and voted by the House.

The House called no independent fact witness. The only witness was Mr. Starr. And it is telling that Mr. Starr's own ethics adviser, Professor Sam Dash, resigned his position with the Office of Independent Counsel to protest the improper role played by Mr. Starr in the impeachment process.

The House proceedings set a dangerous constitutional precedent, and the decision to follow this course has reverberated throughout the trial here in the Senate.

Because Mr. Starr carried the case in the House, the House did not develop or explain its own case until the time came to prepare for trial in the Senate. Those explanations, when they came, were replete with inconsistencies—not technical or minor inconsistencies, but rather inconsistencies that struck at the heart of their position.

On the one hand, the Managers charged the President with serious crimes. Yet, they also argued that they should not be required to prove ''beyond a reasonable doubt'' that the President committed those crimes—that they need not meet the standard that applies throughout our criminal justice system.

On the one hand, the Managers acknowledged that the House rejected an article based on President Clinton's deposition in the Jones case. Yet, throughout their presentations, including their videotaped presentation on February 6, they repeatedly relied on the President's statements in that civil deposition.

On the one hand, the Managers insisted that the record received from the House provided clear and irrefutable evidence of the President's guilt. Yet, one Manager declared that reasonable people could differ on the strength of the case, and another stated that he could not win a conviction in court based on that record.

On the one hand, the Managers originally claimed a record so clear that the House was not required to call a single fact witness—other than Mr. Starr. Yet, in the Senate, they insisted that their case depended vitally on witnesses.

In the end, the Senate authorized the deposition of witnesses, two of whom—Ms. Lewinsky and Mr. Jordan—were central to the core allegations of perjury and obstruction of justice. These were witnesses identified by the House—witnesses the Managers expected to help support their case.

This is not, however, how it turned out.

In the final blow to the case for removal brought by the Managers, those very witnesses provided the Senate with clear and compelling testimony—in the President's defense.

It cannot have escaped many of us that the defense showed more and longer segments of this testimony than the Managers who sought these witnesses in the first place.

What did Ms. Lewinsky say about the false affidavit she filed in the Jones case? That she never discussed the contents with the President. That she thought she might be able to file a truthful, but limited affidavit and still avoid testifying. That she had reasons completely independent from the President's for wanting to avoid testimony. That the President did not ask her to lie or promise her a job for her silence.

What did Ms. Lewinsky say about the return of the gifts given to her by the President? That she raised with the President whether she should turn the gifts over to Ms. Currie. That she recalls that the President may have advised her to turn them all over to the Jones lawyers. That she told an FBI agent of this advice, but it somehow was omitted from the Independent Counsel's investigative report. That six days before her White House meeting with the President, she had already made an independent decision to withhold gifts from her own lawyer.

What did Ms. Lewinsky and Mr. Jordan say about the job search for Ms. Lewinsky? That it was never connected to the preparation of her affidavit, much less conditioned on her making any false statements to a court.

What did Mr. Jordan say about any pressure placed on the companies he contacted to hire Ms. Lewinsky? That he only recommended her. That two companies he contacted would not hire her. That the third company, which did hire her, did so on the strength of an interview in which she made a strong personal impression—much like the one she made to the Managers in their first meeting with her.

These witnesses—the House's witnesses—made it impossible, I believe, for the Managers to sustain a case already weakened by a defective House process, serious inconsistencies in their arguments, and doubts about its merits that even some of the Managers themselves candidly expressed.

Surely a case for removal of the President must be stronger.

Surely a case for conviction must be strong enough to unite the Senate and the public behind the most momentous of constitutional decisions.

Surely a case to remove the President from office must be strong enough to meet the high standards established with such care by the Constitution's framers.

In requiring that the Senate remove only for ''high'' crimes and misdemeanors, the framers acted with care. As the House Judiciary Committee stated in its Watergate report 25 years ago, ''[I]mpeachment is a constitutional remedy addressed to serious offenses against the system of government.'' Its purpose is to protect our constitutional form of government, not to punish a President.

It is for this reason that the framers made clear that not all offenses by a Chief Executive are ''high'' crimes—and that even a President who may have violated the law, but not the Constitution, remains subject to criminal and civil legal process after he or she leaves office.

Whatever legal consequences may follow from this President's actions, the case made by the House Managers does not satisfy the exacting standard for removal.

For all of these reasons, I will vote to acquit on both articles.

This is my constitutional judgment about whether the Senate should remove the President from office. My personal judgment of the President's actions is something altogether different, reflecting my values and those of South Dakotans and millions of Americans.

Like them, I am extraordinarily disappointed, and angered, by the President's behavior. Since I have long considered the President a friend, my own sense of betrayal could not run more deeply.

There is no question that the President's deplorable actions should be condemned by the Senate.

I fervently hope that the Senate will do what the House would not—permit the people's elected representatives to express themselves and reflect their constituents' views on the President's conduct, for the benefit of our generation and those still to come.

So let us proceed now to a vote and resolve this constitutional task after these long and arduous months. Then the time will have come to return to the urgent work of the country.

When we do, I believe that all of us—members of the majority and members of the minority, however we choose to cast our votes—will be able to agree on this:

That in 1999, 100 Senators acted as the Constitution required, honoring their oath to do impartial justice and acting in the best interests of this country they so dearly love.

Mr. BOND. Mr. Chief Justice, my colleagues, I do not intend to give a comprehensive statement, nor do I intend to use all of the time allotted. But I feel it is very important to answer some of the points that have been raised. And let me deal with just a few of those.

When I spoke to you in a previous session here, I mentioned the cover story, and said that while the cover story was not impeachable—the cover story which was admitted by counsel for the White House—it is a framework and a context in which we judge other actions.

Objection has been made by my friends primarily on this side of the aisle that on occasion we have cited evidence where the President may not have been truthful, and we may have raised other arguments that go beyond the boundaries of the articles of impeachment as grounds for impeachment. Let me hasten to add that I hope that no one would vote for a conviction on anything other than the items set forth in article I and the items set forth in article II. If there are other activities that may bear upon or indicate a pattern of conduct, that is one thing. But we must make our decision on the basis of that which has been presented to us by the House.

On the other side, we have heard some very spirited and enthusiastic attacks on the independent counsel and on the House managers and even on the Paula Jones case itself. Let me make just a few points.

No. 1, we threw Judge ALCEE HASTINGS out of office as a judge for lying in a grand jury proceeding where he was not convicted. The objective is not to say that you can only commit perjury when a case is won or someone is convicted.

No. 2, the independent counsel got into this because the attorney general felt that there were grounds to pursue the potential violations of law by the President in the Monica Lewinsky case. And a three-judge court agreed, and the independent counsel was assigned to pursue this.

Whatever you may think about what the House did, or what the Paula Jones attorneys did, or what the independent counsel did, that is not the question before us. That can be addressed, as some of my colleagues said, if there are investigations by the Department of Justice on improper activities by the OIC. Let that proceed in its own realm. We are here to judge on the evidence before us.

As I said, we have a cover story. We have a cover story that was utilized regularly throughout by this President and by Monica Lewinsky.

Objection has been made that, while we have the clear testimony that William Jefferson Clinton never said you should lie, he never said expressly you should file a false affidavit. Well, of course, he didn't. Of course, he didn't. He is a very sophisticated, very able lawyer. And, if you are concocting a scheme to obstruct justice, you don't tell somebody who is to be part of that scheme with you that you should lie under oath, that you should file a false affidavit because those people might just get called to testify under oath at some point, as they were in this case. But Mr. Clinton didn't have to do that, because Monica Lewinsky understood very clearly that she was to stay with the cover story until she was told not to. She filed the false affidavit that he sought. He and his counsel used it in the deposition.

Why was it filed? To keep him from having to testify truthfully in the deposition. Was he surprised by it? I do not believe it has one iota of credibility to say that after he went out and procured that false affidavit, he didn't know that his attorney was going to use it, and he was not going to rely on it. He got her to do the felonious deed of filing a false affidavit so he could avoid the danger of having to lie himself in a deposition.

Mr. Clinton didn't engage in a conspiracy with his lawyer, Mr. Bennett. We hear about the one-man conspiracy. No. He foisted that on his attorney. And Mr. Bennett, when he found out about the falsity of that affidavit, had to do what no attorney ever wants to do—he had to write a letter to the judge, and say, ''Disregard it. Disregard it. I was part, inadvertently, of a scheme to defraud the court.'' And you notice he is not in the case any longer. He could not be part of that.

We know that Mr. Clinton enlisted his loyal secretary to violate the law to go pick up gifts, and she and Monica Lewinsky, once again, committed felonies to continue the story to protect the President. And the gifts wound up under Betty Currie's bed.

Mr. Clinton went to Betty Currie on a Sunday and 2 days later and told her things that he hoped she would say before the grand jury. He told his other subordinates things that he hoped they would say. He even trashed her when it appeared that she might be a hostile witness.

Ladies and gentlemen of the Senate, I suggest to you that when you have this clear-cut evidence of a scheme carried out with direct evidence, testimony of Monica Lewinsky and others, Betty Currie and his subordinates, an Audrain County jury would not have any trouble finding him guilty of tampering with a witness or obstructing justice.

Mr. SESSIONS. Mr. Chief Justice and fellow Senators, I appreciate this proceeding. And I appreciate the process we have gone through. I hope my remarks will be in the spirit of deliberation, and that some of what I say will be of value to you.

If there was a mistake made in this case, it is that we have treated this more like a piece of legislation than a trial. It probably would have been better to have just allowed the House to have a week or 8 days to present evidence and the other side present their evidence and then vote and we would have been out of here. As it is, we have been involved in the managing of it. And I have been impressed that together we have somehow gotten through it in a way that I think I can defend. It is marginal, but I think we have conducted a trial that I feel we can defend.

The impeachment came from the House so we have to have a trial and a vote, in my opinion. Judging on matters like this is not easy, but we all have had to do it. Juries make decisions like this every day. The President has to grant pardons and make appointments and remove appointments. Senators have to vote on nominations and so forth. I have had the adventure of appearing before Senators judging me on a previous occasion. And now I am in this body and the other day the Chief Justice declared that we were all a court, and I thought, ''My goodness, I am a Federal judge and a Senator, how much better can life get than that?''

Now, someone suggested that this is a political trial. But the more we make it like a real trial, the better off we are going to be and the better the people are going to like it and the more they will respect it. Our responsibility is to find the facts, apply the Constitution, the law, and the Senate precedent to those facts. And precedent is important. We should follow it unless we clearly articulate a reason to change. Unless we do so we are failing in our duty. If we want to change our precedent, we obviously have that power. But we don't come at this with a blank slate since the 1700s and Federalist 65. We have had a lot of impeachments since then, and this Senate has established some precedent during that time. I think the dialogue between Madison and Mason suggests a somewhat different view of things than Federalist 65, in the mind of many. But I would just say to you we have had impeachment trials of Judges Claiborne, Nixon and HASTINGS since then. That is our precedent, in recent years, about what we believe are our laws and how they should be interpreted.

I would say this about the case. Others may see it differently. But with regard to the obstruction article, I might have a bit of a quibble with the way the case was presented. I think there was a lot of time and effort spent on trees and not enough on the plain forest. Let me just say to you why I believe the proof of obstruction of justice is so compelling, beyond a reasonable doubt, to a moral certainty. And that is, because the President received interrogatories, he got a subpoena to a deposition, and he knew his day was coming. He knew he was going to have to tell the truth or he was going to have to tell a lie, and it wasn't going away.

He tried to avoid the day. He went all the way to the Supreme Court to try to stop that case from going forward, and the U.S. Supreme Court unanimously ruled ''No, you don't get special privileges. You have to go forward with the case.'' So, here he is having to do something. If he states he did not have a sexual relationship with Monica Lewinsky, if he files an answer to an interrogatory, which he did in December, in which he flatout stated that he had never had sex with a State or Federal employee in the last decade, that would be false. He filed such a false answer to a lawful interrogatory.

Then he is at a deposition, and what happens at the deposition? His attorney tries to keep him from being asked about Monica Lewinsky. They produce her affidavit and the attorney says that the President has seen that affidavit and had the opportunity to study it. The President testifies later in that deposition: It is ''absolutely true.'' That is when it all occurred, right there, and talking with Monica beforehand was critical because if she didn't confirm the lie he was going to tell he couldn't tell it. She wanted a job and the President got it for her. If they didn't submit the Lewinsky affidavit, the President was going to be asked those questions. If they talked about the gifts, the cat was going to be out of the bag. It is just that simple. The wrong occurred right there.

Then, when he left that deposition, he was worried. He called Betty Currie that night, right after that deposition, the same day, because he knew he had used her name and she was either going to have to back him up or he was in big trouble. So, he coached her. That is what it is all about. You can talk about the facts being anything you want to, but that is the core of this case and it is plain and it is simple for anybody to see who has eyes to see with, in my view. So I think that is a strong case. The question is whether or not, if you believe that happened, you want to remove him from office, and I would like to share a few thoughts on that.

Having been a professional prosecutor for 12 years as U.S. attorney, and I tried a lot of cases myself, I really have felt pain for Ken Starr. I had occasion to briefly get to know him. I knew that his reputation within the Department of Justice as Solicitor General was unsurpassed. He was given a responsibility by the Attorney General of the United States and a court panel to find out what the truth was. The President lied, resisted, attacked him, attacked anybody Mr. Starr dealt with, virtually, in seeking the truth. And Ken Starr gets blamed for that, and then 7 months later we find out that the President was lying all the time. He was lying all the time. And somehow this is Ken Starr's fault that he pursued the matter? I am sure he suspicioned the President was lying but it couldn't be proven until the dress appeared and then we finally got something like the truth.

Now, one of the most thunderous statements made by counsel—I am surprised it didn't make more news than it did—was the representation by White House counsel that judges hold office on good behavior.

Those of you who fight tenaciously for the independence of the judiciary, know that this is not the standard for removal of judges. The courts have gone through it in some detail. Law reviews have been written about it. Judge Harry T. Edwards, Court of Appeals for D.C. Circuit, wrote in a Michigan law review that:

> Under article II, a judge is subject to impeachment and removal only upon conviction by the Senate of treason, bribery, or other high crimes and misdemeanors.

This is because he is a civil officer. The President, Vice President and Judges are civil officers of the United States. There is only one standard for impeachment.

The Constitution is a marvelous document. We respect it. To do so, we must enforce it as it is written. It says that civil officers, judges are removed for only those offenses. There are no distinctions between the President and judges. Just because one official is elected and one is not elected, one's term is shorter, or there are more judges than Presidents—makes no difference—that is not what the Constitution says. They face the same standard for impeachment.

I really believe we are making a serious legal mistake if we suggest otherwise. If the standard is the same, then we have a problem, because we removed a bunch of judges for perjury.

Of course, a President gets elected, but the President holds office subject to the Constitution. One of the limitations on your office as an elected official is don't commit a high crime or misdemeanor and if you commit a high crime or misdemeanor, you are to be removed. I don't think there is a lot of give in this, frankly.

With regard to precedent, precedent is important because it helps us be objective, less political, less personal and do justice fairer. That is what the Anglo-American common law is all about. Judges have established precedent, and judges tend to follow that precedent unless there is a strong reason not to. This is important for the rule of law.

Perjury and its twin, obstruction of justice, do amount to impeachable crimes and our precedent in the Judge Nixon case proves that. I believe we set a good standard in that case, finding that perjury is a high crime, clearly, and we ought to stay with this standard.

Some have argued that the House Judiciary Committee on the President Nixon matter declared that tax evasion was not an impeachable offense because it was not directly related to one of the President's duties. I don't think that is clear at all. As a matter of fact, as I recall a few House Members and minority Members signed a statement to that effect. But let me ask you this, and think about this, if a minority on the House Judiciary Committee voted on something, or Gerald Ford said something when he was in the House about impeachment, such is not precedent for the U.S. Senate. It is our precedent that counts. It is the precedent established by Judge HASTINGS, Judge Nixon, and Judge Claiborne that we ought to be concerned about.

I do not believe the Constitution says that the standard for removal is whether somebody is a danger to the Republic's future. The Constitution says if you commit bribery, treason, or other high crimes or misdemeanors, you are out, unless there are some mitigating circumstance somebody can find, but the test is not whether or not the official is going to continue to do the crime in the future. What if it is a one-time bribery that is never again going to happen. Mr. Ruff advocated the ''danger'' standard, and it really disturbed me because it is not in the Constitution.

If we were to reject the standard we use for judges for impeachment, I do believe that would mean a lowering of our standards. We will not be holding the President to the same standards we are holding the judges in this country, and I don't think the Constitution justifies a dual standard.

As a prosecutor who has been in the courtroom a lot, I am not as cynical as some have suggested today about the law. I have been in grand juries hundreds of times—thousands really. I have tried hundreds of cases. I have seen witnesses personally. I have been with them before they testified and have seen them agonize over their testimony. I know people who file their tax returns and pay more taxes than they want to, voluntarily, because they are men and women of integrity. I have seen it in grand juries. I have seen people cry because they did not want to tell the truth, but they told it. They filed motions to object to testifying, but when it came right down to it, they told the truth.

I believe truth is a serious thing. Truth is real and falsehood is real. This is, in my view, a created universe and we have a moral order and when we deny the truth we violate the moral order and bad things happen. Truth is one of the highest ideals of Western civilization commitment to it defines us as a people. As Senator KYL said, you will never have justice in a court of law if people don't tell the truth.

So this is a big deal with me. I have had that lecture with a lot of people who were about to testify. I believe we ought not to dismiss this lightly.

There was a poignant story about Dr. Battalino and her conviction for lying about a one-time sex act and the losses she suffered. Let me tell you this personal story, and I will finish.

I was U.S. attorney. The new police chief had come to Mobile. He was a strong and aggressive leader from Detroit. He was an African-American. He shook up the department, established community-based policing, and caused a lot of controversy. A group of police officers sued him. His driver, a young police officer, testified in a deposition that the chief had asked him to bug other police officers illegally. Not only that, he said, ''I've got a tape of the chief telling me to bug.''

It leaked to the newspapers, all in the newspapers. They wanted to fire the chief. The FBI was called because it is illegal to bug somebody if there is not a consenting person in the room.

It is different with Linda Tripp. Let me just explain the law. If you can remember and testify to what you hear in conversation, you can record that conversation and play it later under law of virtually every State in America. Maryland apparently is different.

Here, the driver's action would be illegal. Anyway, the young officer finally, under pressure of the FBI, confessed. The lawsuit hadn't ended. The civil suit was still going on. He went back and changed his deposition and recanted. His lawyer came to me and said, ''Don't prosecute him, JEFF. He's sorry. He finally told the truth. He went back. The case wasn't over.''

We prosecuted him. I felt like he had disrupted the city, caused great turmoil and violated his oath as a police officer, and that we could not just ignore that. The case was prosecuted. He was convicted, and it was affirmed on appeal.

Mr. COVERDELL. Mr. Chief Justice and fellow colleagues, in the Capitol's Mansfield Room where our Conference has met over the last few weeks, there is a picture of our first president—George Washington—who celebrates a birthday this Monday. I was reminded that, from childhood through adulthood, George Washington carried around with him a copy of the Rules of Civility. The rules could be seen as a roadmap of how one should conduct himself or herself appropriately in society. As the Senate began its course through uncharted waters, civility has been our goal, if not our duty. We have done our best to work together, to be respectful of each other's views and to do justice according to the Constitution. Had we not started with this goal in mind, I fear the debate would have quickly descended into rancor doing a disservice to our Nation.

In the next few minutes, I want to explain how this trial unfolded for me, as well as the rationale behind some of the votes I've cast, including on the Articles of Impeachment.

When the historians write their accounts of the impeachment trial of William Jefferson Clinton, I trust that, regardless of where one comes down on the facts of the case, they will agree that the Senate did it right. We conducted a trial that was fair to all sides, correct according to the Constitution and expeditious in accordance with the wishes of the American people. We also did our best to conduct our deliberations on a bipartisan basis.

We began this process by taking a second and most solemn oath of office: to do impartial justice. For me, as a Senator, I can think of no more somber and important a constitutional duty than the one that was given us. Our first task was to draft a blueprint of how we would proceed in the trial. We met in closed session in the Old Senate Chamber where the discussions were civil, respectful and frank on both sides. In the end, it was Senator GRAMM of Texas, joined by Senator KENNEDY of Massachusetts, two opposite sides of the political spectrum, that led us to a unanimous bipartisan agreement on how to proceed. The support of all 100 Senators was important because it opened the door to a trial that was conducted in a professional and judicious manner and without the discord that so many of the Washington wisemen had predicted.

After hearing the opening arguments made by both sides, Senator ROBERT BYRD offered a motion to dismiss the case against the President. If successful, this would have been the first dismissal of an impeachment trial in our Nation's history.

My vote against this dismissal motion was premised on my sworn Constitutional obligation to hear the facts and evidence, and consider the law before I rendered a decision on whether the Articles warranted the President's conviction and removal from office. Indeed, this was part of the oath we took—to do impartial justice. The Senate would not have been able to render a fair and correct judgment on the Articles without receiving and objectively assessing the wealth of evidence presented by the House of Representatives and the White House. In short, dismissal was premature and inappropriate.

Consistent with our duty to consider all the evidence fully, I supported an effort to allow both the House Managers and the White House the opportunity to depose a limited number of key witnesses to resolve inconsistencies in testimony. After reviewing the depositions, I supported a bipartisan motion to make all of this information—both the videotapes and written transcripts—part of the permanent record so that each and every American could examine the evidence and draw their own conclusions. I also voted to allow both the House Managers and the White House to use the videotaped deposition testimony on the floor of the Senate.

Although I did support deposing a limited number of witnesses, I did not support an attempt to allow Ms. Lewinsky to testify as a live witness on the floor of the Senate. In my judgment, we provided the House Managers a more than adequate opportunity to present their case: allowing for witnesses to be deposed, for House Managers to ask any questions necessary to resolve inconsistencies in testimony and to allow any portion of these tapes to be used on the floor to argue the case against the President. Consequently, I thought it inappropriate and unnecessary for Ms. Lewinsky to testify on the Senate floor. Seventy Senators felt similarly on this issue.

The presentation with videotaped excerpts, rather than live witnesses, allowed both sides to make their arguments cogently. In my opinion, witnesses questioned on the floor, under a time agreement, would have made for a

more fragmented process—objections by counsel would have disrupted the flow of presentations considerably. I believe that our decision to exclude live witness testimony was appropriate, fair and improved the nature of closing arguments.

It is the same sense of obligation and a desire to maintain decorum that guided me in my vote to uphold the Senate's time-tested tradition of deliberating impeachment trials in private. Opening the doors of the Senate during these final deliberations would have been a tragic mistake that would ignore years of precedent on this issue. For 2,600 years, since the ancient Athenian lawgiver Solon, trials have been open and jury deliberations have been private. Throughout our own history in every courthouse in America, we have open trials, we have public evidence, we have public witnesses, but when the jury deliberates, it meets in private. Jury deliberations are held in private for the protection of all parties, and to ensure for a frank and open discussion of the evidence.

Private jury deliberations have also been part of the Senate rules for 130 years. Some argue that these rules are outdated and need to be revised. However, in 1974 and 1986, when the Senate had an opportunity to vote on changes to these rules, it chose to leave intact the precedent that the deliberations should remain closed.

Our private deliberations have promoted civil discussion on this grave matter of impeachment. Some of the most profound and thoughtful statements I've heard have come during these private meetings—where the absence of cameras has had the effect of turning politicians into statesmen. These private deliberations set a tone of civility and allowed the healing process to begin.

After hearing all evidence and deliberations, at the end, I voted for both impeachment articles. Setting all the legal contortions aside, as vote against the Articles, or to acquit, would be to ratify that there are two sets of law in our country—one set for our citizens, and another for the President of the United States. This is a conclusion I could not reach or support. Therefore, my vote on both Articles says in the simplest terms that no American is above the law and there must be one law that applies to us all.

Today's outcome should be a surprise to no one. From the beginning, our two parties approached this issue in fundamentally different ways. While Democrats and Republicans agree that President Clinton committed very serious offenses, the disagreement is over whether or not these issues rise to the level that he should be removed from office. To some extent, the die had been cast when the Democrat Party decided to rally around the President. Like President Nixon's fate was sealed when his party fell against him, President Clinton's presidency was secured by his party's allegiance.

My hope is that no future Senate will ever be required to consider Articles of Impeachment against the President of the United States. But, if they do, I have every confidence that we have left behind an appropriate roadmap for them to fulfill their constitutional responsibilities. I am proud of the Senate and its Members. The Senate should be proud of the way it has conducted itself: we have done our jobs right by being fair to all parties, correct according to the Constitution and expeditious in accordance with the wishes of the American people.

In conclusion, I would like to thank the leaders on both sides. In particular, I would like to single out Senator LOTT for his leadership—this has clearly been one of his finest hours as our Majority Leader.

I yield the floor.

Mr. HATCH. Mr. Chief Justice and distinguished Senators, Daniel Webster once observed that a ''sense of duty pursues us ever. It is omnipresent like the Deity. If we take to ourselves the wings of morning, and dwell in the uttermost parts of the sea, duty performed or duty violated is still with us. . . .'' The duty which has faced each United States Senator is the obligation to do impartial justice in a matter of significant historical import with lasting consequences for our constitutional order—the consideration of the impeachment articles against President William Jefferson Clinton.

Our duty calls on us to answer a serious question—whether the President's actions warrant his removal from office. Fundamentally, in arriving at our individual decisions, we must consider what is in the best interests of the American people. The President engaged in conduct, that even his defenders recognize, was reprehensible and wrong. A bipartisan majority of the House also found that he committed serious, impeachable crimes.

So, the test for the Senate must be to do what's in the best interest of our nation. It is not a matter of what is easiest or cleanest. It is a matter of what is in the immediate and long term national interest. This has been, and it will continue to be, a subjective and difficult standard and one which I will discuss in greater detail later in my remarks.

First, however, I wish to speak on the Senate's procedural responsibility when sitting as a Court of Impeachment, the constitutional law concerning impeachable offenses, and the Articles of Impeachment at issue in the present case; finally, I will conclude with a discussion of whether—assuming the facts alleged have been proven—the best interests of the country would be served by removing President Clinton from office.

I. THE SENATE'S ROLE

Let me begin by explaining what the role of the Senate is in the impeachment process.

Simply put, the Senate's role in the impeachment process is to try all impeachments. As Joseph Story wrote:

> The power [to try impeachments] has been wisely deposited with the Senate. . . . That of all the departments of the government, 'none will be found more suitable to exercise this peculiar jurisdiction than the Senate.' . . . Precluded from ever becoming accusers themselves, it is their duty not to lend themselves to the animosities of party, or the prejudices against individuals, which may sometimes unconsciously induce'' the other body. In serving as the tribunal for impeachments, we must strive to attain and demonstrate impartiality, integrity, intelligence and independence. If we fail to do so, the trial and our judgment will be flawed.—Joseph Story, Commentaries on the Constitution of the United States, Section 386.

In short, impeachment trials require Senators to act, wherever possible, with principled political neutrality. One question I have repeatedly asked myself during this scandal—when faced with questions concerning the interpretation of the relevant law, the process, the calls for resignation, or forgiveness—has been whether I would have taken the same position were this a Republican President. I have done this throughout the past year I and expect many of my colleagues have done the same.

In 1993, the Supreme Court ruled in the case of United States versus Nixon that the process by which the Senate tries impeachments was nonjusticiable. As a result of the Nixon decision, the Senate has a heightened constitutional obligation in impeachment cases. As constitutional scholar Michael Gerhardt notes in his 1996 book, The Federal Impeachment process, ''Congress may make constitutional law—that is, make judgments about the scope and meaning of its constitutionally authorized impeachment function—subject to change only if Congress later changes its mind or by constitutional amendment. Thus, Nixon raised an issue about Congress's ability, in the absence of judicial review, to make reasonably principled constitutional decisions.''

I believe the Senate has conducted this trial in a fair manner and that we have made principled constitutional decisions. I want to commend my colleagues on both sides of the aisle—in particular the Majority Leader, TRENT LOTT—for the impartial and proficient manner in which we have conducted our constitutional obligation.

At the core of our deliberations was the tension between, on the one hand, our shared interest in putting this matter behind us and getting on with the Nation's business, and, on the other hand, our interest in affording the President, and the weighty matter of impeachment, that process which is due and fair. While there are decisions the Senate reached with which I differed, I want to make clear my view that the Senate has ably balanced these competing interests. A fair and full trial that we were once told would take one year has been completed in less than six weeks. The credit for this process rests with every Member of the Senate, with the House Managers, counsel for the President, and the Chief Justice.

II. THE IMPEACHMENT STANDARD

Of great concern to me is what the standard should be for impeachment in this and future trials. The President's Counsel has argued that the President can only be removed for constituting, what Oliver Wendell Holmes termed in free speech cases, a ''clear and present danger.'' It was contended that a President can only be removed if he is a danger to the Constitution. As such, according to the President's Counsel, removable conduct must relate to egregious conduct related to performance in office. Even if the House's allegation—that President Clinton committed acts of perjury and obstruction of justice is proven true—it was argued—than such behavior does not rise to impeachable offenses because it was private, not public, conduct. In this case an inappropriate sexual relation with a subordinate employee—was the predicate of the charged offenses.

But such a standard establishes an impossibly high bar as to render impotent the impeachment clauses of the Constitution. I hope that no matter the outcome of this trial, President Clinton's view of what constitutes an impeachable offense does not become precedent. If it does, I fear the moral framework of our Republic will be frayed. If it does, the legitimacy of our institutions may very well become tattered. It would create the paradox of being able to convict and jail an official for committing, let's say, homicide, but not to be able to remove that official from holding positions of public trust. Committing crimes of moral turpitude, such as perjury and obstruction of justice, go to the very heart of qualification for public office.

The overwhelming consensus of both legal and historical scholars is that the Constitution mandates the removal of the ''President, Vice President, and all civil Officers of the United States''—which includes federal judges—''upon impeachment by the House and conviction by the Senate of ''treason, bribery or other high crimes and misdemeanors.'' (U.S. Const. Art. II. Sec. 4). The precise meaning of this latter clause is critical to the outcome of the impeachment trial.

The President's advocates agree with their critics that this standard is the sole standard for presidential impeachment, but contend that the ''or other'' phrase indicates that grounds for impeachment must be criminal in nature because treason and bribery are crimes or acts committed against the state.

Such crimes or acts must be heinous, they contend, because the term ''crimes and misdemeanors'' is preceded by the descriptive adjective ''high'' in the impeachment clause. These advocates also claim that there exists no proof of criminal wrongdoing, that we have evidence of only a private affair unrelated to performance in public office, and that abuse of power related to official conduct—not present here—is a prerequisite for impeachment.

Many learned scholars oppose this view. Looking at the debates in the Constitutional Convention in Philadelphia in 1787, they note that the Convention originally chose treason and bribery as the sole standard for impeachment. George Mason argued that this standard was too stringent and advocated that ''maladministration'' be added to the list. James Madison objected, believing that no coherent definition of ''maladministration'' existed and that such a lenient standard would make the President a pawn of the Senate. The Convention, as a result, settled on the phrase ''treason, bribery or other high crime or misdemeanor.'' It is clear that the phrase ''high crimes and misdemeanors'' was considered by the Framers to have a more narrow and specific meaning and, indeed, it is a term taken from English precedent.

Accordingly, many scholars, including Raoul Berger, the dean of impeachment scholars (Impeachment: the Constitutional Problems (1973)), contend that the phrase ''high crimes and misdemeanors'' is a common law term of art that reaches both private and public behavior. Treason and bribery are acts that harm society in that they constitute a corruption on the body politic. Consequently, ''other high crimes and misdemeanors'' encompasses similar acts of corruption or betrayals of trust, and need not constitute formal crimes. Indeed, Alexander Hamilton in The Federalist No. 65 makes clear that impeachment is political, not criminal, in nature and reaches conduct that goes to reputation and character. In the Seventeenth and Eighteenth Centuries the term ''misdemeanor'' refers not to a petty crime, but to bad demeanor.

History thus demonstrates that acts or conduct that demeans the integrity of the office, or harms an individual's reputation in such a way as to engender a lack of public confidence in the office holder or the political system is an impeachable offense. Justice Joseph Story, in his celebrated Commentaries on the Constitution of the United States §762 (1835), made this abundantly clear when he wrote that impeachment lies for private behavior that harms the society or demeans its institutions:

> In the first place, the nature of the functions to be performed: The offences, to which the power of impeachment has been, and is ordinarily applied, as a remedy, are of a political character. Not but that crimes of a strictly legal character fall within the scope of the power, (for, as we shall presently see, treason, bribery, and other high crimes and misdemeanors are expressly within it;) but that it has a more enlarged operation, and reaches, what are aptly termed, political offenses, growing out of personal misconduct, or gross neglect, or usurpation, or habitual disregard of the public interests, in the discharge of the duties of political office.

Even though the Framers rejected the English model of impeachment as a form of punishment and promulgated removal as the remedy for conviction, most scholars contend that the Framers looked to English precedent to define ''high crimes and misdemeanors.'' There is a wealth of evidence that a betrayal of public trust or reckless conduct that places a high office in disrepute constitutes ''high misdemeanors.'' The modifier ''high'' refers to acts against the state or commonwealth. In the eighteenth century, the term ''political'' also encompassed our modern term of ''social.'' So conduct that harmed society as a whole, or denigrated the public respect and confidence in governmental institutions, constituted ''high crimes and misdemeanors.''

As such, both English and American officials have been impeached for drunkenness, for frequenting prostitutes, even for insanity, in other words private conduct that is unrelated to official acts. Such behavior is seen as defaming the office that the accused held and diminishing the people's faith in government. Impeachment is thus seen by many scholars as a means of removing unqualified office holders.

Thus, impeachment and removal does not have to be predicated upon commission of a crime. Consequently, impeachment and removal is not in essentially a criminal punishment, a conclusion that is also textually demonstrated by the fact that the Framers expressly provided for later indictment and criminal conviction of an impeached and removed President.

A high crime and misdeameanor—according to this view—does not have to amount to a crime or be related to official conduct. Even if President Clinton's acts of perjury were predicated upon lying about a private sexual relation, they still must be considered high crimes and misdemeanors. The fact that the underlying behavior was private in its genesis is irrelevant. Such private acts demean the Office of the President, and betray public trust. Those acts therefore are impeachable.

But I must emphasize that even if the President's Counsel is correct in that private acts unrelated to performance in office are not impeachable offenses, I believe the gravamen of what President Clinton committed are public, not private, acts that are unambiguous breaches of public trust. Perjury and particularly obstruction of justice are conduct that attack the very veracity of our justice system. (Furthermore, I vehemently disagree that the underlying conduct was a purely private concern because the conduct involved a federal employee in a work environment).

Lying under oath, hiding evidence, and tampering with witnesses destroy the truth-finding function of our investigatory and trial system. Perjury and obstruction of justice are particularly pernicious if committed by a President of the United States, who has sworn pursuant to the oath of office to protect the Constitution and laws of the United States. Whether perjury and obstruction of justice can be considered private or public acts is of no moment.

They are twin ''high crimes'' harming the political order and requiring impeachment and removal from office.

A related argument made by the President's Counsel is that a President should be held to a less stringent standard than federal judges in impeachment trials. Because many judges have been removed for conduct unrelated to performance in office, such as Judges Clairborne and Nixon, who were convicted and removed for perjurious statements unrelated to their performance in office, the President is almost compelled to make this argument.

In essence, The President's Counsel contend that Article III's requirement that judges hold office for ''good behavior'' is not simply a description of the term of office, but a grounds for impeachment if violated. Presidents—and other civil officers—are subject to the more stringent high crimes and misdemeanor standard.

Most scholars reject this view. For instance, Michael J. Gerhardt (The Federal Impeachment Process (1996)) testified in the House Constitutional Subcommittee of the Judiciary Committee in November that the impeachment standard of high crimes and misdemeanors applies to all civil officers, including judges as well as the President. This is the sole constitutional ground for impeachment. Article III's good behavior provision for judges simply sets the duration for judicial office (lifetime unless impeached). There are simply no differing standards for judges and the President.

III. ARTICLE ONE—PERJURY

Let me now turn to the facts of this case. The House alleges in Article I that the President should be removed because he committed acts of perjury. The House alleges in Article II that the President should be removed because he obstructed and interfered with the mechanisms and duly constituted processes of the justice system.

To demonstrate why I believe it is so, it is necessary to discuss both the legal standards and how the facts meet the requirements of those standards. I will first discuss perjury, and, next, turn to obstruction of justice.

ARTICLE I OF THE IMPEACHMENT OF WILLIAM JEFFERSON CLINTON

In his conduct while President of the United States, William Jefferson Clinton, in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitutional duty to take care that the laws be faithfully executed, has willfully corrupted and manipulated the judicial process of the United States for his personal gain and exoneration, impeding the administration of justice, in that:

On August 17, 1998, William Jefferson Clinton swore to tell the truth, the whole truth, and nothing but the truth before a Federal Grand Jury of the United States. Contrary to that oath, William Jefferson Clinton willfully provided perjurious, false and misleading testimony to the grand jury.

I. STATEMENTS BEFORE THE GRAND JURY THAT CONSTITUTE PERJURY

OVERVIEW

''Whoever under oath . . . in any proceeding before or ancillary to any court or grand jury knowingly makes any false material declaration . . . shall be fined under this title or imprisoned not more than five years, or both.'' See 18 U.S.C. §1623(a). In a prosecution for perjury under 18 U.S.C. §1623(a), the prosecution must prove the following elements: (1) the declarant was under oath, (ii) the testimony was given in a proceeding before a court of the United States, (iii) the witness knowingly made, (iv) a false statement, and (v) the testimony was material. *United States* v. *Whimpy*, 531 F.2d 768 (1976). The first two elements are not at issue here because it is undisputed that President Clinton testified under oath before a Grand Jury of the United States. As the discussion below reveals, the House Managers proved the remaining elements of perjury beyond a reasonable doubt for key aspects of President Clinton's Grand Jury testimony.

A. STATEMENTS TO BETTY CURRIE ON JANUARY 18, 1998

President Clinton committed perjury before the Grand Jury when he testified falsely concerning his motivation for making five statement to Betty Currie. Hours after his deposition in the Jones case, President Clinton called his secretary Betty Currie and asked her to come to the White House the next day, January 18. See Currie 1/27/98 GJ at 65–66. On that Sunday afternoon, the President made the following five statements to Ms. Currie about Monica Lewinsky: (1) ''You were always there when she was there, right?''; (2) ''We were never really alone.''; (3) ''Monica came on to me, and I never touched her, right?''; (4) ''You can see and hear everything, right?''; and (5) ''She wanted to have sex with me, and I cannot do that.'' Id. at 71–74. President Clinton repeated these same questions and statements to Betty Currie a few days later. See BC 1/27/98 GJ at 80–81. When he discussed his deposition testimony regarding Ms. Lewinsky with Betty Currie on these two occasions, President Clinton violated Judge Wright's strict order prohibiting any discussion of the Jones deposition.

FALSITY

President Clinton lied to the Grand Jury when he testified about his motivation for making these statements. When asked before the Grand Jury about these statements to Betty Currie, the President testified that he asked these ''series of questions'' in order to ''refresh [his] memory about what the facts were.'' See WJC 8/17/98 GJ at 131. He further testified that he wanted to ''know what Betty's memory was about what she heard, what she could hear'' and that he was ''trying to get as much information as quickly as I could * * * [a]nd I was trying to figure [it] out * * * in a hurry because I knew something was up.'' See WJC 8/17/98 at 56. Immediately following extensive questioning on this issue, a different prosecutor from the Office of Independent Counsel asked the President that ''[i]f I understand your current line of testimony, you are saying that your *only* interest in speaking with Ms. Currie in the days after your deposition was to refresh your own recollection.'' (Emphasis added.) See WJC 8/17/98 GJ at 141–142. President Clinton answered: ''Yes.'' Id.

President Clinton's testimony that he was ''only'' trying to ''refresh [his] memory about what the facts were'' is perjury because a person cannot ''refresh'' his memory with statements and questions that he knows are false. Each of President Clinton's five statements to Currie is either an outright lie or extremely misleading. President Clinton knew the facts of his relationship with Ms. Lewinsky, and he knew his statements to Betty Currie were false. By definition, these false questions and statements could not have helped President Clinton accurately refresh his memory.

In addition, Betty Currie could not possibly have known the answers to some of these questions. For example, how could Betty Currie have known whether the President ever ''touched'' Ms. Lewinsky or whether Ms. Currie was ''always there when [Ms. Lewinsky] was there?'' Common sense defies the President' explanation: if one is trying to refresh his memory or gather information quickly, he does not ask questions of a person to which the person could not know the answers. The fact that Betty Currie could not have known the answers to these questions further undermines President Clinton's testimony that he was trying to refresh his memory or gather information quickly.

If the President was merely trying to refresh his recollection or gather information quickly why did he repeat these questions and statements to Currie a few days later? As the House Managers noted during the trial, instead of asking a series of specific leading questions, why didn't President Clinton ask Currie a general question about what she recalled about Ms. Lewinsky's activity at the White House? Moreover, President Clinton's blatant violation of Judge Wright's order prohibiting any discussion of the Jones deposition casts further doubt on his testimony on this issue. The President's testimony regarding his motivation for these statements is false. He did not make these statements to refresh his recollection. Rather, as the following section explains, the President made these statements to Ms. Currie in order to influence her potential testimony in the Jones suit and to influence her possible responses to the media.

KNOWINGLY

In a perjury case under 18 U.S.C. §1623, the prosecution must prove that the defendant ''knowingly'' made the false statement. Under this statute, ''knowingly'' means merely that the defendant made the false statement ''voluntarily and intentionally, and not because of mistake or accident or other innocent reason.'' *United States* v. *Fawley*, 137 F.3d 458, 469 (7th Cir. 1998); *United States* v. *Watson*, 623 F.2d 1198, (7th Cir. 1980).

The President knowingly made these false statements about his motivation for speaking to Betty Currie after his deposition. He did not make these statements by ''mistake or accident or other innocent reason.'' Rather, President Clinton lied about his motivation to conceal his true purpose in making these statements to Currie. In reality, President Clinton was attempting to corroborate his deceitful testimony in the Jones deposition with a prospective witness. When he made these statements to Currie, the President knew that she was a likely witness in the Jones case because he repeatedly referred to Currie when asked about Ms. Lewinsky by the Jones lawyers. See Clinton 1/17/98 Dep. at 58. President Clinton actually told the Jones lawyers to ''ask Betty'' in response to one question in the deposition. Id. at 64–66. In fact, Betty Currie was subpoenaed by the Jones lawyers only days after the President's deposition.

Moreover, in addition to influencing a prospective witness in the Jones suit, the President had another motivation for coaching Ms. Currie: She was a probable target of press inquiries about this controversy. In fact, a prominent reporter from Newsweek had already called Currie on January 15, 1998 and asked her about Ms. Lewinsky. See Currie 5/6/98 GJ at 120–121. The President had a motive to influence information Currie might give to the media—in addition to testimony she might give as a witness in Jones versus Clinton. The President knowingly made these statements to Ms. Currie in order to influence both her potential testimony and her possible responses to the media.

MATERIALITY

''Because the Grand Jury's function is investigative, materiality in that context is broadly construed.'' *United States* v. *Gribbon*, 984 F.2d 471 (2d Cir. 1993). Courts have consistently held that in a Grand Jury, ''a false declaration is 'material' within the meaning of [18 U.S.C.] §1623 when it has a natural effect or tendency to influence, impede or dissuade the Grand Jury from pursuing its investigation.'' *United States* v. *Kross*, 14 F.3d 751 (2d Cir. 1994).

President Clinton's false statements to the Grand Jury regarding his January conversations with Betty Currie are material to the Grand Jury's investigation of obstruction of Justice. To determine whether the President obstructed justice in the Jones case, it was critical for the Grand Jury to ascertain whether President Clinton attempted to influence the testimony of Currie, a potential witness in that case. President Clinton's statements to Currie the day after his deposition strongly indicate that he was seeking to influence her testimony. The President's false statements about his motivation for making these statements to Currie had the ''natural effect or tendency'' to ''impede or dissuade the Grand Jury from pursuing its investigation'' of obstruction of justice in the Jones case.

THE PRESIDENT'S DEFENSE

In his trial brief, the President offers only a brief defense to this perjury allegation. First, the President argues that ''Ms. Currie's testimony supports the President's assertion that he was looking for information as a result of his deposition'' when he made these statements to Currie. See President's Trial Brief at 53. As discussed earlier, however, this is implausible. A person cannot accurately gather information by making false or misleading statements to another person.

Second, in his brief, the President refers to Currie's Grand Jury testimony in which she testified that she felt no pressure to agree with the President when he made these questions and statements. See President's Trial Brief at 51–53. However, the fact that Ms. Currie testified that she did not feel pressured is completely irrelevant to whether the President committed perjury concerning these statements. President Clinton's state of mind—not Ms. Currie's—is at issue here because he is the one accused of perjury.

In sum, the House Managers proved beyond a reasonable doubt that President Clinton (1) knowingly (2) lied about his motivation for making these deceitful statements to Betty Currie (3) concerning a material matter under investigation by the Grand Jury (4) while under oath before a federal Grand Jury.

B. THE NATURE AND EXTENT OF THE PHYSICAL RELATIONSHIP WITH LEWINSKY

Another example of perjury before the Grand Jury concerns President Clinton's testimony that he did not engage in ''sexual relations'' with Ms. Lewinsky even under his alleged understanding of the definition used in the Jones case. Even under his purported interpretation of the term, however, Clinton admitted to the Grand Jury that if the person being deposed touched certain enumerated body parts of another person, then that would constitute ''sexual relations.'' See WJC 8/17/98 at 95–96. When asked if he denied engaging in such specific conduct, Clinton answered ''[t]hat's correct.'' Id.

FALSITY

President Clinton lied to the Grand Jury when he testified concerning the nature and extent of the sexual relationship. First, human nature and common sense strongly undermine President Clinton's testimony. It is undisputed that President Clinton and Ms. Lewinsky engaged in sexual activity on at least ten occasions over the course of 16 months. President Clinton's testimony to the Grand Jury that he never touched Ms. Lewinsky in certain areas with the intent to arouse is simply not believable given the nature and extent of their contact.

In addition, Ms. Lewinsky's testimony directly contradicts the President. She testified in detail repeatedly before the grand jury about each of their sexual encounters. According to Ms. Lewinsky's testimony, she and President Clinton engaged in conduct that constituted ''sexual relations'' even under the President's purported understanding of the term during 10 encounters. It is important to note that Ms. Lewinsky's testimonty about the extent of their sexual conduct occurred before the President's Grand Jury testimony made these precise sexual details important. Moreover, Ms. Lewinsky's friends, family members, and medical therapists corroborated her account by testifying to the Grand Jury that Lewinsky made near-contemporaneous statements to them that President Clinton fondled her in a variety of ways during their encounters. Finally, the fact that President Clinton lied to the American people about this tawdry affair badly undermines his implausible testimony on this issue.

KNOWINGLY

As mentioned earlier, in a perjury case under 18 U.S.C. §1623, the prosecution must prove that the defendant ''knowingly'' made the false statement. Under this statute, ''knowingly'' means merely that the defendant made the false statement ''voluntarily and intentionally, and not because of mistake or accident or other innocent reason.'' *United States* v. *Fawley*, 137 F.3d 458, 469 (7th Cir. 1998), *United States* v. *Watson*, 623 F.2d 1198 (7th Cir. 1980).

President Clinton knowingly made these false statements about the nature and extent of his sexual relationship. He did not make these statements by ''mistake or accident or other innocent reason.'' Instead, the President had a strong motive to lie about the extent of the sexual contact in order to avoid being accused of perjury in the Jones deposition. After Ms. Lewinsky's dress was discovered, President Clinton could no longer deny a sexual affair. However, because he repeatedly denied having ''sexual relations'' with Ms. Lewinsky in the Jones deposition, the President was trapped. As mentioned earlier, the President was forced to admit that fondling Ms. Lewinsky in certain ways would constitute ''sexual relations'' even under his purported interpretation of the term. Consequently, President Clinton had to deny such fondling before the Grand Jury to prevent an admission that he committed perjury in his civil deposition, despite how implausible this denial is. In summary, President Clinton committed perjury before the Grand jury by insisting that his testimony in the Jones deposition on this key matter was true.

Perhaps due to fear of being charged with perjury in the Jones deposition, President Clinton committed the more serious offense of perjury before a Grand Jury.

MATERIALITY

As mentioned earlier, ''because the Grand Jury's function is investigative, materiality in that context is broadly construed.'' *United States* v. *Gribbon*, 984 F.2d 471 (2d Cir. 1993). Courts have consistently held that in a Grand Jury, ''a false declaration is 'material' within the meaning of [18 U.S.C.] §1623 when it has a natural effect or tendency to influence, impede or dissuade the Grand Jury from pursuing its investigation.'' *United States* v. *Kross*, 14 F.3d 751 (2d Cir. 1994).

The President's false statements about the extent of his sexual conduct with Ms. Lewinsky are material to the Grand Jury's investigation of whether the President committed perjury in the Jones deposition. In an effort to determine whether President Clinton testified truthfully in his deposition, the Office of Independent Counsel questioned the President at length before the Grand Jury about the nature and extent of his sexual relationship with Ms. Lewinsky. The President's tortured definition of sexual relations makes these details material to whether he committed perjury in the Jones deposition. Simply put, if the President touched Ms. Lewinsky in certain ways, he is guilty of perjury in the Jones deposition. Obviously, President Clinton's false statements on this matter had the ''natural effect or tendency to influence, impede or dissuade the Grand Jury from pursuing its investigation'' of perjury in the Jones deposition.

THE PRESIDENT'S DEFENSE

In President Clinton's trial brief, the only rebuttal to his allegation of perjury is that ''[t]his claim comes down to an oath against an oath about immaterial details concerning an acknowledged wrongful relationship.'' See Clinton Trial Brief at 44. Even this one pithy sentence, however, is inaccurate. First, as the earlier discussion reveals, there is more evidence than an oath against an oath. Human nature and common sense badly undermine the President's testimony. In addition, Ms. Lewinsky testified in detail repeatedly before the Grand Jury about the extent of the sexual relationship, while the President reverted to his prepared statement 19 times to avoid answering specific sexual questions. Moreover, the testimony of Ms. Lewinsky's family, friends, and medical therapists provide additional evidence of the President's perjury. Finally, the fact that President Clinton lied to the entire nation about this sordid affair—and only acknowledged the affair when confronted with evidence of Ms. Lewinsky's dress—devastates his credibility on this issue.

In sum, the House Managers provide beyond a reasonable doubt that President Clinton (1) knowing (2) lied about the extent of his sexual activity with Ms. Lewinsky (3) concerning a material matter under investigation by the Grand Jury (4) while under oath before a federal Grand Jury.

OTHER LIES BEFORE THE GRAND JURY

In addition, I have concluded that President Clinton lied in other instances before the Grand Jury. While these lies might not sustain a conviction for perjury in a court of law, they are profoundly troubling nonetheless. For instance, it strongly appears that President Clinton lied to the Grand Jury when he testified that he did not believe certain acts that he and Ms. Lewinsky engaged in were covered by any of the terms and definitions used in the Jones suite. The following definition of ''Sexual Relations'' was used at the Jones deposition:

> For the purposes of this deposition, a person engages in 'sexual relations' when the person knowingly engages in or causes contact with . . . [certain enumerated body parts] of *any person* with the intent to arouse . . .'' (Emphasis added.)

Amazingly, President Clinton testified to the Grand Jury that he does not believe and did not believe at the Jones deposition that this definition includes certain acts which I will not specify. Without addressing these lurid details, Clinton interprets ''any person'' to mean ''any other person'' under the definition. There is no legal basis for him to interpret the definition in this manner.

I do not believe that President Clinton can reasonably claim this interpretation. First, under the President's interpretation, one person can engage in sexual relations, while his or her partner in the same activity is not engaged in sexual relations. Obviously, this is an implausible and absurd conclusion. Second, no reasonable person would have understood the definition in the Jones suit not to encompass the particular activity that President Clinton and Ms. Lewinsky engaged in. It is important to remember that the underlying allegation in the Jones suit concerned the same particular acts involved in the Lewinsky affair. Why would the Jones' lawyers use a definition that did not include the very conduct alleged by their client? Given this context, the President's testimony that he did not believe the definition included certain conduct is not believable.

Finally, the President had a clear motive to lie about his understanding of the definition of sexual relations. After Ms. Lewinsky's dress was discovered, the President could no longer deny his sexual affair. However, the President repeatedly denied having ''sexual relations'' with Ms. Lewinsky in the Jones deposition. President Clinton's absurd interpretation of the definition of sexual relations allowed him to admit to a sexual relationship—which he had to do given the dress—without simultaneously admitting to perjury in the Jones deposition. Because perjury is such a difficult crime to prove, I have concluded that the President might not be convicted in a court of law for perjury concerning his testimony on this issue. I am convinced, however, that President Clinton lied to the Grand Jury about this matter. While this testimony might not generate a conviction in a court of law, it was clearly contrived and is profoundly troubling.

IV. ARTICLE TWO—OBSTRUCTION OF JUSTICE

Let me now turn to the facts of the second article of impeachment alleging obstruction of justice. Article Two alleges that:

> In his conduct while President of the United States, William Jefferson Clinton, in violation of his oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitutional duty to take care that the laws be faithfully executed, has prevented, obstructed, and impeded the administration of justice, and has to that end engaged personally, and through his subordinates and agents, in a course of conduct or scheme designed to delay, impede, cover up, and conceal the existence of evidence and testimony related to a Federal civil rights action brought against him in a duly instituted judicial proceeding.

In order to determine whether the President has engaged in the type of acts charged, it is important that the law be first addressed in order to guide us in understanding how the facts relate to the violations alleged.

A. The Law of Obstruction of Justice:

1. 18 U.S.C. §1503:

The Federal obstruction of justice statute punishes ''[w]hoever . . . corruptly . . . influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice.'' 18 U.S.C.A. §1503(a). Known as the ''omnibus clause,'' §1503(a) ''clearly forbids all corrupt endeavors to obstruct or impede the due administration of justice,'' *United States* v. *Williams*, 874 F.2d 968, 976 (5th Cir. 1989), which is defined as ''the performance of acts required by law in the discharge of duties such as appearing as a witness and giving truthful testimony when subpoenaed.'' *United States* v. *Partin*, 552 F.2d 621, 641 (5th Cir. 1977). The statute has alternatively been interpreted as forbidding ''interferences with . . . judicial procedure'' and aiming ''to prevent a miscarriage of justice.'' *United States* v. *Silverman*, 745 F.2d 1386, 1398 (11th Cir. 1984).

''There are three core elements that the government must establish to prove a violation of the omnibus clause of section 1503: (1) there must be a pending judicial proceeding; (2) the defendant must have knowledge or notice of the pending proceeding; and (3) the defendant must have acted corruptly with the specific intent to obstruct or impede the proceeding in its due administration of justice.'' *United States* v. *Williams*, 874 F2d 968, 976 (5th Cir. 1989). Accord *United States* v. *Grubb*, 11 F.3d 426, 437 (4th Cir. 1993) (adding the word ''influence'' to the terms ''obstruct or impede'' in the intent element).

The purpose of the statute, according to the Supreme Court is not directed at the success of the corruptive effort, ''but at the 'endeavor' to do so.'' *United States* v. *Russell*, 255 U.S. 138, 143 (1921) (opining that the word ''endeavor'' was used instead of ''attempt'' in order to avoid the technical distinctions between attempts, which are punishable, and preparation for attempts, which are not). See also *United States* v. *Aguilar* 515 U.S. 593, 599 (1995) (holding that while the endeavor must have the 'natural and probable effect' of interfering with the due administration of justice, the defendant's actions need not be successful, citing Russell).

2. 18 U.S.C. §1512.

The statute criminalizing witness tampering prohibits, inter alia, the use or attempted use of corrupt persuasion or misleading conduct with the intent of influencing delaying, or preventing testimony in an official proceeding, causing a person to withhold testimony or documentary evidence, alter or destroy physical evidence, evade legal process, or be absent from an official proceeding to which such person has been legally summoned. 18 U.S.C. §1512(b). ''To sustain its burden of proof for the crime of tampering with a witness . . . the Government must prove . . . that the [d]efendant knowingly, corruptly persuaded or attempted to corruptly persuade . . . a witness; and second, that the [d]efendant . . . did so intending to influence the testimony of [that witness] at the [g]rand [j]ury proceeding.'' *United States* v. *Thompson*, 76 F.3d 442, 452–453 (2d Cir. 1996).

The witness tampering statute's prohibition of corruptly persuading someone with intent to ''influence, delay, or prevent the testimony of any person in an official proceeding,'' has been interpreted to mean exhorting a person to violate his legal duty to testify truthfully in court. *United States* v. *Morrison*, 98 F.3d 619, 630 (D.C. Cir. 1996) (rejecting defendant's argument that a simple request to testify falsely was outside the scope of §1512(b)), cert. denied, 117 S.Ct. 1279 (1997). As the Second Circuit explained: ''Section 1512(b) does not prohibit all persuasion but only that which is 'corrupt.' The inclusion of the qualifying term 'corrupt' means that the government must prove that the defendant's attempts to persuade were motivated by an improper purpose to . . . . A prohibition against corrupt acts 'is clearly limited to . . . constitutionally unprotected and purportedly illicit activity.' *United States* v. *Thompson* 76 F.3d 442, 452 (2d Cir. 1996) (quoting *United States* v. *Jeter*, 775 F2d 670, 679 (6th Cir. 1985)).

Apart from corrupt persuasion with intent to influence a person's testimony, §1512(b) proscribes engaging in misleading conduct with intent to influence such testimony. 18 U.S.C. §1512(b)(1). As one court described it, ''[t]he most obvious example of a section 1512 violation may be the situation where a defendant tells a potential witness a false story as if the story were true, intending that the witness believe the story and testify to it before the grand jury. *United States* v. *Rodolitz*, 786 F.2d 77, 81–82 (2d Cir. 1986).

Some courts have interpreted conduct that was not misleading to the person at whom it was directed, even if it was intended to misled the government, as outside the scope of §1512. See e.g. *United States* v. *King*, 762 F.2d 232, 237–238 (2d Cir. 1985). However, the Rodolitz court distinguished the facts in King, where there was insufficient evidence that the witness was actually misled, from the situation where the declarant makes false statements to a witness who is ignorant of their falsity. See *Rodolitz*, 786 F2d at 81–82 (''In giving the statutory language its fair meaning, the court must find that making false statements to convince another to lie falls squarely within the definition of 'engaging in misleading conduct toward another person' under section 1512.'').

The witness tampering statute explicitly states that ''an official proceeding need not be pending or about to be instituted at the time of the offense.'' 18 U.S.C. §1512(e)(1). However, courts have implied some state of mind element. E.g. *United States* v. *Kelly*, 36 F.3d 1118, 1128 (D.C.Cir. 1994) (''It therefore follows that §1512 does not require explicit proof of [defendant's] knowledge . . . that such proceedings were pending or were about to be instituted. . . . The statute only requires that the jury be able reasonably to infer from the circumstances that [defendant], fearing that a grand jury proceeding had been or might be instituted, corruptly persuaded persons with the intent to influcence their possible testimony in such a proceeding.'')

B. The Facts Related to Obstruction of Justice.

1. Subparts (1) and (2) of Article II:

In Subpart (1) of Article II, it is averred that:

On or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a federal civil action brought against him to execute a sworn affidavit in that proceeding that he knew to be perjurious, false and misleading.

Subpart (2) alleges that:

On or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action brought against him to give perjurious, false and misleading testimony if and when called to testify personally in that proceeding.

Subparts (1) and (2) are flip sides of the same coin. In essence, the two subparts charge that the President's 2:30 a.m. phone call to Ms. Lewinsky on December 17, 1997, informing her of her presence on a witness list in the Jones case was designed to encourage her to provide a false affidavit in the case to avoid testifying, or failing that, that she give false testimony hiding the true nature of their relationship. What does the evidence show?

It should be recalled that the presence of Ms. Lewinsky's name on the Jones witness list first came to the attention of the President no later than December 17, 1997. See WJC 8/17/98 at 83–84. He was certainly aware of the true nature of their relationship, and it can be inferred that he knew that knowledge of the existence of that relationship would be detrimental to his case. It is also known that a cover story had been developed earlier to hide the relationship from others that included the false representation that Ms. Lewinsky's visits to the oval office were for the purpose of bringing the President papers or to visit Ms. Currie. See WJC 8/17/98 at 83–84.

Ms. Lewinsky testified that in the same 2:30 a.m. conversation in which he informed her of the presence of her name on the witness list, the President told her that she could always say she was bringing him papers or visiting Ms. Currie, consistent with their previous cover series. See ML 2/1/99 at CONG. REC. S1219. Ms. Lewinsky and the attorneys for the President have argued that since Ms. Lewinsky did in fact ''see'' Ms. Currie on those visits to the President and since she was ''carrying'' papers, that story was not untruthful and therefore could not have been designed to obstruct justice. However, that rationale defies logic and common sense.

In the first place, the purpose of the visits was not to see Ms. Currie. Secondly, the papers she carried were just props, not to be handed over to the President, but to falsely characterized as papers for the President if questioned. Therefore, were she to testify in a deposition that the purpose of her trips to the Oval Office to visit the President were actually to deliver papers or visit Ms. Currie, those would be false representations. The creation of a cover story followed by actions consistent with that cover story do not make the story any more truthful. Therefore, the President's instruction to her to rely on the cover story is in fact an instruction to her to lie.

Other evidence supports this conclusion, not the least of which is the affidavit filed by Ms. Lewinsky in the case after those discussions with the President took place, an affidavit she herself later testified as being false. How else could she have characterized it? In that affidavit, Ms. Lewinsky stated that she ''never had a sexual relationship with the President.'' This was false. She swore that ''[t]he occasions I saw the President after I left my employment at the White House in April, 1996, were official receiptions, formal functions or events related to the U.S. Department of Defense, where I was working at the time. There were other people present on those occasions.'' This statement too was false. She also averred that ''I do not possess any information that could possibly be relevant to the allegations made by Paula Jones or lead to admissible evidence in this case.'' Once again, this statement

was false, as the President was aware, since he knew of the gifts he had given to Ms. Lewinsky. See WJC 8/17/98 at 32–35.

The President repeatedly said that he thought that Ms. Lewinsky ''could,'' and he emphasizes the word ''could,'' have been able to draft a narrow truthful affidavit. See WJC 8/17/98 at 69, 116–17. The problem is that although she ''could'' have been able to draft such an affidavit, the end product was not a truthful affidavit. Thus the President's intentional failure to prevent his attorney from using that false affidavit at his deposition provides further evidence of his corrupt intention during the December 17, 1997, phone call to Ms. Lewinsky.

Given these facts, the House has proven beyond a reasonable doubt that the President endeavored to corruptly influence the affidavit and potential testimony of Ms. Lewinsky in his December 17, 1997, 2:30 a.m. call to her.

2. Subpart (3) of Article II:

In Subpart (3), it is alleged that:

On or about December 28, 1997, William Jefferson Clinton corruptly engaged in, encouraged, or supported a scheme to conceal evidence that had been subpoenaed in a Federal civil rights action brought against him.

This allegation relates to the obstruction of justice by Ms. Lewinsky and Ms. Currie in hiding gifts provided to Ms. Lewinsky by the President under the bed of Ms. Currie. The only question that needs to be answered here in whether the President participated in that effort.

What does the evidence show? By December 28, 1997, Ms. Lewinsky had been subpoenaed to appear as a witness in the Jones case. In addition to demanding her appearance to testify, the subpoena also required that Ms. Lewinsky turn over any gifts given to her by the President. See ML 2/1/99 at CONG. REC. S1221. Under the pretense of meeting with Ms. Currie, Ms. Lewinsky went to the White House on Sunday, December 28, 1997, to discuss her subpoena with the President. Now at the time of that visit, there is no indication that the President was aware that particular items had been subpoenaed by the Jones lawyers from Ms. Lewinsky. Without the benefit of that information, the President freely gave Ms. Lewinsky a number of additional gifts. See ML 2/1/99 at CONG. REC. S1224. So when Ms. Lewinsky informed the President of that fact, one can infer that he must have been at the very least, surprised, and probably, somewhat troubled. When asked by Ms. Lewinsky at that meeting whether she should hide the gifts or give them to someone else like Ms. Currie for safekeeping, the President either failed to respond or said he needed to think about it. See ML 2/1/99 at CONG. REC. S1224.

Ms. Lewinsky testified that she left the White House and later received a phone call from Ms. Currie stating that she understood Ms. Lewinsky had something for her, or, the President said you have something for me. Ms. Lewinsky immediately understood that statement by Ms. Currie to refer to the gifts from the President she had discussed with him earlier in the day. See ML 2/1/99 at CONG. REC. S1225. She then proceeded to gather up all those gifts. However, according to Ms. Lewinsky, she unilaterally withheld some of those gifts from Ms. Currie which were of sentimental value to her.

The President's first defense to this allegation is based upon a minor discrepancy in Ms. Lewinsky's testimony concerning the time that the gifts were retrieved by Ms. Currie. The argument is that if Ms. Lewinsky was mistaken by one and one half hours in her recollection of when the gifts were retrieved by Ms. Currie, then her recollection of who initiated the retrieval is also suspect. See Statement of Cheryl Mills 1/20/99 at CONG. REC. S826–27.

This is a red herring. The timing itself is unimportant. What is important is the fact that the call came from Ms. Currie. See ML 2/1/99 at CONG. REC. S1225. Ms. Currie's cell phone records tend to support the notion that Ms. Lewinsky's memory is accurate as to who called whom about the gifts. After all, the only way that Ms. Currie would have known about the gifts and made the call is if the other party to those discussions, the President, apprised her of that conversation and asked her to pick up the gifts.

The fall-back defense of the President is based upon the fact that he had given her more gifts that same day, the idea being that his giving other gifts to Ms. Lewinsky is inconsistent with a plan to hide those gifts. See Statement of Cheryl Mills 1/20/99 at CONG. REC. S827. This, however, is belied by the fact that the President provided her with those gifts before the issue of the gifts being subpoenaed came up in their conversation that day. See ML 2/1/99 at CONG. REC. S1224. It is reasonable to infer that the President's understanding of the gift pickup was unrestricted. He expected Ms. Lewinsky to give all the gifts to Ms. Currie for safekeeping, even the ones she had received that day. The fact that Ms. Lewinsky kept some of the gifts does not change the nature of the intended scheme.

The evidence adduced as to Subpart (3) shows beyond a reasonable doubt that the President corruptly engaged in, encouraged or supported a scheme to conceal evidence in the Jones case.

3. Subpart (4) of Article II:

Subpart (4) makes the accusation that:

Beginning on or about December 7, 1997, and continuing through and including January 14, 1998, William Jefferson Clinton intensified and succeeded in an effort to secure job assistance to a witness in a Federal civil rights action brought against him in order to corruptly prevent the truthful testimony of that witness in that proceeding at a time when the truthful testimony of that witness would have been harmful to him.

It is uncontroverted that Vernon Jordan did not actively seek to find a job for Ms. Lewinsky until she was on the witness list in the Jones case. Once she was on the witness list, she engaged in a high level job search under the guidance of the President and reported his progress in that regard directly to the President. See VJ 2/2/99 at CONG. REC. S1231–36. Moreover, he knew at the time of his job search that Ms. Lewinsky was a potential witness in the Jones case and, according to Ms. Lewinsky, was apprised by her of the sexual nature of her relationship with the President. See ML 8/6/98 GJ at 138–39. And of course, in that very same time frame, he procured for her an attorney to help her file a false affidavit freeing her from testifying in the case and to prepare that false affidavit in time for it to be used in the President's deposition in the Jones case. See VJ 2/2/99 at CONG. REC. S1240–41.

One could speculate that the President's use of one of the most powerful attorneys in Washington, and a close friend of the President, to find a lowly Defense Department employee and former intern a lucrative and prestigious job by contacting some of the most powerful executives in the country was just an act of kindness unrelated to her pending testimony in the Jones case. One could conclude that the numerous calls made by Mr. Jordan to the President and Ms. Currie, the calls made by the President to Mr. Jordan, and the calls made by Mr. Carter to Mr. Jordan, calls which coincided with the effort to get Ms. Lewinsky to file a false affidavit and secure her a job, were simply coincidental.

One could surmise that Mr. Jordan's call to Ronald Perelman after Ms. Lewinsky felt she had a bad interview, which call led to a second successful interview, was unrelated to her cooperation in signing the affidavit only a day earlier. One could believe that Mr. Jordan had a great interest in assisting Ms. Lewinsky to find a job prior to her name showing up on the witness list in the Jones case and only failed to do so because he had no time, but was somehow able to find and devote substantial time to that effort, coincidentally, after her name showed up on the witness list. One could undertake such speculation. But that would defy common sense and reason.

The President became personally engaged in the effort to find Ms. Lewinsky a job only after her name appeared on the Jones witness list. He then used his powerful friend to find Ms. Lewinsky a job because he believed out of gratitude for his help in obtaining a job, she would continue to hide their relationship. He kept in constant direct contact with Mr. Jordan up until the time that the affidavit was completed and she had received and accepted a job offer from Revlon. Indeed, the President actually spoke to Mr. Jordan during a meeting between her and Mr. Jordan on December 19, 1997. See ML 8/6/98 GJ at 131. Mr. Jordan immediately

called the President to report his fears the moment he thought Ms. Lewinsky may have turned government witness when he learned Mr. Carter had been relieved of his representation by her. See VJ 6/9/98 GJ at 45–46.

One need only look at the contrary actions by the President once he believed Ms. Lewinsky may have decided to cooperate with the Independent Counsel investigation. Once he believed that she may have been cooperating with the Office of the Independent Counsel, he began to disparage her to aides like Sidney Blumenthal. See SB 2/3/99 at CONG. REC. S1248. After that date, the President discussed the wisdom of destroying her credibility and reputation with Dick Morris. See DM 8/18/98 GJ at 35. Can anyone doubt that her favorable testimony was tied into the President's efforts to conceal his relationship with her and that the intensified job search was the President's endeavor to keep her from telling the truth? Put another way, does anyone believe that the President would have used Vernon Jordan to help get her a job after she agreed to tell the truth to the Jones attorneys or to the Independent Counsel? Of course not. It was not in the President's interest to reward her for the truth—she was only rewarded for her failure to tell the truth. Her reward for telling the truth was to be smeared by the President and his spin machine.

The President's attorneys repeat the mantra that Ms. Lewinsky believes that she was not promised a job for her false testimony in the Jones case. But that really isn't the issue. The law requires an endeavor to corruptly influence her testimony. Regardless of how Ms. Lewinsky perceived or misperceived the reasons for the high level assistance she received, there was no such misconception on the part of the President and Mr. Jordan. The corrupt endeavor by the President was confirmed by two powerful and compelling words that cannot be parsed or stripped of meaning. Those two words summed up the month long effort to protect the President: ''Mission Accomplished.'' There can be no other meaning of those words in the context used by Mr. Jordan other than the completion of a crucial and time sensitive task by him on behalf of the President.

The proof as to subpart (4) is sustained beyond a reasonable doubt that the President intensified and succeeded in an effort to secure job assistance to a witness in a Federal civil rights action brought against him in order to corruptly prevent the truthful testimony of that witness in that proceeding at a time when the truthful testimony of that witness would have been harmful to him.

4. Subpart (5) of Article II:

Subpart (5) alleges that:

On January 17, 1998, at his deposition in a Federal civil rights action brought against him, William Jefferson Clinton corruptly allowed his attorney to make false and misleading statements to a Federal judge characterizing an affidavit, in order to prevent questioning deemed relevant by the judge. Such false and misleading statements were subsequently acknowledged by his attorney in a communication to that judge.

There is no question that during the deposition of the President by the Jones attorneys, the President's attorney, Mr. Bennett, made the following statement.

> . . . Counsel is fully aware that Ms. Lewinsky has filed, has an affidavit which they are in possession of saying that there is absolutely no sex of any kind, in any manner, shape or form, with President Clinton . . .

Mr. BENNETT made this statement in an effort to cut off any questioning of the President about his relationship with Ms. Lewinsky. That statement was false, as was later admitted by Mr. Bennett, even given the contorted reading of the definition of sexual relations as purportedly understood by the President. It is equally clear that the President did not correct this assertion by his attorney.

The President's primary defense to this allegation is that he wasn't paying attention to what was said by his attorney. This statement can not be believed. The videotape of that deposition clearly shows the eyes of the President shifting from person to person as each spoke or argued their perspective on the issue. As each spoke, the President focused on the speaker. It is ludicrous to assert that when the name Monica Lewinsky was brought up, the President was not keenly aware of the significance of that line of questioning.

The President's primary defense to this allegation is that he wasn't paying attention to what was said by his attorney. This statement can not be believed. The videotape of that deposition clearly shows the eyes of the President shifting from person to person as each spoke or argued their perspective on the issue. As each spoke, the President focused on the speaker. It is ludicrous to assert that when the name Monica Lewinsky was brought up. the President was not keenly aware of the significance of that line of questioning.

He knew the work that had been done to get her affidavit completed before the deposition. He understood the disclosure of that relationship could do irreparable damage to his case and to his Presidency. There is nothing to indicate he was anything less than completely aware of what was said and of his failure to correct that record to his detriment. I choose to believe my own eyes and common sense, not the implausible explanation put forward by the attorneys for the President.

The secondary defense offered by the President, that Mr. Bennett's use of the word ''is'' precluded the necessity to reveal any sexual relationship with Ms. Lewinsky not occurring, essentially, in that room during the deposition, is not worthy of a detailed refutation or response.

The evidence demonstrates that the President allowed his attorney to make false and misleading statements to a Federal judge characterizing an affidavit, in order to prevent questioning deemed relevant by the judge, thus obstructing the administration of justice.

5. Subpart (6) of Article II:

In Subpart (6), the House makes the contention that:

On or about January 18, 1998, and January 20–21, 1998, William Jefferson Clinton related a false and misleading account of events relevant to a Federal civil rights action brought against him to a potential witness in that proceeding, in order to corruptly influence the testimony of that witness.

This allegation relates to the statements made to Ms. Currie by the President in his unusual Sunday meeting with her after the Jones deposition, and in his repetition of those statements the following Tuesday or Wednesday after the Starr investigation had become public. The President has not contested the fact that the statements made to Ms. Currie were false and misleading. Nor has he provided any answer as to why the statements, if designed to help refresh his recollection, were false and had to be repeated to her again several days later. After being confronted with the subpoena issued to Ms. Currie by the Jones attorneys in the days after his deposition, and the revised witness list containing her name, the President's attorneys have now backed off the notion that no one could have thought Ms. Currie would be a witness at the time of these statements. Despite this, the President still asserts that those false and misleading statements were designed to refresh his recollection and that he personally did not believe that she would become a witness. Once again, this defense defies credulity.

When these statements were made, the President was defying a court order not to discuss his testimony. See WJC 1/17/98 DT at 212–13. He knew it was essential to do so regardless of that order because he had blatantly inserted Ms. Currie into the case as a fact witness. He mentioned her name during his deposition no less than six times, on one occasion even stating that the Jones attorneys would have to ''ask Betty.'' See generally WJC 1/17/98 DT. Clearly, the Jones attorneys got the message; they added Ms. Currie to the witness list and subpoenaed her the following week. So did the President. Having ''brought'' her into the case, the President realized the absolute need to make sure her testimony would dovetail with his assertions that he had no improper relationship with Ms. Lewinsky.

It is apparent that the Sunday meeting was designed to corruptly mislead Ms. Currie when she would be called as a witness in the Jones case. What was left unanswered by the President, but for which there can be but one answer,

was why the President repeated the false statements to Ms. Currie on Tuesday or Wednesday.

The answer lies in the record. By Tuesday, the president had learned that Judge Starr was investigating the case. See VJ 6/9/98 GJ at 55–74. He knew that the evidence in the Jones case would lead Judge Starr to Ms. Currie, just as surely as he knew it would lead the Jones attorneys to her. So he had to reinforce the false statements he had told Ms. Currie the previous Sunday because the stakes had just risen substantially. The President needed to be sure he was covered by Ms. Currie for both the Jones case and for the Independent Counsel investigation to come.

Once again the evidence shows that the President related a false and misleading account of events relevant to a Federal civil rights action brought against him to a potential witness in that proceeding, in order to corruptly influence the testimony of that witness.

6. Subpart (7) of Article II:

The House asserts in Subpart (7) that:

On or about January 21, 23 and 26, 1998, William Jefferson Clinton made false and misleading statements to potential witnesses in a Federal grand jury proceeding in order to corruptly influence the testimony of those witnesses. The false and misleading statements made by William Jefferson Clinton were repeated by the witnesses to the grand jury, causing the grand jury to receive false and misleading information.

This subpart relates to the President's discussions with Erskine Bowles, John Podesta and Sidney Blumenthal concerning the nature of his relationship with Ms. Lewinsky. Now the President does not deny the testimony of Mr. Podesta where he related that the President said that he had no sexual relationship with Ms. Lewinsky, including oral sex. Nor does he deny the testimony of Sidney Blumenthal that he characterized Ms. Lewinsky as a stalker who had threatened him, and whose seduction he had declined. The President also admits that he knew it was likely they would be grand jury witnesses when he made those statements to them.

Their client having conceded the basic facts of this allegation, the President's attorneys first try to make the argument that the President could not have been intending to influence the grand jury since he did not tell his aides anything different than he had told any other person publicly. However, the evidence is unrefuted that his denials to his aides were fundamentally different from his public pronunciations in that they departed from even his tortured definition of sexual relations. Moreover, he created a false impression of Ms. Lewinsky in order to besmirch her character and credibility in a blatant attempt to both misguide the grand jurors, and it can be inferred by the fact such information was provided to his communications aide, to publicly disparage her character.

The second defense offered is that the President's attempts to keep his aides our of the grand jury show he was not trying to corruptly influence that body. However, this argument loses force in light of the fact that only specious arguments were made to prevent their testimony. Knowing they would fail, they were arguably designed to serve his private interest in delaying the investigation and creating an impression of Judge Starr as overreaching and out of control. Moreover, the President had months to correct his misstatements to Mr. Blumenthal prior to his grand jury testimony, but failed to do so even when he knew he would be called before the grand jury to repeat the earlier lies told to him by the President. See SB 2/3/99 at CONG. REC. S1249.

In effect, the President killed two birds with one stone. His chimeric fight to prevent his aides from testifying was used effectively in a public relations campaign to impugn the Independent Counsel investigation. And when he lost the ''battle'' that he knew would inevitably fail, he was aware the false and slanderous testimony preordained to be given by his aides would be of assistance to him in misleading the grand jury.

There is substantial proof as to Subpart (7) that the President made false and misleading statements to potential witnesses in a Federal grand jury proceeding in order to corruptly influence the testimony of those witnesses.

For the reasons I have just outlined, the evidence proves beyond a reasonable doubt, that the President is guilty of Article II.

V. WHY REMOVAL?

This impeachment trial is of momentous constitutional consequence. A removal of the President—a coequal branch of government—must not be taken lightly. But that—now that we have decided to end the trial by a final vote—does not negate the duty that each Senator has, as individual conscience dictates, to vote to acquit or convict based upon the evidence. Posterity demands that each of us justify the votes Senators render in the impeachment trial of the President.

Future generations of Americans will look to what we do as precedents for impeachments. This is particularly true since our Nation has faced only one impeachment trial of a President—that of Andrew Johnson in 1868. But it is also true for judges and other federal officials as well. Let me thus explain in some detail why I shall vote for conviction.

The Constitution vests great discretion in the Senate in determining whether to remove an impeached official. The Framers intentionally followed the English model where the House of Commons possessed the power to impeach or indict officials and the House of Lords the authority to try the impeached official. As such, the House of Representatives was delegated the authority to impeach and the Senate the power to try, convict, and remove. The Senate was chosen as the repository of this awesome power because it was considered the more mature chamber of Congress. Serving six year terms instead of the two years for the House, the Senate was seen as a bulwark against the shifting tides of public opinion.

The age qualification differences—30 for the Senate and 25 for the House—demonstrates that maturity in the Senate would dominate over youthful passion. And most important, while the House was prone to passionate factional rifts, because Representatives are elected from small sometimes single-issue districts, Senators are elected state-wide where, it was hoped, factions would counteract factions. Thus, the Senate was designed to be more attuned to the public interest than to the special interest.

Consequently, when the Senate sits as a court of impeachment, it does not have to rubber-stamp the House's view as to what is an impeachable offense. As recognized by the Supreme Court in the Nixon case, the Senate was vested by the Framers with the sole power to try impeachments. The Senate is thus vested with independent judgment as to what process to employ in the trial.

It also follows that the Senate was granted the discretion to determine whether the factual allegations made by the House are true and whether such findings by the Senate rise to the level of high crimes and misdemeanors. Furthermore, the Senate, as the Upper Chamber insulated against popular passions and the factions of special interests, could make a subjective determination of the public good in defining high crimes and misdemeanors and in removing an official.

In the words of my esteemed colleague, ROBERT BYRD, the answer of whether a person is fit to remain in office requires both detached objectivity and subjective judgment rising above temporary popular passions of whether continuation in office ''brings the political (or judicial) system into disrepute and undermines the people's trust and confidence in government.''

Supportive of this discretionary authority to remove officials—an authority that must be divorced from the fleeting and flaming emotions of the times—is the constitutional supermajority safeguard of a ⅔ vote of the Senate needed to remove officials. This requirement is a further guarantee against the tide of popular passion and tilts the impeachment process towards acquittal.

Accordingly, a Senator in impeachment trials must consider two factors: (1) whether the allegations are true; and (2) whether the facts proven rise to the level of high crimes and misdemeanors—impeachable offenses. In determining the second prong—whether the facts proven rise to the level of

high crimes and misdemeanors—the subjective intent of Senators of what is in the public interest is a factor to consider. I have already discussed the facts and the standard for impeachable offenses. Now I will discuss whether the public interest—in other words what is best for the country—requires that the acts committed by President Clinton rise to the level of high crimes and misdemeanors requiring his removal.

I believe that it has. Some of my colleagues, particularly those on the other side of the aisle, contend that it is not in the public interest to remove President Clinton, because the economy is doing well, or because of his foreign policy successes, or because he is extremely popular in the polls. But these factors—no matter how important—do not justify ignoring the constitutional mandate of removal upon proving that impeachable acts were committed.

Polls should not be a factor in this trial. Our system of government is not a pollocracy. It is a representative republic where the people, as a constitutional matter, speak only through elections of their representatives. America is thus a constitutional republic, and will remain so ''if''—in the words of Benjamin Franklin—''you can keep it.'' The only way to ''keep it'' is to respect the processes established by the Constitution itself.

Simply put, the Constitution mandates the conviction and removal of civil officers, including the President, upon proving ''treason, bribery, and other high crimes and misdemeanors.'' I believe that the House Managers have proved beyond a reasonable doubt that President Clinton has committed acts of perjury and obstruction of justice. I believe that Senators should come to the same subjective determination, as I have, that these acts of perjury and obstruction of justice so erodes our civil and criminal justice system as to conclude that the public good is served by removal.

A President of the United States is not simply a political leader. A President is a head of state and a role model for Americans, particularly our children. What kind of message will we send to our posterity if President Clinton's conduct is not considered worthy of removal? What amount of cynicism and disrespect for our governmental institutions will we engender if we impose one set of rules for the common man—imprisonment for acts of perjury and obstruction of justice—and another for the President of the United States—who receives a pass from removal because he is powerful or has done a ''good job'' in some eyes?

Our children are extremely vulnerable to the growing cynicism surrounding this trial. We have all heard stories that some children justify their deceits by claiming that the President of the United States lied as well. Many wise philosophers have exclaimed that a republic can survive only if its citizens are moral. I am afraid that our children may not learn that lesson.

Not to remove here is to diminish the rule of law. As Manager ROGAN warned in his closing argument, ''[u]p until now, the idea that no person is above the law has been unquestioned. And yet this standard is not our inheritance automatically. Each generation of Americans ultimately has to make the choice for themselves. Once again, it is time for choosing. How will we respond?'' We should respond by safeguarding the rule of law by voting to remove the President.

Whether President Clinton has done a ''good job'' is a matter of partisan debate. In fact, adopting a ''god job'' exception—a term that is so flexible and vague as to be meaningless as a constitutional standard—merely exasperates the partisan tensions ever present in impeachment trials.

The same analysis applies for the ''good economy means no removal'' theory. It is intuitive that economic growth can never justify crime or acts rising to the level of high crimes and misdemeanors warranting removal. If President Clinton is removed, our economy will not suffer. The world will still spin on its axis. Our Constitution provides for orderly succession and stable government. Removal will not overturn an election, as some have argued. The constitutional impeachment procedures were designed simply to remove unqualified or corrupt officials. Vice President GORE, pursuant to the Constitution, will become President and life will go on.

Let me emphasize that by requiring removal upon proving the commission of impeachable offenses, the Framers believed that it is in the public good to remove the official.

President Clinton is guilty of high crimes and misdemeanors and his poll numbers, no matter how lofty, cannot insulate him from the dictates of the Constitution. The President believes that a rule of polls should govern the Senate's decision. But as Manager ROGAN correctly observed, ''the personal popularity of any President pales when weighed against the fundamental concept that forever distinguishes us from every nation on the planet. No person is above the law. There is no escaping the Senate's duty enshrined in the impeachment oath that we do ''impartial justice'' and remove the President if we believe that his actions amounted to high crimes and misdemeanors.

VI. CONCLUSION

I do not take pleasure or gain any sense of gratification for the decision I must make today. For literally months, night and day, I have anguished over the serious accusations against President Clinton and what they mean for our country, our society, and our children.

I know none of us enjoys sitting in judgment of the President, our fellow human-being, but that is our job and we cannot ignore our responsibility. I believe most of us will do a sincere job of trying to fulfill our oath to do impartial justice.

I have diligently strived to extend my deepest respect to the President—indeed, to the Presidency—throughout this process. I wanted to be able to support President Clinton. I believe that I have been more than fair. I have tried not to rush to judgment.

All of my life I've been taught to forgive and forget. I've always tried to live up to that belief. As a leader in my church, I have dealt with a great number of human frailties, people with a wide variety of problems, and I've always believed that good people can repent of their sins and be forgiven.

Indeed, to the dismay of some, I had expressed a hope and a desire early on in this constitutional drama that the President would acknowledge his untruthful statements. He chose to do otherwise and perpetuated his untruthfulness. Although some believe this is solely a private matter, I feel this is really about the President's fidelity to the oath of office and the rule of law.

I have always been prepared to vote my conscience. Indeed, my concerns regarding the bad precedent a likely acquittal would set have been somewhat calmed by something the great constitutional scholar, Joseph Story, once wrote about acquittal in impeachment cases. Mr. Story noted that in cases in which two-thirds of the Senate is not satisfied that a conviction is warranted, ''it would be far more consonant to the notions of justice in a republic, that a guilty person should escape than that an innocent person should become the victim of injustice from popular odium * * *''

Nonetheless, I am reminded of a quote by President Theodore Roosevelt, a statement that applies to the matter before the Senate:

> Honesty is not so much a credit as an absolute prerequisite to efficient service to the public. Unless a man is honest, we have no right to keep him in public life; it matters not how brilliant his capacity * * *.
>
> 'Liar' is just as ugly a word as 'thief,' because it implies the presence of just as ugly a sin in one case as in the other. If a man lies under oath or procures the lie of another under oath, if he perjures himself or suborns perjury, he is guilty under the statute law. Under the higher law, under the great law of morality and righteousness, he is precisely as guilty if, instead of lying in a court, he lies in a newspaper or on the stump; and in all probability the evil effects of his conduct are infinitely more widespread and more pernicious.

President Theodore Roosevelt's words cannot be ignored—nor can the Constitution. After weighing all of the evidence, listening to witnesses, and asking questions, I have concluded that President Clinton's actions warrant removal from office.

Committing crimes of moral turpitude such as perjury and obstruction of justice go to the heart of qualification for public office. These offenses were committed by the chief executive of our country, the individual who swore to faithfully execute the laws of the United States.

This great nation can tolerate a President who makes mistakes. But it

cannot tolerate one who makes a mistake and then breaks the law to cover it up. Any other citizen would be prosecuted for these crimes.

But, President Clinton did more than just break the law. He broke his oath of office and broke faith with the American people. Americans should be able to rely on him to honor those values that have built and sustained our country, the values we try to teach our children—honesty, integrity, being forthright.

For 13 miserable months, we have struggled with the question of what to do about President Clinton's actions. The struggle has divided the nation.

To those of us who have ourselves taken an oath to uphold the Constitution—which represents the rule of law and not of men—it should not matter how brilliant or popular we feel the President is. The Constitution is why we goven based on the principle of equality and not emotion. The Constitution is what guides us as a nation of laws and not personalities. The Constitution is what enables us to live in freedom.

I will vote for conviction on both articles of impeachment—not because I want to—but because I must. Upholding our Constitution—a sacred document that Americans have fought and died for—is more important than any one person, including the President of the United States.

When all is said and done, I must fulfill my oath and do my duty. I will vote ''Guilty'' on both Article One and Article Two.

SENATOR DODD'S HISTORIC SPEECH IN THE OLD SENATE CHAMBER

Mr. LEAHY. Mr. President, I would like to submit a statement delivered by our colleague Senator DODD on January 8th at the commencement of the impeachment trial of President Clinton.

This statement, like the others delivered that day, is remarkable in several respects.

First, it captures the rich history that has transpired over the years in the Old Senate Chamber—a history marked often by greatness, but occasionally by shame.

Second, it wonderfully expresses Senator Dodd's own personal sense of the history of the Senate. His reflections on past Senators—from Roger Sherman, the Founding Father whose seat Senator DODD occupies, to his own father, former Senator Thomas Dodd—remind us that the Senate is an institution made up of individuals, and that the totality of their actions shapes the destiny not just of the Senate itself but indeed of the entire country.

Third, and most importantly, Senator DODD's statement stands as a powerful plea for cooperation and bipartisanship in the discharge of the Senate's profound responsibility in this trial. Senator DODD's statement played a critical role in setting the stage for the historic bipartisan agreement reached at the outset of the trial, and for the spirit of civility that prevailed throughout this ordeal. I commend Senator DODD's statement to all citizens who in the future may wish to learn something of how the Senate was inspired to conduct the impeachment trial of President Clinton in a noble and dignified manner.

I am beginning my 25th year in the Senate. After Senator DODD spoke I told him his speech was one of the finest I had heard in those years.

No Senator ever spoke more directly—or more persuasively—to other Senators about the duty we all have to the Constitution and the Senate. I am proud to serve with him.

I ask unanimous consent that the text of Senator DODD's statement be printed in the RECORD.

REMARKS BY SENATOR CHRISTOPHER J. DODD, OLD SENATE CHAMBER, JANUARY 8, 1999

Mr. DODD. Let me begin by thanking our two leaders. While none of us can say with any certainty how this matter will be concluded, if we, like every other institution that has brushed up against this lurid tale, end up in a raucous partisan brawl, it will not be because of the example set by Tom Daschle and Trent Lott. The graces have once again blessed this extraordinary body by delivering two noble and decent men to lead us.

I want to express a special thanks to you, Tom, for asking me to share my thoughts this morning on the issue before us.

On a light note, it was in this very room four years ago that I lost the Democratic leader's post to Tom Daschle. Of the forty-seven members of the Democratic Caucus, forty-six were here that morning to vote. When the ballots were counted, Tom and I had each received 23 votes- a dead heat. The absent Democratic colleague who voted for Tom with a proxy ballot was Ben Nighthorse Campbell. Several weeks later I received a very late night call from Ben in which he shared with me his decision to change political parties. Ben and I have been good friends for some time, and I told him he ought to do what he felt was right. The next morning I decided to have some fun with our Democratic leader, Tom Daschle, by sending him a note asking that in light of Ben's decision to become a Republican, did Tom think a recount of the leader's race might be in order?

Considering the wonderful job our leader Tom has done, particularly over these last several weeks, I'm glad he did not even consider the offer.

Allow me further to note a point of personal privilege. I am deeply proud to share the representation of my state in the Senate with Joe Lieberman. Over these past couple of weeks Joe and Slade Gorton have once again demonstrated the value of their presence in the Senate. While many of us, from time to time, have claimed to speak for the Senate—few rarely do. On that day in September, Joe, your remarks delivered on the Senate floor about the President's behavior were, I believe, the sentiments of the entire Senate. We thank you.

Joe and I represent the Constitution State. Joe sits in the seat once held by Oliver Ellsworth, the second Chief Justice of the Supreme Court. I sit in the seat of Roger Sherman, the only founding father to sign all four of our cornerstone documents : The Declaration of Independence, The Articles of Confederation, The Constitution and The Bill of Rights. Roger Sherman was also the author of the Connecticut Compromise which created this Senate in which we now serve.

So by institutional lineage, I feel a special connection with the Senate. But, on a personal level, I am also very much a product of the Senate. Forty years ago this week, I was a very proud 14 year old watching from the family gallery as my father took the same oath I took on Wednesday. I also remember that day meeting another new Senator, Robert C. Byrd of West Virginia.

I only mention these facts because I am overwhelmed by a profound sense of history as we embark on this perilous journey over the coming weeks. I want my institutional forebearer, Roger Sherman, and my father to judge that on my watch, as a temporary custodian of this Senate seat, I did my best.

I want to express a special thanks to Trent Lott for having the wisdom of choosing this most historical room for our joint caucus.

Trent could have chosen any number of other venues, larger more accommodating rooms around the Capitol for this meeting. But either by divine inspiration or simple choice he decided to bring us—Democrats and Republicans—together here.

It is one hundred and forty years ago this week—January 4, 1859—that our Senate predecessors moved from this room to the chamber we now occupy.

While in use, this room was the stage of some of the Senate's most worthy and memorable moments.

The Missouri Compromise was brokered here. So was the Compromise of 1850. And the famous Webster-Hayne debate took place here in 1830. The spirits of Henry Clay, John Calhoun and Daniel Webster—great statesmen, great compromisers, giants of our Senate—are here with us today. And maybe one day, those who come after us will add this joint meeting to the list of those other great moments in the history of the United States Senate.

But this chamber also witnessed one of the Senate's most regrettable moments—the caning in 1856 of Senator Charles Sumner by Representative Preston Brooks.

Congressman Brooks walked right through this center door and proceeded to beat Senator Sumner.

That tragic incident was precipitated by a strong anti-slavery speech from Senator Sumner in which Representative Brooks felt Sumner had accused his colleague and Brook's cousin, Senator Andrew Butler of South Carolina, of having an illicit sexual relationship with a young woman who was a slave.

Far from being a momentary bitter, personal dispute, the Sumner caning, according to many historians, effectively ended the thin shred of comity and compromise that existed in the Senate. Forty-eight months later our great Civil War began.

We are now gathered in this revered room in the face of a great Constitutional question. Which of the spirits that inhabit this chamber will prevail as we begin this process? Can we find the common ground of Clay, Calhoun and Webster? Or will we assault each other by resorting to a rhetorical caning?

I would urge our two leaders to try once more before the scheduled vote of 1pm to find a solution to the issue of witness testimony.

It has been argued that there is little or no difference between the two proposals, and, while they may seem slight, I believe our failure to make the right choice puts the conduct of this process and the public confidence in the Senate at grave risk.

The President's conduct was deplorable; the conduct of the Office of Independent

Counsel has raised grave concerns on all sides; and the highly partisan spectacle in the House has provoked public revulsion. We are the court of last resort—the only hope of restoring public confidence rests with us.

The issue of whether to exclude witnesses altogether or leave open the possibility of their testimony rests on how we weigh the relative risk of prohibiting witnesses against the risk of severely damaging or destroying the shared goals and desires of all Senators.

Over the past several weeks, in telephone conversations, meetings and joint appearances on news programs, I have concluded there are six points of common agreement:

(1) There is the sincere desire for this profound burden we did not ask for to be devoid of partisanship;

(2) We must act with total fairness, and we must be perceived by the public as having acted fairly;

(3) We must act with deliberate speed and not flounder;

(4) We must assure that the Senate retains sole custody of how this matter is conducted and concluded;

(5) We must demonstrate appropriate respect for the Judicial Branch, the Executive Branch and the House of Representatives; and

(6) We must jealously protect the dignity of the Senate as we consider what most Americans believe to be, at the very least, the most undignified personal behavior of an American President.

If we permit the House managers and the White House to call witnesses, do we not risk the partisan brawling through party-line voting that will surely ensue? And does not that risk outweigh the risk that some of us may not benefit from body language or voice inflection that some witnesses may provide? I think not.

A process as proposed by Senators Gorton and Lieberman that allows a full explanation of the House managers case over several days and an equal amount of time allocated for the President's defense, in addition to two days of questions from Senators, would meet any reasonable person's standard of fairness. The added fact that we will have at our disposal more than 60,000 pages of Grand Jury testimony, hearings and evidence should satisfy any objective analysis that we can conduct this process fairly.

There is no more important business before the Senate than the conduct and conclusion of this impeachment trial. I am of the view that no other business ought to intervene while this matter is pending. As I have said, we must act fairly—but we must also act expeditiously—not rush—but act with deliberate speed and purpose.

Any first semester law student knows that once witnesses are subpoenaed, fundamental fairness allows for depositions and discovery. Depending on the number of witnesses, the delays will undoubtedly be lengthy.

I readily acknowledge that there are some risks in excluding the testimony of live witnesses—but does that risk exceed the almost certain risk of causing the Senate to be unnecessarily tied up with this matter for weeks if not months?

As I have stated, this unsolicited task of disposing of this impeachment is paramount, but we would all agree it is not our only responsibility.

There are urgent matters, both foreign and domestic, that we must attend to in the 106th Congress. Pete Domenici's concern about the budget and not repeating the budget debacle of last year, social security reform, Ted Stevens' concern about the accuracy of our weapons in Iraq, and the Brazilian economic crisis are just a small sample of the agenda this Senate must address. The risk of not dealing with these matters must be weighed against the wisdom of calling live witnesses in this proceeding.

The Constitution is clear—only the Senate has the power to try impeachments. We and we alone must be the custodians of our own procedures. While the calling of live witnesses does not necessarily mean the Senate would lose control of the proceedings, there is the undeniable risk that once the witness parade begins, the ability of the Senate, and the Senate alone, to manage these proceedings fairly, expeditiously, and in a nonpartisan fashion could be lost.

We Senators have a serious responsibility to be respectful of the Judicial Branch in the presence of Chief Justice Rehnquist, the Executive Branch in the presence of counsel for the President, and the House of Representatives in the presence of the House managers. Being respectful and deferential to these institutions should not be confused with deferring to these institutions. Chief Justice Rehnquist has indicated to our leaders that he intends to be a passive presiding officer, except in some narrow instances. The White House, through their counsel, indicated that it would prefer to avoid calling witnesses. Only the House managers are insisting on the use of witnesses. Furthermore, the House managers agree that the exclusion of witnesses by the Senate would deprive them of the ability to make their case and be taken as an act of disrespect by the Senate.

I find it stunningly ironic that the House Judiciary Committee saw no similar disrespect to their fellow House members when they presented their Articles of Impeachment before the full House without the benefit of a single witness appearing before their panel. When asked why no witnesses had been called before the House Judiciary Committee, some members argued that the calling of witnesses would have unduly delayed their proceedings and the presence of some witnesses could have reflected poorly on the dignity of the House.

The obvious question occurs that if the House managers were unwilling to risk an expeditious handling of their procedures and unwilling to risk the potential for a lewd and lurid spectacle in their chamber, why then should we in the Senate submit our chamber to similar risks when there is no compelling benefit to be gained?

A process that would allow either side in this matter to call witnesses- with the approval of a bare majority—risks setting in motion a Senate proceeding where we Senators would sit in muted silence, as my friend Mitch McConnell has pointed out, while our chamber becomes the stage for the most lurid and salacious testimony of which we and the American people are all too painfully aware and of which the public wants to hear no more.

Would whatever marginal benefit this testimony could provide outweigh the cost to the reputation of the Senate or the dignity of this institution?

I submit that we should not run the risk of allowing this institution to be used by anyone as a forum to appeal to the basest instincts of a few.

For these reasons, I would strongly urge you, my colleagues, not to run all the substantial risks to the conduct of this process and the reputation of our Senate by permitting the unnecessary procession of witness in the well of our chamber.

IMPEACHMENT TRIAL OF PRESIDENT WILLIAM JEFFERSON CLINTON

Mr. SESSIONS. Mr. President, the Constitution of the United States requires the Senate to convict and remove the President of the United States if it is proven that he has committed high crimes while in office. It has been proven beyond a reasonable doubt and to a moral certainty that President William Jefferson Clinton has persisted in a continuous pattern to lie and obstruct justice. The chief law officer of the land, whose oath of office calls on him to preserve, protect and defend the Constitution, crossed the line and failed to protect the law, and, in fact, attacked the law and the rights of a fellow citizen. Under our Constitution, such acts are high crimes and equal justice requires that he forfeit his office. For these reasons, I felt compelled to vote to convict and remove the President from office.

THE FACTS

Facing a lawsuit the United States Supreme Court had upheld against him, President Clinton had to make a decision. He could tell the truth or lie and obstruct justice. He took the course of illegality. This case is not about an isolated false statement, it is about the President of the United States using his office, his power, his staff, and his popularity to avoid providing truthful answers and evidence that was relevant to a civil lawsuit. President Clinton's actions demonstrated a pattern of untruth and disdain for the legal system he had sworn to uphold.

OBSTRUCTION OF JUSTICE

President Clinton resisted the lawsuit from the time it was filed. Among other defenses, he argued that he, as the President, was not subject to the civil legal system while in office. The Supreme Court unanimously rejected this proposition. His legal arguments having failed, the President began to use illegal means to defeat the action. Since the truth would be damaging, he took steps to see that the truth concerning his relationship with Monica Lewinsky would never come out.

President Clinton began his obstruction of justice by denying to the court material truths. He first filed with the court false answers to written questions, interrogatories, under oath. He then bolstered his lies to the court by procuring from Monica Lewinsky a supporting false affidavit which he filed with the court. When questioned at his deposition about the truthfulness of the Lewinsky affidavit, President Clinton, without any hesitation, told the court that it was ''absolutely true''. The President then proceeded, confident in his obstruction of the truth, to lie repeatedly under oath about their relationship in the deposition.

Indeed, the President orchestrated a scheme to deceive the court, the public and the grand jury. The facts are disturbing and compelling on the President's intent to obstruct justice. When Monica Lewinsky received a subpoena for the gifts, the President knew that if they were produced, his relationship would be revealed. I believe Monica Lewinsky's testimony that she discussed with the President what to do

with the gifts. I also believe that Betty Currie got the gifts from Monica Lewinsky and hid them under her bed only after approval from the President. Secreting evidence under subpoena is a crime. The President secured a job for Ms. Lewinsky in large part because he wanted her to file a false affidavit and to continue to cover up their true relationship. The President coached his personal secretary twice to ensure that if she were called as a witness in the civil case she would not contradict his testimony given the day before. The President intentionally lied to aides in an effort to have them mislead the public and the grand jury. This is to me a clear pattern of obstruction of justice.

The most conclusive proof of obstruction of justice, however, is the most obvious. Clearly, the President succeeded at defeating the right of the Paula Jones attorneys to get discovery as they were entitled. He got away with it. But for the indisputable DNA evidence that was only produced when Ms. Lewinsky confessed seven months later, the obstruction would have continued to be successful. Even when confronted with this evidence at the grand jury in August the President chose to confuse the definition of words that have plain meanings instead of telling the truth.

PERJURY

From a strictly legal point of view the perjury count was not as clear as it might first appear. In fact, standing alone these perjury charges may have failed to be impeachable. However, the President made his false statements as part of a continuous pattern to obstruct justice and deceive. This pattern establishes the necessary criminal intent. The President before the grand jury continued to deny facts and details that are by their very nature important in a sexual harassment suit. The President also intentionally deceived the grand jury regarding his participation in the concealing of the gifts and lied regarding his effort to obstruct justice by coaching Betty Currie. His admissions, though significant, steadfastly failed to cover any issues that would establish that his previous actions were in violation of the law. The President denies that these statements are false. However, he has no reservoir of credibility left after he so persistently lied to public for seven months. In my judgment these statements, which were aggravated by continuous lying to the American people, are sufficient under the circumstances of this case to warrant conviction on this article. The President was not obligated to appear before the grand jury, but if he chose to do so, he was obligated to tell the complete truth.

Each statement must be individually evaluated in a perjury case. The President's statements that he did not believe he had violated the law and that he was not paying ''a great deal of attention'' to his lawyers when they gave false information to the court are not credible. Even so, I believe they are too subjective in nature to be defined as clear acts of perjury under the law. The President's response to clearly worded questions were intentionally designed to be misleading and deceptive; however, the Supreme Court has held in Bronston v. United States 409 U.S. 352 (1973) that it is not perjurious for a witness to give an unresponsive answer even if the witness intends to mislead his questioner. With this in mind, I conclude that the other charged statements, not delineated above, are misleading and false but not perjurious. I wish it were not so, but the President is a practiced liar. In summary, this President has deliberately, premeditatedly, and with calculation set about to defeat the justice system by criminal acts which include perjury and obstruction of justice.

THE LAW AND PRECEDENT

Contrary to the stunning argument by the President's attorneys, there is just one impeachment standard for Presidents and judges. It is found in Article II, Section 4 of the Constitution, which states,

> The President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

Advocates on both sides of this case agree that federal judges are civil officers of the United States. As civil officers, they ''shall be removed'' on impeachment and conviction of high crimes and misdemeanors. The President's attorneys in this case have argued that there is a different standard for impeachment and removal of federal judges.

The President's attorneys made a clever argument that the ''good behavior'' clause, which refers to a judge's tenure, sets a separate standard of impeachable conduct for federal judges. They cite in support of this proposition Article III, Section 1 of the Constitution, which states:

> The Judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Historical research clearly shows that when the Constitution was drafted and ratified, the phrase ''good behavior'' had nothing to do with impeachment. The clause simply referred to the term of office and compensation for a federal judge. It is generally accepted that the legislative branch's power to actually remove a federal judge, a member of a separate and co-equal branch of government, is limited to impeachment.

Before the American Revolution, American colonial judges were not independent. They served at the pleasure of the British king and could be dismissed at his command. The British monarch also controlled the salaries of colonial judges. Americans recognized that an independent judiciary was a fundamental component of a free society. In fact, they included the lack of an independent judiciary as part of the ''long train of abuses'' in the Declaration of Independence: ''[King George III] has made judges dependent on his will alone, for the tenure of their offices, and the amount of payment of their salaries.'' In response, the framers of the Constitution delineated through Article III, Section I, that federal judges would not serve at the whims of Congress or the President.

Moreover, Alexander Hamilton, a drafter of the Constitution, addressed the impeachment standard for judges in Federalist #79, one of a series of essays explaining the Constitution. In that essay he writes:

> The precautions for [federal judges'] responsibility are comprised in the article respecting impeachments. . . . This is the only provision on the point, which is consistent with the necessary independence of the judicial character, and it is the only one which we find in our own constitution in respect to our own judges.

Thus, the Constitution provided but one standard of removal of judges and it is the same one applied to the President.

In our history there has been only one effort to impeach a judge on the ''good behavior'' standard, and that effort failed. In 1805, the Jefferson administration encouraged an impeachment of Justice Samuel Chase, an outspoken justice of the Supreme Court and member of the opposition Federalist party. Chase was impeached for his conduct while sitting as a circuit judge. The Senate acquitted Justice Chase and thus redeemed the drafters' original intent that judges can only be impeached for high crimes and misdemeanors.

So let any notion that judges may be impeached under a different standard be put to rest. That conclusion is inconsistent with the Constitution and not supported by history.

It is easy to understand why the President's attorneys found it necessary to argue that federal judges may be removed under a different impeachment standard. The reason is that if the President is guilty of the same conduct that has led to the impeachment, conviction, and removal of three federal judges in the last thirteen years, and if the constitutional standard is the same, and if the substance of the allegations are the same, then he too must be removed.

In 1986, the Senate convicted federal judge Harry E. Claiborne of three articles of impeachment that involved fundamental dishonesty: Judge Claiborne was convicted for knowingly filing false tax returns. Like every American who pays income tax, Judge Claiborne certified under penalty of perjury that his tax returns were true. For two years, he submitted such returns when he knew them to be false. He was subsequently impeached, convicted and removed. The President's lies in this case were, in my opinion, worse because

they constituted a frontal assault on the integrity of the justice system. The President did not lie on a form to hide income from the government; he lied under oath before a federal judge in an official proceeding to defeat a civil rights lawsuit filed by an American citizen. Under Senate precedent, that is impeachable conduct.

Another example of recent Senatorial precedent is the Hastings case. In 1989, the Senate convicted Judge ALCEE HASTINGS of Florida on seven of twelve articles of impeachment that were presented by the House. Judge HASTINGS was alleged to have taken a bribe to alter the outcome in a case before his court. Judge HASTINGS was convicted in the Senate on seven articles of impeachment. Judge HASTINGS was convicted for knowingly making false statements to the jury in his own bribery trial at which he was acquitted. In the same year, Judge Walter Nixon was convicted by the Senate for lying under oath before a grand jury. Judge Nixon corruptly attempted to obstruct justice by denying his efforts to intervene in a state court prosecution for a friend—a case unrelated to his duties as a federal judge.

In the present impeachment case, we are not dealing with a blank slate. The Senate's actions in earlier cases are our clearest guide on how to proceed in the trial of President Clinton. The Senate has demonstrated three times in the last thirteen years that perjury by civil officers of the United States requires removal. It is inconceivable that equally reprehensible conduct by the President in this case should not also lead to his conviction and removal. By not so acting, the result will be an immediate lowering of our standards for impeachment and that standard will apply to judges as well. This argument defines us down, reducing the dignity of the Presidency and the Congress.

PERSONAL OBSERVATIONS

As one who loves the law and who has spent the better part of his professional career trying cases, I understand in a profound way just how important it is for justice that citizens tell the truth in court. As a federal prosecutor, I presented thousands of cases to a grand jury and tried hundreds. On many occasions I have seen witnesses tell the truth, even when it was very painful for them. Many have been driven to tears but still they honored their oath. Millions of Americans honestly fill out their tax returns and pay large sums of money simply because they are honest and believe in the rule of law. Such integrity is a source of great strength for our country.

The rule of law and the need for integrity in our justice system is why perjury cases are prosecuted in America. About seven years ago when I was still the United States Attorney for the Southern District of Alabama, a case came before me. My own city of Mobile had as its chief of police a strong African-American who aggressively worked to reform the office, establish community-based policing, and work to create a new level of discipline. Opposition grew and lawsuits were filed against him. A young police officer, who had been the Chief's driver, testified in a deposition in a federal lawsuit against the Chief. He stated that the chief of police had ordered him to ''bug'' the patrol cars of other police officers and that he had a secret tape recording giving him this illegal order to commit a crime. The deposition was released quickly to the newspapers. The city council, police department, and the people were in an uproar. Under careful questioning by an experienced FBI agent, the young officer admitted that he had lied in the deposition regarding the tape recording.

As United States Attorney, it was my decision whether the officer would be prosecuted for his perjury. His counsel argued that he was young, that he did lie but had corrected his false testimony at a later time. He argued that we should decline to prosecute. After reflection and review, I concluded that a sworn police officer who had told a plain lie under oath, even a young officer, should be prosecuted in order to preserve the rule of law and the integrity of the system. Our office prosecuted that case. The officer was convicted, and that conviction was later affirmed by the United States Court of Appeals for the Eleventh Circuit. For me personally, I have concluded that I cannot hold a young police officer to a different and higher standard than the President of the United States.

In sum, it is crucial to our system of justice that we demand the truth. I fear that an acquittal of this President will weaken the legal system by suggesting that being less than truthful is an option for those who testify under oath in official proceedings. Whereas the handling of the case against President Nixon clearly strengthened the nation's respect for law, justice and truth, by sending a crystal clear message about the requirement for honesty, the Clinton impeachment may unfortunately have the opposite result.

Finally, it is important to pause a moment to reflect on truth itself. I believe that we live in a created and ordered universe and that truth and falsehood are real. They are capable of being ascertained. I reject the doctrine of relativism that suggests everything is OK. We must always strive to hold the banner of truth high. Indeed, the pursuit of truth wherever it leads has been a hallmark of our civilization and is the single quality that has made us such a vibrant and productive nation. Of course, none of us are perfect and we often fail in our personal affairs, but when it comes to going to court, and its comes to our justice system, a great nation must insist on honesty and lawfulness. Our country must insist upon that for every citizen. The chief law officer of the land, whose oath of office calls on him to preserve, protect and defend the Constitution, crossed the line and failed to defend the law, and, in fact, attacked the law and the rights of a fellow citizen. Under our Constitution, equal justice requires that he forfeit his office. For these reasons, I felt compelled to vote to convict and remove the President from office.

Some will not agree with my conclusion. In that case, or if I have otherwise offended you in any way during this process, I ask for your forgiveness. I have sincerely tried to bring to bear the training and experience that I have had, along with the values with which we were raised in Alabama, to decide this important matter.

CENSURE RESOLUTION

Mr. DODD. Mr. President, the Senate has just discharged its duty under the Constitution to try the impeachment of President Clinton. We have rendered our judgment.

We have been asked to consider another, albeit lesser, form of punishment of the President—a resolution of censure. That resolution is authored by the Senator from California, Mrs. FEINSTEIN, and the Senator from Utah, Mr. BENNETT. Senator FEINSTEIN attempted to bring it before the Senate by way of a motion to suspend the rules in order to permit her motion to proceed. The Senator from Texas, Mr. GRAMM, objected, and then moved to indefinitely postpone consideration of Mrs. FEINSTEIN's motion. Since two-thirds of the Senate failed to vote in the negative, his point of order was sustained, and the motion to proceed failed.

I did not support Senator GRAMM's motion for the simple reason that I did not believe it appropriate to deny to Senator FEINSTEIN and others the opportunity to bring before the Senate a resolution of censure following the conclusion of the impeachment trial of the President. Had this resolution or something similar to it—say, a proposal to make ''findings of fact'' about the President's conduct—been offered during the impeachment trial, I would have strenuously opposed its consideration.

In my view, such a proposal is not permitted by the Constitution when raised as part of an impeachment trial. The Constitution is clear on this point. Article I, Section 3 states that ''Judgment in Cases of Impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any Office of honor, Trust, or Profit under the United States. . . .'' Our sole choice when trying an impeachment case is whether or not to convict and remove (and then disqualify from holding any further office) the individual in question. The Framers decided not to give Senators leeway to create additional judgment options—no matter how creative, convenient, or compelling they may be.

Because Senator FEINSTEIN's motion was made after the conclusion of the trial, during legislative session, I believed it was appropriate and timely for the Senate's consideration.

That is not to say, however, that I would have supported the resolution had the motion to proceed carried. On the contrary, I would have opposed it—as I would have opposed each of the several proposed censure resolutions that have circulated in recent days. The President has acted in a manner worthy of censure. No one denies that.

However, I have serious misgivings about a censure resolution emanating from this body and this body alone. I am concerned about what it may mean—not for this President, but for the institution of the presidency. I understand the passion to voice—loudly and unmistakably—disapproval of the President's conduct. But it must be tempered by an even greater passion for the office he holds, and for the constitutional balance of power between the executive and legislative branches of government.

The Federalist Number 73 speaks of ''the propensity of the legislative department to intrude upon the rights, and to absorb the powers, of the other departments.'' It warns of a presidency ''stripped of [its] authorities by successive resolutions, or annihilated by a single vote.''

My colleagues, we must qualify our understandable disdain for this president's conduct with the admonition to protect the office that he will occupy for a mere 23 months longer.

Nowhere does the Constitution expressly permit us to take up such a resolution. Nor does it expressly prohibit such a step. Yet the Senate, and the Congress as a whole, has been remarkably restrained in even considering censure resolutions. It has been even more reluctant to adopt them. Only once, in 1834, was a president formally censured by resolution. Three years later, that resolution was expunged.

The President at that time was Andrew Jackson. The driving force behind his censure was Henry Clay. Jackson had defeated Clay in the presidential election of 1832. In 1834, they remained bitter political adversaries.

Jackson argued that the resolution was repugnant to the constitutional principle of checks and balances between the branches of government. If the Senate wanted to punish him, he said, it had only one avenue acceptable under the Constitution: it would have to wait for the House to send an impeachment.

I am not convinced that a resolution censuring a president is unconstitutional. But I certainly agree that it is, at least in the context of the present case, unwise. There have been numerous instances where presidents behaved in a manner deemed outrageous and even dangerous to the country. Franklin Roosevelt was roundly criticized for his efforts to ''pack'' the Supreme Court. President Truman seized the steel mills. President Reagan and then-Vice President Bush presided over the executive branch while an illegal scheme, run out of the White House, was conducted to sell arms to Iran and use proceeds from those sales to support armed rebellion in Nicaragua. The behavior of these individuals arguably was at least as egregious as President Clinton's. But the Senate did not pursue a censure resolution against any of them.

Ours is not a parliamentary system. In the United States, we do not entertain votes of ''no confidence'' against our chief executive. We elect presidents, not prime ministers.

A censure resolution in the present instance will seem modest, perhaps even insignificant, in relation to the impeachment conducted by the House. However, future generations may well come to view censure as an American-made vote of ''no confidence'' against future occupants of the Oval Office. We may pave the way to a new form of executive punishment. And it may be used not only in cases of personal misconduct. It could be used against a president who simply makes an unpopular or unwise, but nevertheless lawful and well-intended, decision.

Ultimately, we could subject future presidents, who have not been impeached, to this form of punishment. In doing so, we risk eroding the independence and authority of the presidency. I do not want to see the Senate take such a risk.

APPRECIATION OF SERVICE OF CHIEF JUSTICE REHNQUIST

Mr. DODD. Mr. President, I rise to extend a word of thanks to Chief Justice Rehnquist for his distinguished service in presiding over this trial.

The Supreme Court sits just a few short yards from this Chamber. Yet, its Justices and its working remain largely unknown to those of us who serve here. Perhaps that conceptual distance successfully reflects the Framers' construct of legislative and judicial branches that act for the most part independently of one another.

Suffice it to say that our knowledge of the Chief Justice was rather limited prior to the commencement of the impeachment trial. We knew of his reputation as a formidable intellect, as a scholar—including on the topic of impeachment—, and as an efficient manager of courtroom. We did not as a group know much more about him.

What we learned during that course of that trial is that the Chief Justice brought his many estimable qualities to bear on this unique legal challenge. He brought a deep historical understanding of the impeachment process. He instilled confidence in each Senator that he would conduct himself in a manner faithful to the role prescribed for the chief justice by the Framers. All all times, he guided the trial with a firm and fair hand-not hesitating to use his judgment and common sense when appropriate, but never pressing a point of view on matters better left to the collective judgment of the Senate. He demonstrated a continuing respect and appreciation for the workings of this body. Last but not least, he brought a refreshing sense of humor to his task, which made our task as triers of fact somewhat more bearable.

Although this was an historic occasion, no one who took part in it relished doing so. There is collective relief, I think, that this constitutional ordeal is now behind us. But as we look back at these past remarkable weeks, we can all take comfort and pride in knowing that this second impeachment trial in our nation's history was presided over by an individual of great intelligence, historical knowledge, and wit.

These qualities made him uniquely suited to his task. The Senate and the entire nation owe a debt of thanks to Chief Justice Rehnquist for rendering such value and distinguished service.

APPENDICES A-L TO SENATOR LEVIN'S IMPEACHMENT TRIAL STATEMENT OF FEBRUARY 12, 1999

Mr. LEVIN. Mr. President, as we close this chapter in the Senate's life and prepare our records for the annals of history, there are several points which I wish to highlight in a series of appendices.

I ask unanimous consent that the appendices be printed in the RECORD.

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

APPENDIX A

The indisputable, underlying reality of the impeachment case was that Monica Lewinsky's denial of a sexual relationship with the President was part of a long-term understanding and pattern, long before the subpoena in the Paula Jones case.

''Q: Had you talked with him earlier about these false explanations about what you were doing visiting him on several occasions?

A: Several occasions throughout the relationship. Yes. It was a pattern of the relationship to sort of conceal it.''—Grand Jury Testimony of Monica Lewinsky, Part One; Independent Counsel Appendices, Page 844.

''A Juror: Did you ever discuss with the President whether you should deny the relationship if you were asked about it?

A: I think I always offered that.''—Grand Jury Testimony of Monica Lewinsky, Part One; Independent Counsel Appendices, Page 1077.

''A: And she [Linda Tripp] told me that I should put it in a safe deposit box because it could be evidence one day. And I said that was ludicrous because I would never—I would never disclose that I had a relationship with the President. I would never need it.''—Grand Jury Testimony of Monica Lewinsky, Part One; Independent Counsel Appendices, Page 1107.

''A Juror: And what about the next sentence also? Something to the effect that if two people who are involved say it didn't

happen, it didn't happen. Do you recall him saying that to you?

A: Sitting here today, very vaguely . . . And this was—I mean, this was early—obviously not something we discussed too often, I think, because it was—it's a somewhat unpleasant thought of having to deny it, having it even come to that point.

A Juror: Is it possible that you also had these discussions after you learned that you were a witness in the Paula Jones case?

A: I don't believe so. No.

A Juror: Can you exclude the possibility?

A: I pretty much can.''—Grand Jury Testimony of Monica Lewinsky, Part One; Independent Counsel Appendices, Page 1119.

APPENDIX B

Did Ms. Lewinsky think her affidavit in the Paula Jones case was false when she signed it?

''Ms. L had a physically intimate relationship with the President. Neither the Pres. nor Mr. Jordan (or anyone on their behalf) asked or encouraged Ms. L to lie. Ms. L was comfortable signing the affidavit with regard to the 'sexual relationship' because she could justify to herself that she and the Pres. did not have sexual intercourse.''—Proffer of Monica Lewinsky to the Independent Counsel.

''Q: When he said that you might sign an affidavit, what did you understand it to mean at that time?

A: I thought that signing an affidavit could range from anywhere between maybe just somehow mentioning, you know, innocuous things or going as far as maybe having to deny any kind of relationship.''—Grand Jury Testimony of Monica Lewinsky, Part One; Independent Counsel Appendices, Page 844.

''Q: You were trying to be truthful throughout [the proffer]?

A: Exactly.''—Grand Jury Testimony of Monica Lewinsky, Part One; Independent Counsel Appendices, Page 1142.

''A: But I did some justifying in signing the affidavit, so—

Q: Justifying—does the word 'rationalizing' apply as well?

A: Rationalize, yes.''—Grand Jury Testimony of Monica Lewinsky, Part One; Independent Counsel Appendices, Page 925.

APPENDIX C

House Managers implied that when the President allegedly told John Podesta Ms. Lewinsky threatened him, the President was lying. But Monica Lewinsky did write a threatening letter to President Clinton.

''If you believe the aides testified truthfully to the grand jury about what the President told them about his relationship, the President told them many falsehoods, absolute falsehoods. So when the President described them under oath to the grand jury as truths, he lied and committed the crime of perjury. One example of this comes from Deputy Chief John Podesta. . . [a]nother is Sidney Blumenthal. His testimony was that on January 23 the President told him that. . . Lewinsky threatened him and said that she would tell people that they had had an affair. . .''—House Manager McCollum, Congressional Record, January 15, 1999, Page S266.

''Q: You mentioned that in that July 3rd letter that you sent to the President through Betty you made a reference to the fact that you might have to explain things to your parents. What did you mean by that?. . . Were you meaning to threaten the President that you were going to tell, for example, your father about the sexual relationship with the President?

A: Yes and no.''—Grand Jury Testimony of Monica Lewinsky, Part One; Independent Counsel Appendices, Page 807.

APPENDIX D

There was much debate about the consequences of calling live witnesses. The President's lawyers argued that calling witnesses would require them to engage in extensive discovery and would significantly stretch-out the trial. It is relevant in evaluating that claim to look at the impeachments of Judge Nixon and Judge Alcee Hastings. In both of those cases, the Judges' attorneys were given extensive discovery, including Justice Department files, to prepare their defense. See letter of Senator Wyche Fowler, Chairman of the Senate Impeachment Trial Committee, and letter of Professor Terence Anderson, University of Miami School of Law, below:

U.S. SENATE,
Washington, DC, July 18, 1989.

JOHN C. KEENEY,
Deputy Assistant Attorney General, Criminal Division, Department of Justice, Washington, DC.

DEAR MR. KEENEY: As Chairman of the Senate Impeachment Trial Committee on the Articles of Impeachment against Judge Nixon, I write to request the Department's assistance in the Committee's efforts to assure that Judge Nixon receives a fair trial in the Senate. The Committee has determined that it would make a useful contribution to the trial process if the Department were willing to permit the Committee, through its staff, to review the documents (excluding grand jury materials governed by Rule 6(e)) in the possession of the Department, including those possessed by the Federal Bureau of Investigation, that were requested by Judge Nixon in his June 1, 1989 letter to the Attorney General, which was the subject of your response on June 21, 1989.

The review would be consistent with that conducted in the case of the Hastings impeachment matter. That is, the focus of the review would be to determine if there is evidence that the investigations were conducted in a manner intended to mislead a court or trier of fact as to Judge Nixon's guilt or innocence. In the event that it is determined that particular documents should properly be made part of the pending impeachment proceedings, and accordingly made available to the parties for use at trial, the committee would hear from the Department prior to disclosing any documents that you believe contain particularly sensitive matters, so that we may address any continuing concerns that you have. No documents or portions of documents would be made available to the parties without the consent of the Department.

Your expeditious response to this request would be most helpful to the committee in attempting to complete discovery by July 31st.

Sincerely,

WYCHE FOWLER, Jr.

THE UNIVERSITY OF MIAMI SCHOOL OF LAW,
Coral Gables, FL, January 28, 1999.

Hon. CARL LEVIN,
U.S. Senate.

DISCOVERY PRECEDENTS FROM HASTINGS

DEAR SENATOR LEVIN: Ms. Linda Gustitus asked that I describe the process by which and the materials to which I was given access as counsel for then Judge Hastings during the impeachment trial proceedings before the United States Senate. After the matter was referred to an Impeachment Trial Committee, I submitted requests for production of documents to the House, to the Investigating Committee of the Judicial Council of the Eleventh Circuit, to the Federal Bureau of Investigation, and the Justice Department. Over the initial objections of the House Managers, at the ''request'' of the Impeachment Trial Committee I received documents from all but the Justice Department. In lieu of direct production, the Impeachment Trial Committee examined the sensitive Justice Department materials to determine what should be supplied. I was also permitted to take at least three discovery depositions. The proceedings that resulted in this production are reported in Report of the Senate Impeachment Trial Committee on the Articles of Impeachment Against Judge Alcee L. Hastings, S. Hrg. 101–194, Pt. I (Pretrial Matters).

By way of illustrations I enclose an appendix to a memorandum that I submitted to the Impeachment Trial Committee. That appendix describes in some detail the materials that I received from the FBI and my estimate that in the aggregate the production amounted to about 16,000. The enclosed copy was reproduced from S. Hrg. 101–194, Pt. I at 433–436. Please let me know if I can be of further assistance.

Sincerely,

TERENCE J. ANDERSON.
Professor of Law.

APPENDIX E

Many of us in the Senate thought the House of Representatives failed to meet its responsibilities by not calling witnesses before the House Judiciary Committee. A review of impeachments shows that in every impeachment but the one (where the subject of the impeachment was mentally incompetent and the House relied on the record of his decisions as a judge), the House called fact witnesses. According to information obtained by my staff from the Congressional Research Service, there have been 16 impeachments by the House. 14 of those impeachments have resulted in trials in the Senate; two did not because the impeached officials resigned.

15 of those impeachments had fact witnesses in the House; one didn't. That was the case of Judge Pickering. He was impeached for being mentally incapacitated. There were charges of drunkenness and ''ungentlemanly language'' in the courtroom. The articles against him, however, all dealt with his rulings and decisions that ''proved'' he was mentally incompetent. During the House inquiry, a number of affidavits were presented.

APPENDIX F

Independent counsel Kenneth Starr intervened in the Senate impeachment trial by obtaining a court order addressed to Monica Lewinsky requiring her to meet privately with House Managers, based on a motion and ex parte hearing with no notice to the Senate counsel or White House counsel. The independent counsel then mischaracterized his own action in seeking that order, describing it as seeking an ''interpretation'' rather than an ''order''.

See the letters to Kenneth Starr, Robert Bittman, Jacob Stein, & Robert Bittman; the Emergency Motion on Immunity Agreement; the letter to Congressman Henry Hyde; the letter to Sen. Daschle; Congressman Hyde's press release; the order of Judge Norma Holloway Johnson and the transcript of Mr. Starr's remarks as follow:

WASHINGTON, DC,
January 21, 1999.

Hon. KENNETH W. STARR,
Office of Independent Counsel,
Washington, DC.

Re: Interview of Monica Lewinsky.

DEAR INDEPENDENT COUNSEL STARR: I am writing to you as the Lead Manager of the Managers of the Impeachment Trial of William Jefferson Clinton, currently underway in the United States Senate. We are in the

process of selecting witnesses for testimony in these proceedings. The attorneys for Monica Lewinsky have declined to make her available for an interview.

We have reviewed a copy of Ms. Lewinsky's Immunity Agreement. Pursuant to paragraph 1(c) of that Agreement, it would appear that she is required to submit to interviews and debriefings if so requested by the Office of Independent Counsel.

We would like to arrange an interview with Ms. Lewinsky prior to any such testimony. We would be happy to accommodate her wishes as to the precise time and location of that interview. However, it is important that this interview be scheduled to take place on the earliest possible date, specifically Friday, Saturday, or Sunday. Your assistance with this interview will be appreciated.

Thank you for your prompt attention.

Sincerely,

HENRY H. HYDE,
On Behalf of the Managers on the Part of the House.

LAW OFFICES OF
PLATO CACHERIS,
Washington, DC, January 21, 1999.

ROBERT J. BITTMAN, Esquire
Deputy Independent Counsel, Office of the Independent Counsel, Washington, DC.

DEAR BOB: In your call today you mentioned that the managers requested Ms. Lewinsky's cooperation by way of an interview. As I told you, we believe it is inappropriate for Ms. Lewinsky to be placed in the position of a partisan—meeting with one side and not the other—in this unique proceeding. Therefore, we have recommended against interviews with either side.

Sincerely,

JACOB A. STEIN.
PLATO CACHERIS.

INDEPENDENT COUNSEL,
Washington, DC, January 21, 1999.

JACOB A. STEIN, Esq.
Stein, Mitchell & Mezines,
Washington, DC.
PLATO CACHERIS, Esq.
Law Offices of Plato Cacheris,
Washington, DC.

DEAR JAKE AND PLATO: Pursuant to her Immunity Agreement with this Office, we hereby request that Monica Lewinsky meet for an interview with the House of Representatives' Impeachment Managers this Friday, Saturday, or Sunday, January 22, 23, or 24, 1999.

As you will recall, both parties contemplated congressional proceedings at the time we entered into the Immunity Agreement. The Agreement specifically requires Ms. Lewinsky to ''testify truthfully . . . in any . . . congressional proceedings.'' It further requires Ms. Lewinsky to ''make herself available for any interviews upon reasonable request,'' and stipulates that these interviews may include ''representatives of any other institutions as the OIC may require.''

While I understand Ms. Lewinsky's misgivings, I must disagree with one statement in your letter to me today: your assertion that submitting to an interview would make Ms. Lewinsky into a partisan. The Managers are acting on behalf of the House of Representatives as a whole, not on behalf of a political party. There task is constitutional in nature.

Please feel free to call me if you have any questions.

Sincerely,

ROBERT J. BITTMAN,
Deputy Independent Counsel.

STEIN, MITCHELL & MEZINES,
Washington, DC, January 22, 1999.

ROBERT J. BITTMAN, Esquire
Office of the Independent Counsel
Washington, DC.

DEAR BOB:

1. We have your January 21, 1999 letter.

2. The Agreement does not require Ms. Lewinsky to be interviewed by the House Managers or any Congressional body.

3. Paragraph 1.C. of the Agreement states: ''Ms. Lewinsky will be fully debriefed concerning her knowledge of and participation in any activities within the OIC's jurisdiction. This debriefing will be conducted by the OIC, including attorneys, law enforcement agents, and representatives of any other institutions as the OIC may require. Ms. Lewinsky will make herself available for any interviews upon reasonable requests.''

4. This paragraph deals with OIC debriefings, not OIC's acting as an agent for others.

5. The Senate itself has provided its own rules for witness interviews. As we understand them, there first must be a deposition with equal access. As of now the Senate has not voted for depositions.

6. Ms. Lewinsky will, of course, respond to a subpoena to appear and testify before the Senate. Yesterday, we raised with you the issue of immunity for any proposed congressional testimony. You opined that your office could grant such immunity in conformance with Title 18 U.S.C. §§6002, 6005. It is our understanding that only the Senate by majority vote can do that. We would appreciate your supplying your legal authority for your position.

Sincerely,

JABOB A. STEIN.
PLATO CACHERIS.

[In the United District Court for the District of Columbia, Misc. No. 99– (NHJ)]

IN RE GRAND JURY PROCEEDINGS

EMERGENCY MOTION OF THE UNITED STATES OF AMERICA FOR ENFORCEMENT OF IMMUNITY AGREEMENT

The United States of America, by Kenneth W. Starr, Independent Counsel, respectfully submits this motion for an order requiring Ms. Lewinsky to comply with the terms of her Immunity Agreement (the ''Agreement'') with the Office of the Independent Counsel (''OIC''). Ms. Lewinsky has refused an OIC request that she be debriefed by the House of Representatives, as required by the Agreement. The United States respectfully requests that this Court orders Ms. Lewinsky to comply with the Agreement by allowing herself to be debriefed.

I. Factual background

As this Court is no doubt aware, the United States Senate is currently conducting an Impeachment Trial of the President of the United States. According to public reports, it is expected that the House will be required to submit to the Senate its motion to call witnesses as early as Monday, January 25. Again according to public reports, some potential witnesses have spoken with the House Managers as the Managers attempt to determine which witnesses should be mentioned in their motion to the Senate.

On January 21, 1999, House Judiciary Committee Chairman Henry J. Hyde, on behalf of the House of Representatives, as represented by its duly-appointed Managers, asked for the OIC's assistance in having Ms. Lewinsky debriefed by the House. See Letter from Henry J. Hyde to Kenneth W. Starr (Jan. 21, 1999) (Attachment A). The House stressed that it needs this debriefing to occur no later than Sunday, January 24.

That same day, the OIC sent a letter to Ms. Lewinsky's counsel requesting that Ms. Lewinsky allow herself to be debriefed by the House Managers. See Letter from Robert J. Bittman, Deputy Independent Counsel, to Jacob A. Stein, Esq. and Plato Cacheris, Esq. (Jan. 21, 1999) (Attachment C). At approximately 1:20 p.m. this afternoon, Ms. Lewinsky informed the OIC that she does not intend to comply with this request. See Letter from Jacob A. Stein and Plato Cacheris to Robert J. Bittman (Jan. 22, 1999) (Attachment D).

II. The immunity agreement plainly requires Ms. Lewinsky to be debriefed by any institution that the OIC specifies

Ordinary contract law principles govern immunity agreements. See *In re Federal Grand Jury Proceedings*, Misc. No. 98–59 (NHJ), slip op. at 12 (D.D.C. May 1, 1998) (under seal) (''Courts generally interpret immunity and proffer agreements, like plea agreements, under principles of contract law.''), appeal dismissed sub nom. *In re Sealed Case*, 144 F.3d 74 (D.C. Cir. 1998) (per curiam); accord *United States* v. *Black*, 776 F.2d 1321, 1326 (6th Cir. 1985) (''Like a plea agreement, an immunity agreement is contractual in nature and may be interpreted according to contract law principles.''); *United States* v. *Irvine*, 756 F.2d 708, 710 (9th Cir. 1985) (per curiam) (''Generally speaking, a cooperation-immunity agreement is contractual) in nature and subject to contract law standards.''); *United States* v. *Hembree*, 754 F.2d 314, 317 (10th Cir. 1985) (characterizing an immunity agreement as ''simply a contract'').

Under contract law, an agreement is interpreted according to its plain terms. See *Nicholson* v. *United States*, 29 Fed. Cl. 180, 191 (1993). The operative portion of the Immunity Agreement states: ''C. Ms. Lewinsky will be fully debriefed concerning her knowledge of and participation in any activities within the OIC's jurisdiction. This debriefing will be conducted by the OIC, including attorneys, law enforcement agents, and *representatives of any other institutions as the OIC may require*. Ms. Lewinsky will make herself available for any interviews upon reasonable request.'' Immunity Agreement ¶1.C (emphasis added) (Attachment E). This provision follows paragraph 1.B, which expressly requires Ms. Lewinsky to ''testify truthfully . . . in . . . congressional proceedings.''

By the plain terms of the Agreement, Ms. Lewinsky has agreed to be debriefed by representatives of any institution, when so required by the OIC. She is also required to ''make herself available for any interviews upon reasonable request.'' The duly-appointed House Managers represent the House of Representatives, which plainly is an institution. The OIC has unambiguously requested that Ms. Lewinsky submit to each debriefing. Accordingly, Ms. Lewinsky must allow herself to be debriefed by the House Managers or she will have violated the Agreement.

To be sure, Ms. Lewinsky has the right to have her ''debriefing . . . conducted by the OIC.'' The OIC, of course, is fully willing to conduct these debriefings, if Ms. Lewinsky so desires. The suggestion in her counsel's letter that this provision is void if the OIC is ''acting as an agent for other,'' Attachment D at ¶4, is contrary to the Agreement, as there is no such limitation on Ms. Lewinsky's duties. A party to an agreement may not invent clauses to a contract that are not contained therein.

In any event, the OIC is not acting as an agent for the House Managers. The OIC has its own, continuing duty to provide the House with information relating to impeachment. See 28 U.S.C. §595(c).

Ms. Lewinsky's counsel's other suggestion—that a debriefing would be contrary to

Senate Rules, see Attachment D at ¶5—is equally without merit. Senate Resolution 16 (106th Cong.) states, in relevant part: ''If the Senate agrees to allow either the House or the President to call witnesses, the witnesses shall first be deposed and the Senate shall decide after deposition which witnesses shall testify, pursuant to the impeachment rules.'' Although it is plain that depositions may not be conducted absent a vote of the Senate, nothing in this resolution restricts the ability of the House to debrief witnesses in a non-deposition setting. Indeed, it would be strange for the Senate to prohibit the House and the President from doing the investigation necessary to determine whether they wish to call witnesses and which witnesses to list in their motions.

III. This court should grant an order requiring Ms. Lewinsky to comply with the immunity agreement or forfeit its protection

Under the Agreement, this Court has the authority to determine whether Ms. Lewinsky has ''violated any provision of this Agreement.'' Immunity Agreement ¶30. ''[A] declaratory judgment will ordinarily be granted only when it will either serve a useful purpose in clarifying the legal relations in issue or terminate and afford relief from the uncertainty, insecurity, and controversy giving right to the proceeding.'' *Tierney* v. *Schweiker*, 718 F.2d 456 (D.C. Cir. 1983) (internal quotation marks omitted). In this case, a declaratory judgment will resolve the uncertainty arising from this controversy between the OIC and Ms. Lewinsky by settling whether she has the right to refuse to be debriefed without forfeiting the protections of the Agreement.

Indeed, declaratory judgment is a common remedy when a party to a contract intends conduct that may be a breach: '' '(A) party to a contract is not compelled to wait until he has committed an act which the other party asserts will constitute a breach, but may seek relief by declaratory judgment and have the controversy adjudicated in order that he may avoid the risk of damages or other untoward consequence.' '' (*Application of President & Directors of Georgetown College, Inc.*) 331 F.2d 1000, 1002 n.6 (D.C. Cir. 1964) (quoting *Keener Oil & Gas* v. *Consolidated Gas Utilities Corp.*, 190 F.2d 985, 989 (10th Cir. 1951)); see *Gilbert, Segall & Young* v. *Bank of Montreal*, 785 F. Supp. 453. 462 (S.D.N.Y. 1992); *Fine* v. *Property Damage Appraisers, Inc.*, 393 F. Supp. 1304, 1309–10 (E.D. La. 1975). Accordingly, this Court has the power to issue a declaratory judgment before Ms. Lewinsky's actions become irreversible.

IV. Conclusion

The Immunity Agreement plainly requires that Ms. Lewinsky allow herself to be debriefed by any institution at the request of the OIC. Ms. Lewinsky has the right to insist that the OIC conduct the debriefing, but she must comply with the plain terms of the Immunity Agreement. Accordingly, the United States respectfully requests that this Court enter an order requiring Ms. Lewinsky to submit to debriefing by the House.

The Senate's schedule requires the House to submit its motion to call witnesses as early as Monday, and the House has stressed its need to debrief Ms. Lewinsky this weekend. Accordingly, the United States respectfully requests that this Court act on this motion as an emergency matter. Specifically, we request a hearing on this matter today.

Respectfully submitted,

KENNETH W. STARR,
Independent Counsel.
ROBERT J. BITTMAN,
Deputy Independent Counsel.
JOSEPH M. DITKOFF,
Associate Independent Counsel.
RICHARD C. KILLOUGH,
Assistant Independent Counsel.

WASHINGTON, DC,
January 23, 1999.

Hon. HENRY J. HYDE,
Chairman, Committee on the Judiciary, Washington, DC.

DEAR MR. MANAGER HYDE: We understand that the Office of Independent Counsel, on behalf of the House Managers, sought a court order to compel Ms. Lewinsky to submit to an interview with the Managers in preparation for her possible testimony. We further understand that Chief Judge Norma Holloway Johnson has granted the order sought by the Independent Counsel.

As you know, Senate Resolution 16, which was passed by a 100–0 vote just over two weeks ago, expressly deferred any consideration or action related to additional witness testimony until after opening presentations, a question-and-answer period and an affirmative vote to compel such testimony. These actions by the Managers, undertaken without notice to the Senate or the President's Counsel, raise profound questions of fundamental fairness and undermine the ability of this body to control the discovery procedures that will take place under the imprimatur of its authority.

In light of these concerns, we ask that you withdraw any and all requests to Mr. Starr that he assist your efforts to interview Ms. Lewinsky. The Senate, in a matter of days, will have an opportunity to formally address this issue pursuant to the procedures established by Senate Resolution 16. Moreover, we insist that you take no action related to the proposed interview of any witness until such time as the Senate has given you the authority to do so.

Sincerely,

HARRY REID.

[Also signed by 43 Senators.]

WASHINGTON, DC,
January 23, 1999.

Hon. TOM DASCHLE,
Democratic Leader, U.S. Senate, Washington, DC.

DEAR MR. DEMOCRATIC LEADER: I am in receipt of your letter of today expressing your concern with the House of Representatives' request to interview Monica Lewinsky.

It has always been the position of the House Managers that a full trial with the benefit of relevant witnesses is in the best interest of the Senate and the American people. Representatives of President Clinton and many Senators have publicly stated that they want the Senate to preclude the testimony of witnesses. Many other Senators have made it clear that they prefer the witness lists for both sides to be sharply focused and limited to only the most relevant witnesses. The Managers have been mindful of these Senators' concerns.

It is clear that the two most important witnesses in this trial are President Clinton and Ms. Lewinsky. Yesterday, I wrote to Majority Leader Lott and you to express the Managers' willingness to participate in the fair examination of the President if the Senate chooses to invite him to testify. The presentation of the President's counsel ended just two days ago. We are in the process of evaluating that presentation and determining what witnesses we will request the Senate to call. We believe that interviewing Ms. Lewinsky will help us make this determination. Counsel for the President may have already interviewed witnesses or may wish to interview witnesses they will propose to the Senate. That is their prerogative. The Senate has required us to submit a proffer of anticipated testimony of any proposed witnesses. Interviews of potential witnesses will assist the parties in providing the Senate with informative proffers.

The House of Representatives has not violated S. Res. 16. When the House passed H. Res. 10 appointing the Mangers, it authorized that the Managers may ''in connection with the preparation and the conduct of the trial, exhibit the articles of impeachment to the Senate and take all other actions necessary, which may include * * * sending for persons and papers . . . .'' Implicit in this authority is the ability to conduct interviews and gather additional information relevant to the articles of impeachment.

The Managers, who represent the House of Representatives, retain powers separate and apart from the Senate. The Managers are not, just as the President's Counsel are not, an office or subset of the Senate. The Managers, like the President's Counsel, may conduct activities, such as further investigation and legal research, that are not specifically authorized by the Senate.

Senate Resolution 16 does not prohibit the Managers from conducting further investigation or interviews of witnesses. If the resolution was intended to restrict the Managers in this way, we believe that it would violate principles of bicameralism, the ability of each House to establish its own rules of procedure, and would therefore be an unconstitutional infringement on the prerogatives of the House.

Implicit in the right of the Managers to report to the House amendments to articles of impeachment, is the right of the Managers to receive and evaluate additional information. For example, if the Managers received additional exculpatory or inculpatory information, they could file amendments to the articles of impeachment in the House.

Senate Resolution 16 set a schedule for deciding whether to depose witnesses. The decision to depose witnesses is subject to a request from the House Managers. The House Managers have decided that they need to talk with Ms. Lewinsky before making a recommendation to the Senate to depose her. The action of the House Managers is not unusual. It is not unfair, and it is not contrary to the rules of the Senate.

With all due respect to the Senate, the rules and the constitutional principles of bicameralism do not require that the House obtain the permission of the Senate merely to conduct an interview of a potential witness. A decision to merely interview a witness as opposed to conducting a deposition, does not interfere with the Senate's ability to control the procedures set forth under S. Res. 16.

Sincerely,

HENRY J. HYDE,
On behalf of the Managers on the Part of the House of Representatives.

[From the U.S. House of Representatives, Committee on the Judiciary, Henry J. Hyde, Chairman]

MANAGERS' RESPONSE TO JUDGE'S RULING

(Washington, D.C.)—Paul McNulty, chief spokesman for the House Managers, made the following statement today following Judge Johnson's ruling that Monica Lewinsky must cooperate with the managers' request for an interview, in keeping with her immunity agreement:

''Monica Lewinsky received extraordinary protection in exchange for her truthful testimony. Judge Johnson ruled that she has an obligation to cooperate in the search for truth.

''Ms. Lewinsky's testimony has never been more important than it is now. In the last four days, the White House has challenged the reliability of her testimony in a number of key instances relating to her conversations with the President and Ms. Currie.

''Ms. Lewinsky can resolve some of these crucial conflicts, and House Managers have a responsibility to interview her before deciding to call her as a witness. This is Lawyering 101—any good lawyer would talk to a witness before deciding to put her on the witness stand. When the House of Representatives appointed the Managers, it also granted them the investigative authority necessary to find the truth.

''The White House's protests are psuedo-objections designed to divert attention from the President's behavior.''

[In the United States District Court for the District of Columbia, Misc. No. 99–32 (NHJ)]

IN RE GRAND JURY PROCEEDINGS

ORDER

Upon consideration of the Emergency Motion of the United States of America for Enforcement of Immunity Agreement, it is hereby ordered that the Motion is granted. It is further ordered that Monica S. Lewinsky allow herself to be debriefed by the House Managers, to be conducted by the Office of the Independent Counsel if she so requests, or forfeit her protections under the Immunity Agreement between Ms. Lewinsky and the OIC.

January 23, 1999.

NORMA HOLLOWAY JOHNSON,
Chief Judge.

EXCERPT FROM CBS RADIO TRANSCRIPT, JANUARY 24, 1999

KENNETH STARR DELIVERS REMARKS CONCERNING THE UPCOMING INTERVIEW WITH MONICA LEWINSKY; WASHINGTON, D.C.

QUESTION: Sir, people are saying on the Capitol Hill that you're trying to influence the trial by bringing back Monica, before they had a chance to vote.

What do you say about that?

STARR: Well, as I indicated, we had a request from the Lead Manager, Chairman Hyde, it was a formal request. And we responded as I felt that we were obligated to do to that request. And we then took what I felt was the appropriate action and we went to court.

I want to make it very clear that Chief Judge Johnson has only interpreted the agreement between Ms. Lewinsky, who's advised by her very able lawyers, and our office. She did not direct an order in any sense other than to interpret the meaning of the agreement, which we asked her to interpret. So, I want it to be very, very clear that the judge was simply acting at our request to interpret the terms of the agreement, which we believe are quite clear.

QUESTION: Senator Harkin said yesterday that Judge Johnson may not have acted on, you know, constitutionally. Do you have any comment on that?

STARR: Well we think that we have taken the appropriate action in going to the court and the court acted appropriately in interpreting the agreement, which is all that she did. So if there is an issue, the issue has to be one that's entrusted to the wisdom of the Senate. And their relationship with the House managers.

But from our standpoint, the agreement we felt was clear, we asked the judge to determine whether our interpretation of the agreement was clear. And she has issued her ruling.

APPENDIX G

Although the House Managers argued strenuously about the need to call witnesses in the Senate trial, their position in the House of Representatives on the same subject was the opposite.

''Well, they've already testified . . . I don't think we need to reinvent the wheel. To keep calling people to reiterate what they've already said under oath.''—Rep. Henry Hyde, CNN, October 10, 1998.

''I don't really believe that we need more live testimony from those type of witnesses. We have sworn testimony from Monica Lewinsky, from Betty Currie, from all the principal players. We also have sworn testimony from corroborating witnesses to their testimony . . . And—and . . . I don't think we need any former witnesses. I don't think we need to bring any in.''—Rep. Bill McCollum, NBC ''Saturday Today'', November 28, 1998.

''Bringing in witnesses to rehash testimony that's already concretely in the record would be a waste of time and serve no purpose at all.''—Rep. George Gekas, New York Times, November 6, 1998.

APPENDIX H

Although the House Managers argued strenuously about the need to call witnesses in the Senate trial, they also claimed that the record conclusively proved the President's guilt.

''A reasonable and impartial review of the record as it presently exists demands nothing less than a guilty verdict.''—House Manager Bryant, Congressional Record, January 14, 1999, Page S232.

''Finally, before turning to that merger of the law and the facts, which I believe will illustrate conclusively that this President has committed and ought to be convicted on perjury and obstruction of justice . . .''.—House Manager Barr, Congressional Record, January 15, 1999, Page S274.

''[L]adies and gentlemen of the Senate, there are conclusive facts here that support a conviction.''—House Manager Bryant, Congressional Record, February 8, 1999, Page S1358.

APPENDIX I

At times, the House Managers took different and oft-time conflicting positions on the need to call witnesses in the Senate trial.

''I submit that the state of the evidence is such that unless and until the President has the opportunity to confront and cross-examine witnesses like Ms. Lewinsky, and himself, to testify if he desires, there could not be any doubt of his guilt on the facts.''—House Manager Bryant, Congressional Record, January 14, 1999, Page S232.

''[I]f we had Mr. Jordan on the witness stand—which I hope to be able to call Mr. Jordan—you would need to probe where his loyalties lie, listen to the tone of his voice, look into his eyes and determine the truthfulness of his statements. You must decide whether he is telling the truth or withholding information.''—House Manager Hutchinson, Congressional Record, January 14, 1999, Page S234.

''The case against the President rests to a great extent on whether or not you believe Monica Lewinsky. But it is also based on the sworn testimony of Vernon Jordan, Betty Currie, Sidney Blumenthal, John Podesta and corroborating witnesses. Time and again, the President says one thing and they say something entirely different . . . . But if you have serious doubts about the truthfulness of any of these witnesses, I, again, as all my colleagues do, encourage you to bring them in here.''—House Manager McCollum, Congressional Record, January 15, 1999, Page S266.

''[O]n the record, the weight of the evidence, taken from what we have given you today, what you can read in all these books back here . . . I don't know what the witnesses will say, but, I assume if they are consistent, they'll say the same that's in here.''—House Manager McCollum, Congressional Record, January 15, 1999, Page S266–S267.

''[N]o one in this Chamber at this juncture does not know all the facts that are pertinent to this case. That is a magnificent accomplishment on the part of the managers.''—House Manager Gekas, Congressional Record, January 15, 1999, Page S267.

APPENDIX J

The House of Representatives articles were intended to charge President Clinton with specific crimes.

''[T]his honorable Senate must do the right thing. It must listen to the evidence; it must determine whether William Jefferson Clinton repeatedly broke our criminal laws and thus broke his trust with the people.''—House Manager Sensenbrenner, Congressional Record, January 14, 1999, Page S227.

''Moreover, in engaging in this course of conduct, referring here to the words of the obstruction statute found at section 1503 of the Criminal Code, the President's actions constituted an endeavor to influence or impede the due administration of justice in that he was attempting to prevent the plaintiff in the Jones case from having a 'free and fair opportunity to learn what she may learn concerning the material facts surrounding her claim'. These acts by the President also constituted an endeavor to 'corruptly persuade another person with the intent to influence the testimony they might give in an official proceeding'. Such are the elements of tampering with witnesses found at section 1512 of the Federal Criminal Code.''—House Manager Barr, Congressional Record, January 15, 1999, Page S274–S275.

''Under both sections of the Federal Criminal Code, that is, 1503, obstruction, and 1512, obstruction in the form of witness tampering, the President's conduct constituted a Federal crime and satisfies the elements of those statutes.—House Manager Barr, Congressional Record, January 15, 1999, Page S275.

''The evidence, however, clearly establishes that the President's statement constitutes perjury, in violation of section 1623 of the U.S. Federal Criminal Code for the simple reason the only realistic way Ms. Lewinsky could get out of having to testify based on her affidavit. There was no other way it could have happened. The President knew this. Ms. Lewinsky knew this. And the President's testimony on this point is perjury within the clear meaning of the Federal perjury statute. It was willful, it was knowing, it was material, and it was false.—House Manager Barr, Congressional Record, January 15, 1999, Page S275.

''Please keep in mind also, it is not required that the target of the defendant's actions actually testify falsely. In fact, the witness tampering statute can be violated even when there is no proceeding pending at the time the defendant acted in suggesting testimony. As the cases discussed by Manager Cannon demonstrate, for a conviction under either section 1503, obstruction, or 1512, obstruction by witness tampering, it is necessary only to show it was possible the target of the defendant's actions might be called as a witness. That element has been more than met under the facts of this case.—House Manager Barr, Congressional Record, January 15, 1999, Page S276.

''In my opening statement before this body, I outlined the four elements of perjury: An oath, intent, falsity, materiality. In this case, all those elements have been met.''—House Manager Chabot, Congressional Record, February 8, 1999, Page S1341.

''In the past month, you have heard much about the Constitution; and about the law. Probably more than you'd prefer; in a dizzying recitation of the U.S. Criminal Code: 18 U.S.C. 1503. 18 U.S.C. 1505. 18 U.S.C. 1512. 18

U.S.C. 1621. 18 U.S.C. 1623. Tampering. Perjury. Obstruction. That is a lot to digest, but these are real laws and they are applicable to these proceedings and to this President.''—House Manager Barr, Congressional Record, February 8, 1999, Page S1342.

APPENDIX K

Though written in his diary almost 200 hundred years ago, John Quincy Adams' thoughts on the impeachment of Justice Samuel P. Chase, who was acquitted, are relevant to the impeachment of President Clinton.

On the day that Justice Chase was acquitted in 1805, John Quincy Adams wrote the following:

''. . . This was a party prosecution, and is issued in the unexpected and total disappointment of those by whom it was brought forward. It has exhibited the Senate of the United States fulfilling the most important purpose of its institution. . . It has proved that a sense of justice is yet strong enough to overpower the furies of factions; but it has, at the same time, shown the wisdom and necessity of that provision in the Constitution which requires the concurrence of two-thirds for conviction upon impeachments.''

APPENDIX L

ADDITIONAL STATEMENT OF SENATOR CARL LEVIN REGARDING THE INDEPENDENT COUNSEL

Mr. President, four and one half years ago, the Special Court under the independent counsel law appointed Kenneth Starr to investigate certain specific and credible allegations concerning President Clinton's involvement in the Madison Guaranty Savings and Loan Association of Little Rock, Arkansas. Three and half years later—and after what appears to be the most thorough criminal investigation of a sitting President, Mr. Starr was unable to find any criminal wrongdoing on the part of the President in what came to be known as ''Whitewater.'' A similar conclusion was reached by Mr. Starr with respect to additional investigations assigned to Mr. Starr along the way—namely, allegations with respect to the White House use of FBI files and the discharge of White House employees from the White House Travel Office.

A year ago Mr. Starr's investigation was coming to an end. That's when Linda Tripp walked through Mr. Starr's door with promises of taped phone conversations between Ms. Tripp and Monica Lewinsky about Ms. Lewinsky's sexual relationship with President Clinton. And what was the alleged crime? That President Clinton and Ms. Lewinsky were about to lie about their relationship—if they were asked about it by the attorneys for Paula Jones in her sexual harassment case against President Clinton. Mr. Starr had to know that the relationship between President Clinton and Monica Lewinsky had been a consensual one. Mr. Starr had to know that, because Ms. Tripp was informed by Ms. Lewinsky of every aspect of her relationship with President Clinton. And at this point—January 12, 1998—neither Monica Lewinsky nor President Clinton had been deposed.

I am convinced that no ordinary federal prosecutor, if confronted with the same situation involving a private citizen, would have pursued this case. But Mr. Starr was no ordinary federal prosecutor. Without jurisdiction with respect to these matters, he immediately gave Ms. Tripp immunity in exchange for access to her tapes, and he wired her to tape a private luncheon conversation with Ms. Lewinsky. Shortly after Mr. Starr wired Ms. Tripp, he confronted Ms. Lewinsky and, according to her, threatened her with 27 years in prison and the prosecution of her mother in order to get her cooperation and to tape Betty Currie, the President, and/or Vernon Jordan. Mr. Starr brought his enormous criminal investigative resources to bear on testimony yet to be given in a civil lawsuit involving a consensual, sexual relationship.

At the time Ms. Lewinsky was threatened by Mr. Starr, her affidavit in the Jones case had not been filed. She was still in a position to retrieve it or amend it. Also, President Clinton had not been deposed. He had not given his testimony in the Paula Jones suit. In effect, Mr. Starr and his agents lay in wait—waiting for the President to be surprised at the Jones deposition with information about Monica Lewinsky. And how did that information about Monica Lewinsky get in the hands of the Jones attorneys? Ms. Tripp gave them the information. And she was able to do that even though she was under an immunity arrangement with Mr. Starr, because—as Mr. Starr acknowledged to the House Judiciary Committee under questioning—Mr. Starr's agents never directed Ms. Tripp to keep her information confidential, even though Mr. Starr had a major concern that the Lewinsky matter would leak to the press. Mr. Starr's agents did not tell Ms. Tripp not to talk to the Jones attorneys or anyone else in order to ensure that the story would not leak to the press.

So the enormous criminal investigative resources of the federal government were brought to bear on the President of the United States to catch him by surprise in a future deposition in a civil proceeding on a matter peripheral to the lawsuit, prior to any of the suspected unlawful conduct.

Once the President testified in that civil suit, Mr. Starr convened a grand jury to investigate the truthfulness of Mr. Clinton's testimony. Again, using the virtually unlimited resources of the federal government with respect to a criminal investigation, Mr. Starr called countless witnesses before the grand jury—recalling numerous witnesses multiple times. Betty Currie testified on 5 different occasions; so did Vernon Jordan. Monica Lewinsky testified 3 times and was interviewed over 20 separate times. I don't believe any regular prosecutor would have invested the time and money and resources in the kind of investigation that Kenneth Starr did.

At the end, Mr. Starr wrote a report arguing for impeachment to the House of Representatives. He didn't just impartially forward evidence he thought may demonstrate possible impeachable offenses.

The Starr report spared nothing. Lacking good judgment and balance, the Starr report contained a large amount of salacious detail, and skipped over or dismissed important exculpatory evidence, such as Monica Lewinsky's statement that no one asked her to lie and no one promised her a job for her silence. Mr. Starr violated the standards enunciated by Judge Sirica when he addressed the status of the grand jury report in the Watergate matter. In that case, Judge Sirica wrote in granting Leon Jaworski, the Watergate prosecutor, the right to forward grand jury information to the House of Representatives:

''It draws no accusatory conclusions. . . It contains no recommendations, advice or statements that infringe on the prerogatives of other branches of government. . . It renders no moral or social judgments. The Report is a simple and straightforward compilation of information gathered by the Grand Jury, and no more. . . The Grand Jury has obviously taken care to assure that its Report contains no objectionable features, and has throughout acted in the interests of fairness. The Grand Jury having thus respected its own limitations and the rights of others, the Court ought to respect the Jury's exercise of its prerogatives.'' (*In re Report and Recommendation of June 5, 1972, Grand Jury Concerning Transmission of Evidence to the House of Representatives*, U.S. District Court, District of Columbia, March 18, 1974.)

What a far cry the Watergate grand jury report was from Mr. Starr's. The Starr Report violates almost every one of the standards laid out by Judge Sirica in the Watergate case.

The House of Representatives the Judiciary Committee then almost immediately released the Starr report and the thousands of pages of evidence to the public.

Because of that release—enormous damage had been done to the public's sense of decorum and to appropriate limits between public and private life.

DEPOSITION OF VERNON JORDAN IN THE SENATE IMPEACHMENT TRIAL

Mr. LEAHY. Mr. President, I regret to have to return to an unfinished aspect of the Senate impeachment trial of President Clinton.

On February 2, I attended the deposition of Vernon Jordan as one of the Senators designated to serve as presiding officers. On February 4, the Senate approved the House Managers' motion to include a portion of that deposition in the trial record. Unfortunately, the House Managers moved to include only a portion of the videotaped deposition in the trial record and left the rest hidden from the public and subject to the confidentiality rules that governed those proceedings.

On Saturday, February 6, at the conclusion of his presentation, Mr. Kendall asked for permission to display the last segment of the videotaped deposition of Vernon Jordan, in which, as Mr. Kendall described it ''Mr. Jordan made a statement defending his own integrity.'' The House Managers objected to the playing of the approximately 2-minute segment of the deposition that represented Mr. Jordan's ''own statement about his integrity.''

I then rose to request unanimous consent from the Senate that the segment of the videotaped deposition be allowed to be shown on the Senate floor to the Senate and the American people. There was objection from the Republican side.

I noted my disappointment at the time and in my February 12 remarks about the depositions. After the conclusion of the voting on the Articles of Impeachment and before the adjournment of the court of impeachment, unanimous consent was finally granted to include the ''full written transcripts'' of the depositions in the public record of the trial. As far as I can tell, however, the statement of integrity by Mr. Jordan has yet to be published in the CONGRESSIONAL RECORD.

I regret that the Senate chose to prohibit the viewing of the videotape of

this powerful personal statement during the trial. I regret that it continues to be restricted from public viewing.

In order to be sure that the transcript that is being made a part of the public trial record is readily available to the public, I ask unanimous consent that the following portion of the written transcript of the deposition of Vernon Jordan, that containing his statement of integrity heretofore suppressed, be printed in the RECORD.

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

The WITNESS. Mr. Chairman, may I be just permitted a moment of personal privilege? I don't know about the rules here, but uh, I'd like to say something if you would permit.

Mr. HUTCHINSON. Mr. Chairman——

Senator THOMPSON. Well, Mr. Jordan, quite frankly, it depends on what the subject matter is and what you'd like——

The WITNESS. Well, it won't be a declaration of war. [Laughter.]

Senator THOMPSON. Counsel, did you have——

Mr. HUTCHINSON. I would reserve the objection. I think that's permissible under the rules. So I would state my objection, let him answer it, and if—we can debate that if it becomes an issue in the Senate. I'd like to reserve the objection.

Senator THOMPSON. All right.

The WITNESS. It's just something I want you, Mr. Hutchinson, and the House Managers to understand about Vernon Jordan. And that is, you know, it's a very long way from the first public housing project in this country for black people, where I grew up. It's a long way from there to a corner office at Akin Gump. It's a long way from University Homes to the corporate board rooms of America. It's a long way from University Homes to the Oval Office. And I have made that journey understanding one thing, and that is that the only thing I have in this world that belongs to me is fee simple absolute, completely and totally, is my integrity.

My corner office at Akin Gump is at best tenuous. My house, my home, is at best tenuous. My bank account, my stocks and my bonds, they are ultimately of no moment.

But what matters most to me, and what was taught to me by my mother, is that the only thing that I own totally and completely is my integrity. And my integrity has been on trial here, and I want to tell you that nothing is more important to me than that.

The Presdient is my friend. He was before this happened, he is now, and he will be when this is over. But he is not a friend in that I have no friends for whom I would sacrifice my integrity. And I want you to understand that.

Senator THOMPSON. Thank you, Mr. Jordan.

If there is no further question, then this deposition is completed, and we stand adjourned.

The WITNESS. Thank you.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING A WESTERN HEMISPHERE DRUG ALLIANCE—MESSAGE FROM THE PRESIDENT—PM 9

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 Foreign Relations.

To the Congress of the United States:

I am pleased to provide the attached report on a Western Hemisphere Drug Alliance in accordance with the provisions of section 2807 of the ''Foreign Affairs Reform and Restructuring Act of 1998.'' This report underscores the Administration's commitment to enhancing multilateral counternarcotics cooperation in the region.

Strengthening international narcotics control is one of my Administration's top foreign policy priorities. Because of the transnational nature of the Western Hemisphere drug trafficking threat, we have made enhanced multilateral cooperation a central feature of our regional drug control strategy. Our counternarcotics diplomacy, foreign assistance, and operations have focused increasingly on making this objective a reality.

We are succeeding. Thanks to U.S. leadership in the Summit of the Americas, the Organization of American States, and other regional fora, the countries of the Western Hemisphere are taking the drug threat more seriously and responding more aggressively. South American cocaine organizations that were once regarded as among the largest and most violent crime syndicates in the world have been dismantled, and the level of coca cultivation is now plummeting as fast as it was once sky-rocketing. We are also currently working through the Organization of American States to create a counternarcotics multilateral evaluation mechanism in the hemisphere. These examples reflect fundamental narcotics control progress that was nearly unimaginable a few years ago.

While much remains to be done, I am confident that the Administration and the Congress, working together, can bolster cooperation in the hemisphere, accelerate this progress, and significantly diminish the drug threat to the American people. I look forward to your continued support and cooperation in this critical area.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 23, 1999*.

MESSAGES FROM THE HOUSE

At 11:24 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 350. An act to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

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–1864. A communication from the Secretary of Defense, transmitting, pursuant to law, the Secretary's report on the retention of members of the Armed Forces; to the Committee on Armed Services.

EC–1865. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Independent Research and Development and Bid and Proposal Costs for Fiscal Year 1996 and Beyond'' (Case 95–D040) received on February 16, 1999; to the Committee on Armed Services.

EC–1866. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Deviations from Cost Accounting Standards Administration Requirements'' (Case 97–D016) received on February 16, 1999; to the Committee on Armed Services.

EC–1867. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Television-Audio Support Activity'' (Case 98–D008) received on February 16, 1999; to the Committee on Armed Services.

EC–1868. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Specifications and Standards Requisition'' (Case 98–D022) received on February 16, 1999; to the Committee on Armed Services.

EC–1869. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Flexible Progress Payments'' (Case 98–D400) received on February 16, 1999; to the Committee on Armed Services.

EC–1870. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; People's Republic of China'' (Case 98–D305) received on February 16, 1999; to the Committee on Armed Services.

EC–1871. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Singapore Accession to Government Procurement Agreement'' (Case 98–D029) received on February 16, 1999; to the Committee on Armed Services.

EC–1872. A communication from the Alternate OSD Federal Register Liaison Officer, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Individual Case Management'' (RIN0720–AA30) received on February 16, 1999; to the Committee on Armed Services.

EC–1873. A communication from the Acting Assistant Secretary of Defense for Force Policy and Management, transmitting, pursuant to law, the Department's Defense Education Activity (DoDEA) Accountability Report and Accountability Profiles for the Department of Defense Dependants Schools for School Year 1997–1998; to the Committee on Armed Services.

EC–1874. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of Delaware—Transportation Conformity Regulation'' (FRL6303–4) received on February 16, 1999; to the Committee on Environment and Public Works.

EC–1875. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants; Emissions: Group I Polymers and Resins and Group IV Polymers and Resins and Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry'' (FRL6301–6) received on February 11, 1999; to the Committee on Environment and Public Works.

EC–1876. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Wyoming: Final Authorization of State Hazardous Waste Management Program Revision'' (FRL6302–1) received on February 11, 1999; to the Committee on Environment and Public Works.

EC–1877. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Michigan: Correction'' (FRL6302–3) received on February 11, 1999; to the Committee on Environment and Public Works.

EC–1878. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Magnetic Levitation Transportation Technology Deployment Program'' (RIN2130–AB29) received on February 11, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1879. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Fees for Services Performed in Connection With Motor Carrier Registration and Insurance'' (RIN2125–AE24) received on February 11, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1880. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Santa Barbara Channel, CA'' (COTP Los Angeles-Long Beach, CA; 98–012) received on February 11, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1881. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulation; Chef Menteur Pass, LA'' (Docket 8–96–053) received on February 11, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1882. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone: Shlofmitz BatMitzvah Fireworks, Hudson River, Manhattan, New York'' (Docket 01–99–001) received on February 11, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1883. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulation; Back Bay of Biloxi, MS'' (Docket 8–96–049) received on February 11, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1884. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747 Series Airplanes'' (Docket 98–NM–144–AD) received on February 11, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1885. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D Airspace; Hunter Army Airfield'' (Docket 99–ASO–2) received on February 11, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1886. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Policy and Procedures Concerning the Use of Airport Revenue'' (Docket 28472) received on February 11, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1887. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Vehicle Certification; Contents of Certification Labels for Multipurpose Passenger Vehicles and Light Duty Trucks'' (RIN2127–AG65) received on February 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1888. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Textron Lycoming Model O–540–F1B5 Reciprocating Engines'' (Docket 98–ANE–73–AD) received on February 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1889. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model DHC–7 Series Airplanes'' (Docket 98–NM–295–AD) received on February 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1890. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Short Brothers Model SD3–60 SHERPA Series Airplanes'' (Docket 98–NM–289–AD) received on February 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1891. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Raytheon Aircraft Company Beech Model 60 Airplanes'' (Docket 98–CE–126–AD) received on February 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1892. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 737–600, –700, –700IGW, and –800 Series Airplanes'' (Docket 98–NM–362–AD) received on February 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1893. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Allison Engine Company, Inc. AE2100A, AE2100C, and AE2100D3 Series Turboprop Engines'' (Docket 98–ANE–83–AD) received on February 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1894. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments'' (Docket 29454) received on February 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1895. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments'' (Docket 29455) received on February 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1896. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Linden, NJ'' (Docket 98–ANE–46) received on February 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1897. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Oroville, CA'' (Docket 98–AWP–10) received on February 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1898. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Metropolitan Oakland International Airport, California; Correction'' (Docket 98–AWP–22) received on February 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–1899. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class D Airspace; Anchorage, Elmendorf Air Force Base (AFB) Airport, AK; Establishment of Class E Airspace; Anchorage, Elmendorf AFB Airport, AK'' (Docket 98–AAL–23) received on February 8, 1999; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted.

By Mr. BOND, from the Committee on Small Business, without amendment:

S. 314. A bill to provide for a loan guarantee program to address the Year 2000 computer problems of small business concerns, and for other purposes (Rept. No. 106–5).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first

and second time by unanimous consent, and referred as indicated:

By Mr. THOMPSON (for himself, Mr. FRIST, Mr. DEWINE, Mr. VOINOVICH, and Mr. SMITH of Oregon):

S. 440. A bill to provide support for certain institutes and schools; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. 441. A bill to amend the National Trails System Act to designate the route of the War of 1812 British invasion of Maryland and Washington, District of Columbia, and the route of the American defense, for study for potential addition to the national trails system; to the Committee on Energy and Natural Resources.

By Mr. KERREY:

S. 442. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel LOOKING GLASS; to the Committee on Commerce, Science, and Transportation.

By Mr. LAUTENBERG (for himself, Mr. SCHUMER, and Mr. DURBIN):

S. 443. A bill to regulate the sale of firearms at gun shows; to the Committee on the Judiciary.

By Mr. BAUCUS (for himself and Mr. BURNS):

S. 444. A bill to deem the application submitted by the Dodson Public Schools District for Impact Aid payments for fiscal year 1998 as timely submitted; to the Committee on Health, Education, Labor, and Pensions.

By Mr. JEFFORDS (for himself, Mr. SPECTER, Mr. ROCKEFELLER, Mr. MCCAIN, Mr. THURMOND, Mr. MURKOWSKI, Mr. CAMPBELL, Mr. CRAIG, Mr. HUTCHINSON, Ms. SNOWE, Mr. DASCHLE, Mr. GRAHAM, Mr. AKAKA, Mr. WELLSTONE, Mrs. MURRAY, Mr. HOLLINGS, Mr. LEAHY, Mr. CLELAND, Ms. LANDRIEU, and Mr. JOHNSON):

S. 445. A bill to amend title XVIII of the Social Security Act to require the Secretary of Veterans Affairs and the Secretary of Health and Human Services to carry out a demonstration project to provide the Department of Veterans Affairs with medicare reimbursement for medicare healthcare services provided to certain medicare-eligible veterans; to the Committee on the Judiciary.

By Mrs. BOXER (for herself, Mr. KERRY, and Mr. TORRICELLI):

S. 446. A bill to provide for the permanent protection of the resources of the United States in the year 2000 and beyond; to the Committee on Energy and Natural Resources.

By Mr. BURNS:

S. 447. A bill to deem as timely filed, and process for payment, the applications submitted by the Dodson School Districts for certain Impact Aid payments for fiscal year 1999; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SMITH of New Hampshire:

S.J. Res. 11. A joint resolution prohibiting the use of funds for military operations in the Federal Republic of Yugoslavia (Serbia and Montenegro) unless Congress enacts specific authorization in law for the conduct of those operations; read the first time.

By Mr. SPECTER:

S.J. Res. 12. A joint resolution authorizing the conduct of air operations and missile strikes as part of a larger NATO operation against the Federal Republic of Yugoslavia (Serbia and Montenegro); to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. HUTCHISON (for herself and Ms. MIKULSKI):

S. Res. 48. A resolution designating the week beginning March 7, 1999, as ''National Girl Scout Week''; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THOMPSON (for himself, Mr. FRIST, Mr. DEWINE, Mr. VOINOVICH, and Mr. SMITH of Oregon):

S. 440. A bill to provide support for certain institutes and schools; to the Committee on Health, Education, Labor, and Pensions.

LEGISLATION TO PROVIDE SUPPORT FOR CERTAIN INSTITUTES AND SCHOOLS

● Mr. THOMPSON. Mr. President, today Senator FRIST and I are introducing a bill to establish the Howard Baker School of Government on the campus of the University of Tennessee, Knoxville.

The University of Tennessee has a long and proud tradition of providing the highest quality education to students from Tennessee and around the world. The Howard Baker School of Government would be but the latest installment in this institution's ongoing commitment to preparing its student body by giving them the tools and knowledge necessary to succeed in the pursuit of their dreams.

With this said, I can think of no greater tribute to our friend and colleague, the former Majority Leader of this body, Senator Howard Baker, than to further his legacy of promoting the best in our political system by establishing this School in his honor.

In many ways, Senator Baker's entire life has been a lesson in public service. Those of us from his home state of Tennessee have matured in his shadow and have been inspired by his vision. His positive influence has not, however, been limited by Tennessee's borders. Senator Baker is one of those rare individuals whose leadership has lifted the entire nation. Creating this School of Government in his name would not only be a tribute to a man but a logical extension of that man's continuing lifework.

In 1966, Senator Baker became the first Republican popularly elected to the United States Senate in Tennessee's history. This was not because of a great rise in Tennessee's Republican population, but rather was an indication of Senator Baker's unique ability to reach out to people of different backgrounds with diverging views and spark in them that all-encompassing common vision—that we live together in a great nation that has an even greater future.

Senator Baker served in this body from 1967 until January 1985, as Minority Leader from 1977 until 1981, and then as Majority Leader until his retirement. After leaving the Senate, Senator Baker served admirably as Chief of Staff to President Ronald Reagan and he continues to this day to provide us with a keen insight into the principles of true leadership.

Throughout each phase of Senator Baker's life he has clearly demonstrated that statesmanship is not something relegated to our history books. It is alive and well. His continuing example is a call to each of us that we can and should rise to the challenge of citizenship in a way that brings us together as a nation and further strengthens this great experiment called the United States.

I can think of no better union than the ideals and example of Senator Howard Baker with the dedication to higher education of the University of Tennessee. The Howard Baker School of Government will be an institution each of us can be proud to have supported and one that will further the principles of good government to which each of us is committed.●

● Mr. FRIST. Mr. President, I rise today to introduce legislation to establish the Howard Baker School of Government at the University of Tennessee, Knoxville. I am proud to introduce this legislation with my colleague, Senator THOMPSON. Although the Senate passed this legislation last year, unfortunately it was not signed into law before the completion of the 105th Congress.

The bill we are introducing today would create a new academic program at the University of Tennessee, and authorize the appropriation of $10 million to establish the school and its endowment fund to provide long-term funding for personnel and operations. I am pleased that this school is to be named in honor of Senator Howard Baker, who is a University of Tennessee alumnus. Senator Baker has enjoyed a distinguished career in public service. He served in the U.S. Senate for 18 years, held the positions of Minority and Majority Leader, was a presidential candidate, and has served as White House Chief of Staff to President Reagan. Senator Baker has been a long supporter of the University of Tennessee, working diligently to raise funds for various fellowships and scholarships. He has served his State and country with pride and integrity, and it is therefore fitting that we establish a School of Government in his name.

The Howard Baker School of Government would comprise the existing political science, public administration, regional planning, and social science research programs, house manuscript collections from important public figures such as Tennessee's three presidents and leading twentieth-century

political figures, and institute a lecture series on public issues. In addition, the school will establish a professorship to improve the teaching, research, and understanding of democratic institutions, establish a fellowship program for students interested in pursuing a career in public affairs, and support the professional development of elected officials at all government levels. The School of Government will be housed in the renovated former Hoskins Library, and will be dedicated to advancing the principles of democratic citizenship, civic duty, and public responsibility through the education and training of informed citizenry and public officials.

Again, I am proud to introduce this legislation which I believe will bring greater prominance to the University of Tennessee, Knoxville, while simultaneously honoring one of our State's most distinguished public servants.●

● Mr. DEWINE. Mr. President, I rise today in support of important legislation that would create an endowment for a public-policy institute in Columbus. This institute will embody the spirit of our recently-retired U.S. Senator, the Honorable John Glenn.

The bill would create an endowment fund for the John Glenn Institute for Public Service and Public Policy at the Ohio State University in Columbus, Ohio. The bill also creates endowment funds for the Mark O. Hatfield School of Government at Portland State University, the Paul Simon Public Policy Institute at Southern Illinois University, and the Howard Baker School of Government at the University of Tennessee.

Mr. President, I have long believed that the study of politics would benefit greatly if more statesmen were to contribute their hands-on expertise. And not only that; it is the example of their supremely practical idealism that we really need if we are to understand and solve the problems confronting tomorrow's America.

We in Ohio are proud to host the Glenn Institute, which will serve many purposes: (1) ''To sponsor classes, internships, community service activities, and research projects to stimulate student participation in public service, in order to foster America's next generation of leaders.''

(2) ''To conduct scholarly research in conjunction with public officials on significant issues facing society and to share the results of such research with decision-makers and legislators as the decision-makers and legislators address such issues.''

(3) ''To offer opportunities to attend seminars on such topics as budgeting and finance, ethics, personnel management, policy evaluations, and regulatory issues that are designed to assist public officials in learning more about the political process and to expand the organizational skills and policy-making abilities of such officials.''

(4) ''To educate the general public by sponsoring national conferences, seminars, publications, and forums on important public issues.''

(5) ''To provide access to Senator John Glenn's extensive collection of papers, policy decisions, and memorabilia, enabling scholars at all levels to study the Senator's work.''

All of these, Mr. President, are valuable goals. I understand the center plans to address specifically the consequences of media coverage on public service; analyze the effectiveness of civics education classes in our K–12 schools; design training programs for public officials on issues such as policy evaluation, communications strategies and ethics; and create an undergraduate major in public policy.

Senator Glenn himself recently underscored the mission of the Institute, saying, and I quote: ''What we do today will determine what kind of country our kids will live in tomorrow. And that's worth working for.'' He also said, ''You can go to the National Archives in Washington, D.C., and it's almost a religious experience to look at the U.S. Constitution. But that piece of paper is not worth a thing without people to make it real. I look at public service as being the personnel department for the Constitution. People in public service are the ones who make it work.''

Mr. President, I could not agree more, and that is why I'm backing this bill. The bill provides an authorization of $10 million for the Glenn Institute, and the Ohio State University must match that endowment with an amount equal to one third the endowment.

It's a good investment in the future of our public life.●

By Mr. SARBANES (for himself, and Ms. MIKULSKI):

S. 441. A bill to amend the National Trails System Act to designate the route of the War of 1812 British invasion of Maryland and Washington, District of Columbia, and the route of the American defense, for study for potential addition to the national trails system; to the Committee on Energy and Natural Resources.

THE STAR-SPANGLED BANNER NATIONAL HISTORIC TRAIL STUDY ACT OF 1999

Mr. SARBANES. Mr. President, today I am introducing legislation, together with my colleague Senator MIKULSKI, which will help commemorate and preserve significant sites associated with America's Second War of Independence, the War of 1812. My legislation, entitled ''The Star-Spangled Banner National Historic Trail Study Act of 1999,'' directs the Secretary of the Interior to initiate a study to assess the feasibility and desirability of designating the route of the British invasion of Washington, D.C. and their subsequent defeat at Baltimore, Maryland, as a National Historic Trail. A similar companion bill is being sponsored by Congressmen BEN CARDIN and WAYNE GILCHREST in the House of Representatives.

Since the passage of the National Trail Systems Act of 1968, the National Park Service has recognized historically significant routes of exploration, migration and military action through its National Historic Trails Program. Routes such as the Juan Bautista de Anza, Lewis and Clark, Pony Express and Selma to Montgomery National Historic Trails cross our country and represent important episodes of our nation's history, episodes which were influential in shaping the very future of this country. It is my view that the inclusion of the Star-Spangled Banner Trail will give long overdue recognition to another of these important events.

The War of 1812, and the Chesapeake Campaign in particular, mark a turning point in the development of the United States. Faced with the possibility of losing the independence for which they struggled so valiantly, the citizens of this country were forced to assert themselves on an international level.

From the period of the arrival of the British forces at Benedict, in Charles County, Maryland, on August 18, 1814, to the American victory at Fort McHenry in Baltimore, on September 14, 1814, the war took a dramatic turn. The American forces, largely comprised of Maryland's citizens, were able to slow the British advance through the state and successfully defended Baltimore, leading to the retreat of the British.

The more than 30 sites along this trail mark some of the most historically important events of the War of 1812. The Star-Spangled Banner Trail, commemorating the only combined naval and land attack on the United States, begins with the June, 1814 battles between the British Navy and the American Chesapeake Flotilla at St. Leonard's Creek in Calvert County, Maryland. It continues to the site of the British landing at Benedict, Maryland the starting point of the British march to the nation's capital, Washington, D.C. The trail follows the defeat of the Americans at the Battle of Bladensburg, the evacuation of the United States Government, the burning of the nation's capital, including the White House and the Capitol Building, the battle at North Point and the bombardment of Fort McHenry, site of the composition of our National Anthem, the Star-Spangled Banner, and the ultimate defeat of the British.

The route will also serve to bring awareness to several lesser known, but equally important sites of the war, including St. Leonard's Creek in Calvert County, where Commodore Joshua Barney's Chesapeake Flotilla managed to successfully beat back two larger and more heavily armed British ships, the Upper Chesapeke Bay and related skirmishes there, Brookeville, Maryland, which served as the nation's capital for one day, and Todd's Inheritance, the signal station for the American defenders at Fort McHenry. These sites, and

many like them, will only enrich the story told along the trail. Additionally, the attention given to these sites should prove beneficial in terms of efforts to preserve and restore them. Mr. President, at this time I ask unanimous consent that a more detailed list of these sites, as well as a copy of this legislation and a letter of support from Governor Parris Glendening, be included in the RECORD.

Mr. President, the designation of the route of the British invasion of Washington and American defense of Baltimore as a National Historic Trail will serve as a reminder of the importance of the concept of liberty to all who experience the Star-Spangled Banner Trail. It will also give long overdue recognition to those patriots whose determination to stand firm against enemy invasion and bombardment preserved this liberty for future generations of Americans.

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

S. 441

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 ''Star-Spangled Banner National Historic Trail Study Act of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the British invasion of Maryland and Washington, District of Columbia, during the War of 1812 marks a defining period in the history of our Nation, the only occasion on which the United States of America has been invaded by a foreign power;

(2) the Star-Spangled Banner National Historic Trail traces the route of the British naval attack on the Chesapeake Flotilla at St. Leonard's Creek, the landing of the British forces at Benedict, Maryland, the American defeat at the Battle of Bladensburg, the siege of the Nation's capital, Washington, District of Columbia (including the burning of the United States Capitol and the White House), the British expedition to and subsequent skirmishes within the upper Chesapeake Bay, the route of the American troops between Washington and Baltimore, the Battle of North Point, and the ultimate victory of the Americans at Fort McHenry, on September 14, 1814, where a distinguished Maryland lawyer and poet, Francis Scott Key, wrote the words that captured the essence of our national struggle for independence, words that now serve as our national anthem, the Star-Spangled Banner; and

(3) the designation of this route as a national historic trail—

(A) would serve as a reminder of the importance of the concept of liberty to all who experience the Star-Spangled Banner National Historic Trail; and

(B) would give long overdue recognition to the patriots whose determination to stand firm against enemy invasion and bombardment preserved this liberty for future generations of Americans.

SEC. 3. DESIGNATION OF TRAIL FOR STUDY.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended—

(1) by redesignating paragraph (36) (as added by section 3 of the El Camino Real Para Los Texas Study Act of 1993 (107 Stat. 1497)) as paragraph (37);

(2) by designating the paragraphs relating to the Old Spanish Trail and the Great Western Scenic Trail as paragraphs (38) and (39), respectively; and

(3) by adding at the end the following:

''(40) STAR-SPANGLED BANNER NATIONAL HISTORIC TRAIL.—

''(A) IN GENERAL.—The Star-Spangled Banner National Historic Trail, tracing the War of 1812 route of the British naval attack on the Chesapeake Flotilla at St. Leonard's Creek, the landing of the British forces at Benedict, Maryland, the American defeat at the Battle of Bladensburg, the siege of the Nation's capital, Washington, District of Columbia (including the burning of the United States Capitol and the White House), actions between the British and American forces in the upper Chesapeake Bay, the route of the American troops between Washington and Baltimore, the Battle of North Point, and the ultimate victory of the Americans at Fort McHenry, on September 14, 1814.

''(B) AFFECTED AREAS.—The trail crosses more than 6 Maryland counties, the city of Baltimore, and Washington, District of Columbia.''.

STAR-SPANGLED BANNER NATIONAL HISTORIC TRAIL

The Proposed Star-Spangled Banner National Historic Trail traces the route of the War of 1812 British Invasion of our Nation's Capital and the American Defense of Baltimore.

Possible sites for inclusion along the proposed Star-Spangled Banner National Historic Trail:

CALVERT COUNTY

St. Leonard's Creek—Battles of St. Leonard's Creek.

Lower Marlboro Fishing Pier—Site of British war graves; British Generals Conference.

Prince Frederick—British destruction of County Seat.

CHARLES COUNTY

Benedict—Site of the British Landing.

Oldfields Chapel—Burial site of British soldiers.

Mattingly Memorial Park—Site of U.S. Navy delay of British retreat from Washington, D.C.

PRINCE GEORGE'S COUNTY

Bladensburg—Site of the Battle of Bladensburg.

Ft. Washington—Formerly Fort Washburton.

Belair Mansion, Bostwick House, Riversdale, Mount Welby—Historic Homes occupied in 1814.

Pig's Point—Scuttling of Chesapeake Flotilla by Commodore Barney to prevent British advance.

WASHINGTON, D.C.

White House, Capitol, Treasury Department, Sewell-Belmont House—Burned by the British.

The Octagon—Madison's residence after invasion.

MONTGOMERY COUNTY

Brookeville—U.S. Capital for one day.

Rockville—Site of British Encampments.

HOWARD COUNTY

Ellicott City—American march to Baltimore.

Savage—Home of Commodore Barney.

BALTIMORE COUNTY

North Point—Battle of North Point.

Todd's Inheritance—American Signal Station.

Methodist Meeting House—American Camp.

North Point Road—Route of British March.

BALTIMORE CITY

Ft. McHenry—Site of the American Victory.

Star-Spangled Banner Flag House & War of 1812 Museum—Birthplace Star-Spangled Banner.

Federal Hill—Site where citizens viewed battle.

KENT COUNTY

Caulk's Field—Site of the Battle of Caulk's Field.

Cedar Point—Site of log boom which prevented British advancement.

STATE OF MARYLAND,
OFFICE OF THE GOVERNOR,
Annapolis, MD, February 18, 1999.

The Hon. PAUL SARBANES,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR SARBANES: Thank you for your letter of support to the American Battlefield Protection Program regarding the grant application submitted by the Maryland Tourism Development Board. While reading your letter, I was reminded of how far we can go as a State if we combine our efforts and work together to achieve our goals.

Additionally, I am aware of and very interested in the National Historic Trail legislation you are re-introducing to Congress this session. The designation of a multi-jurisdictional National Historic Trail would have significant impact on Maryland's War of 1812 Heritage Tourism Initiative. My staff and I are ready to assist in the designation process in anyway you deem necessary.

As always, it was a pleasure to hear from you, I look forward to seeing you soon.

Sincerely,

PARRIS N. GLENDENING,
Governor.

By Mr. LAUTENBERG (for himself, Mr. SCHUMER, and Mr. DURBIN):

S. 443. A bill to regulate the sale of firearms at gun shows; to the Committee on the Judiciary.

THE GUN SHOW ACCOUNTABILITY ACT

Mr. LAUTENBERG. Mr. President, I rise to introduce legislation which will close the loophole in our gun laws which allows criminals to buy and sell firearms at gun shows.

Last year, there were more than 4,400 gun shows across America. While most of the citizens who participate in these gun shows are law-abiding, there is mounting evidence that criminals are using these events for more sinister purposes.

The problem is that current law allows unlicensed dealers to sell countless firearms without any background checks on the buyer or documentation of the sales. Criminals are aware of this loophole and exploit it. A study by the Illinois State Police showed at least 25 percent of illegally trafficked weapons came from gun shows. Militia members including Timothy McVeigh and Michael Fortier used gun shows to easily sell previously stolen guns and obtain a ready supply of firearms in undocumented transactions.

Additionally, the gun show loophole is unfair to law-abiding Federal Firearms Licensees. When they participate in a gun show, they must comply with all background checks and record-keeping, while an unlicensed dealer at the next table can make unlimited sales to any person without the same requirements. The ease of these sales

drains significant business from law-abiding gun store owners and other licensees, and penalizes them for following the law. Recognizing this problem, the National Alliance of Stocking Gun Dealers recently endorsed tighter regulations of gun shows: ''[W]e want to make it clear that persons attending Gun Shows to skirt laws and acquire guns for criminal use are unwelcome patrons of these events and diminish their purpose and quality.''

During the 105th Congress, I introduced the Gun Show Sunshine Act in an effort to address this issue. Subsequently, President Clinton directed the Attorney General to study gun show firearm transactions and make recommendations to crack down on illegal sales.

The Administration's recently released report confirmed what other law enforcement officials have been saying: gun shows are becoming illegal arms bazaars, where criminals buy and sell deadly weapons with impunity. The report looked at 314 recent Alcohol, Tobacco, and Firearms (ATF) investigations involving 54,000 firearms linked to gun shows. Nearly half of the investigations involved felons buying or selling firearms, and in more than one-third of the cases, the firearms in question were known to have been used in subsequent crimes.

Today, I am introducing legislation that proposes a simple approach to the gun show loophole—no background check, no gun, no exceptions. This measure incorporates the recommendations made by the Department of Justice and the Treasury Department and I appreciate the Administration's support.

This bill would take several steps designed to make it harder for criminals to buy and sell weapons at gun shows. It would require gun show promoters to register and notify ATF of all gun shows, maintain and report a list of vendors at the show, and ensure that all vendors acknowledge receipt of information about their legal obligations. Also, it would require that any firearms sales go through a Federal Firearms Licensee (FFL). The idea is that if an unlicensed person was selling a weapon, they would use a FFL at the gun show to complete the transaction. The FFL would be responsible for conducting a Brady check on the purchaser and maintaining records of the transactions. The FFL could charge a fee for the service.

In order to make it easier for law enforcement to bring criminals to justice, the bill would also require FFLs to submit information necessary to trace all firearms transferred at gun shows to ATF's National Tracing Center, including the manufacturer/importer, model, and serial number of the firearms.

These reasonable requirements will make our streets safer by making it harder for criminals to get guns. At the same time, these regulations will not unduly burden those law-abiding Americans who enjoy gun shows.

I urge my colleagues to join with me in this effort to close the gun show loophole. We must do more to prevent the easy access to firearms which fuels the gun violence across the country.

I ask unanimous consent that a copy of the legislation be printed in the RECORD.

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

S. 443

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 ''Gun Show Accountability Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) more than 4,400 traditional gun shows are held annually across the United States, attracting thousands of attendees per show and hundreds of Federal firearms licensees and nonlicensed firearms sellers;

(2) traditional gun shows, as well as flea markets and other organized events, at which a large number of firearms are offered for sale by Federal firearms licensees and nonlicensed firearms sellers, form a significant part of the national firearms market;

(3) firearms and ammunition that are exhibited or offered for sale or exchange at gun shows, flea markets, and other organized events move easily in and substantially affect interstate commerce;

(4) in fact, even before a firearm is exhibited or offered for sale or exchange at a gun show, flea market, or other organized event, the gun, its component parts, ammunition, and the raw materials from which it is manufactured have moved in interstate commerce;

(5) gun shows, flea markets, and other organized events at which firearms are exhibited or offered for sale or exchange, provide a convenient and centralized commercial location at which firearms may be bought and sold anonymously, often without background checks and without records that enable gun tracing;

(6) at gun shows, flea markets, and other organized events at which guns are exhibited or offered for sale or exchange, criminals and other prohibited persons obtain guns without background checks and frequently use guns that cannot be traced to later commit crimes;

(7) many persons who buy and sell firearms at gun shows, flea markets, and other organized events cross State lines to attend these events and engage in the interstate transportation of firearms obtained at these events;

(8) gun violence is a pervasive, national problem that is exacerbated by the availability of guns at gun shows, flea markets, and other organized events;

(9) firearms associated with gun shows have been transferred illegally to residents of another State by Federal firearms licensees and nonlicensed firearms sellers, and have been involved in subsequent crimes including drug offenses, crimes of violence, property crimes, and illegal possession of firearms by felons and other prohibited persons; and

(10) Congress has the power, under the interstate commerce clause and other provisions of the Constitution of the United States, to ensure, by enactment of this Act, that criminals and other prohibited persons do not obtain firearms at gun shows, flea markets, and other organized events.

SEC. 3. EXTENSION OF BRADY BACKGROUND CHECKS TO GUN SHOWS.

(a) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(35) GUN SHOW.—The term 'gun show' means any event—

''(A) at which 50 or more firearms are offered or exhibited for sale, transfer, or exchange, if 1 or more of the firearms has been shipped or transported in, or otherwise affects, interstate or foreign commerce; and

''(B) at which 2 or more persons are offering or exhibiting 1 or more firearms for sale, transfer, or exchange.

''(36) GUN SHOW PROMOTER.—The term 'gun show promoter' means any person who organizes, plans, promotes, or operates a gun show.

''(37) GUN SHOW VENDOR.—The term 'gun show vendor' means any person who exhibits, sells, offers for sale, transfers, or exchanges 1 or more firearms at a gun show, regardless of whether or not the person arranges with the gun show promoter for a fixed location from which to exhibit, sell, offer for sale, transfer, or exchange 1 or more firearms.''

(b) REGULATION OF FIREARMS TRANSFERS AT GUN SHOWS.—

(1) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

''§ 931. Regulation of firearms transfers at gun shows

''(a) REGISTRATION OF GUN SHOW PROMOTERS.—It shall be unlawful for any person to organize, plan, promote, or operate a gun show unless that person—

''(1) registers with the Secretary in accordance with regulations promulgated by the Secretary; and

''(2) pays a registration fee, in an amount determined by the Secretary.

''(b) RESPONSIBILITIES OF GUN SHOW PROMOTERS.—It shall be unlawful for any person to organize, plan, promote, or operate a gun show unless that person—

''(1) not later that 30 days before commencement of the gun show, notifies the Secretary of the date, time, duration, and location of the gun show and any other information concerning the gun show as the Secretary may require by regulation;

''(2) not later than 72 hours before commencement of the gun show, submits to the Secretary an updated list of all gun show vendors planning to participate in the gun show and any other information concerning such vendors as the Secretary may require by regulation;

''(3) before commencement of the gun show, verifies the identity of each gun show vendor participating in the gun show by examining a valid identification document (as defined in section 1028(d)(1)) of the vendor containing a photograph of the vendor;

''(4) before commencement of the gun show, requires each gun show vendor to sign—

''(A) a ledger with identifying information concerning the vendor; and

''(B) a notice advising the vendor of the obligations of the vendor under this chapter; and

''(5) notifies each person who attends the gun show of the requirements of this chapter, in accordance with such regulations as the Secretary shall prescribe;

''(6) not later than 5 days after the last day of the gun show, submits to the Secretary a copy of the ledger and notice described in paragraph (4); and

''(7) maintains a copy of the records described in paragraphs (2) through (4) at the permanent place of business of the gun show promoter for such period of time and in such form as the Secretary shall require by regulation.

''(c) RESPONSIBILITIES OF TRANSFERORS OTHER THAN LICENSEES.—

''(1) IN GENERAL.—If any part of a firearm transaction takes place at a gun show, it shall be unlawful for any person who is not licensed under this chapter to transfer a firearm to another person who is not licensed under this chapter, unless the firearm is transferred through a licensed importer, licensed manufacturer, or licensed dealer in accordance with subsection (e).

''(2) CRIMINAL BACKGROUND CHECKS.—A person who is subject to the requirement of paragraph (1)—

''(A) shall not transfer the firearm to the transferee until the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(A); and

''(B) notwithstanding subparagraph (A), shall not transfer the firearm to the transferee if the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(B).

''(d) RESPONSIBILITIES OF TRANSFEREES OTHER THAN LICENSEES.—

''(1) IN GENERAL.—If any part of a firearm transaction takes place at a gun show, it shall be unlawful for any person who is not licensed under this chapter to receive a firearm from another person who is not licensed under this chapter, unless the firearm is transferred through a licensed importer, licensed manufacturer, or licensed dealer in accordance with subsection (e).

''(2) CRIMINAL BACKGROUND CHECKS.—A person who is subject to the requirement of paragraph (1)—

''(A) shall not receive the firearm from the transferor until the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(A); and

''(B) notwithstanding subparagraph (A), shall not receive the firearm from the transferor if the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(B).

''(e) RESPONSIBILITIES OF LICENSEES.—A licensed importer, licensed manufacturer, or licensed dealer who agrees to assist a person who is not licensed under this chapter in carrying out the responsibilities of that person under subsection (c) or (d) with respect to the transfer of a firearm shall—

''(1) enter such information about the firearm as the Secretary may require by regulation into a separate bound record;

''(2) record the transfer on a form specified by the Secretary;

''(3) comply with section 922(t) as if transferring the firearm from the inventory of the licensed importer, licensed manufacturer, or licensed dealer to the designated transferee (although a licensed importer, licensed manufacturer, or licensed dealer complying with this subsection shall not be required to comply again with the requirements of section 922(t) in delivering the firearm to the nonlicensed transferor), and notify the nonlicensed transferor and the nonlicensed transferee—

''(A) of such compliance; and

''(B) if the transfer is subject to the requirements of section 922(t)(1), of any receipt by the licensed importer, licensed manufacturer, or licensed dealer of a notification from the national instant criminal background check system that the transfer would violate section 922 or would violate State law;

''(4) not later than 10 days after the date on which the transfer occurs, submit to the Secretary a report of the transfer, which report—

''(A) shall be on a form specified by the Secretary by regulation; and

''(B) shall not include the name of or other identifying information relating to any person involved in the transfer who is not licensed under this chapter;

''(5) if the licensed importer, licensed manufacturer, or licensed dealer assists a person other than a licensee in transferring, at 1 time or during any 5 consecutive business days, 2 or more pistols or revolvers, or any combination of pistols and revolvers totaling 2 or more, to the same nonlicensed person, in addition to the reports required under paragraph (4), prepare a report of the multiple transfers, which report shall be—

''(A) prepared on a form specified by the Secretary; and

''(B) not later than the close of business on the date on which the transfer occurs, forwarded to—

''(i) the office specified on the form described in subparagraph (A); and

''(ii) the appropriate State law enforcement agency of the jurisdiction in which the transfer occurs; and

''(6) retain a record of the transfer as part of the permanent business records of the licensed importer, licensed manufacturer, or licensed dealer.

''(f) RECORDS OF LICENSEE TRANSFERS.—If any part of a firearm transaction takes place at a gun show, each licensed importer, licensed manufacturer, and licensed dealer who transfers 1 or more firearms to a person who is not licensed under this chapter shall, not later than 10 days after the date on which the transfer occurs, submit to the Secretary a report of the transfer, which report—

''(1) shall be in a form specified by the Secretary by regulation;

''(2) shall not include the name of or other identifying information relating to the transferee; and

''(3) shall not duplicate information provided in any report required under subsection (e)(4).

''(g) FIREARM TRANSACTION DEFINED.—In this section, the term 'firearm transaction' includes the exhibition, sale, offer for sale, transfer, or exchange of a firearm.''.

(2) PENALTIES.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

''(7)(A) Whoever knowingly violates section 931(a) shall be fined under this title, imprisoned not more than 5 years, or both.

''(B) Whoever knowingly violates subsection (b) or (c) of section 931, shall be—

''(i) fined under this title, imprisoned not more than 2 years, or both; and

''(ii) in the case of a second or subsequent conviction, such person shall be fined under this title, imprisoned not more than 5 years, or both.

''(C) Whoever willfully violates section 931(d), shall be—

''(i) fined under this title, imprisoned not more than 2 years, or both; and

''(ii) in the case of a second or subsequent conviction, such person shall be fined under this title, imprisoned not more than 5 years, or both.

''(D) Whoever knowingly violates subsection (e) or (f) of section 931 shall be fined under this title, imprisoned not more than 5 years, or both.

''(E) In addition to any other penalties imposed under this paragraph, the Secretary may, with respect to any person who knowingly violates any provision of section 931—

''(i) if the person is registered pursuant to section 931(a), after notice and opportunity for a hearing, suspend for not more than 6 months or revoke the registration of that person under section 931(a); and

''(ii) impose a civil fine in an amount equal to not more than $10,000.''.

(3) TECHNICAL AND CONFORMING AMENDMENTS.—Chapter 44 of title 18, United States Code, is amended—

(A) in the chapter analysis, by adding at the end the following:

''931. Regulation of firearms transfers at gun shows.''; and

(B) in the first sentence of section 923(j), by striking ''a gun show or event'' and inserting ''an event''; and

(c) INSPECTION AUTHORITY.—Section 923(g)(1) is amended by adding at the end the following:

''(E) Notwithstanding subparagraph (B), the Secretary may enter during business hours the place of business of any gun show promoter and any place where a gun show is held for the purposes of examining the records required by sections 923 and 931 and the inventory of licensees conducting business at the gun show. Such entry and examination shall be conducted for the purposes of determining compliance with this chapter by gun show promoters and licensees conducting business at the gun show and shall not require a showing of reasonable cause or a warrant.''.

(d) INCREASED PENALTIES FOR SERIOUS RECORDKEEPING VIOLATIONS BY LICENSEES.—Section 924(a)(3) of title 18, United States Code, is amended to read as follows:

''(3)(A) Except as provided in subparagraph (B), any licensed dealer, licensed importer, licensed manufacturer, or licensed collector who knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter, or violates section 922(m) shall be fined under this title, imprisoned not more than 1 year, or both.

''(B) If the violation described in subparagraph (A) is in relation to an offense—

''(i) under paragraph (1) or (3) of section 922(b), such person shall be fined under this title, imprisoned not more than 5 years, or both; or

''(ii) under subsection (a)(6) or (d) of section 922, such person shall be fined under this title, imprisoned not more than 10 years, or both.''.

(e) INCREASED PENALTIES FOR VIOLATIONS OF CRIMINAL BACKGROUND CHECK REQUIREMENTS.—

(1) PENALTIES.—Section 924 of title 18, United States Code, is amended—

(A) in paragraph (5), by striking ''subsection (s) or (t) of section 922'' and inserting ''section 922(s)''; and

(B) by adding at the end the following:

''(8) Whoever knowingly violates section 922(t) shall be fined under this title, imprisoned not more than 5 years, or both.''.

(2) ELIMINATION OF CERTAIN ELEMENTS OF OFFENSE.—Section 922(t)(5) of title 18, United States Code, is amended by striking ''and, at the time'' and all that follows through ''State law''.

(f) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 180 days after the date of enactment of this Act.

By Mr. JEFFORDS (for himself, Mr. SPECTER, Mr. ROCKEFELLER, Mr. MCCAIN, Mr. THURMOND, Mr. MURKOWSKI, Mr. CAMPBELL, Mr. CRAIG, Mr. HUTCHINSON, Ms. SNOWE, Mr. DASCHLE, Mr. GRAHAM, Mr. AKAKA, Mr. WELLSTONE, Mrs. MURRAY, Mr. HOLLINGS, Mr. LEAHY, Mr.

CLELAND, Ms. LANDRIEU, and Mr. JOHNSON):

S. 445. A bill to amend title XVIII of the Social Security Act to require the Secretary of Veterans Affairs and the Secretary of Health and Human Services to carry out a demonstration project to provide the Department of Veterans Affairs with Medicare reimbursement for Medicare healthcare services provided to certain medicare-eligible veterans; to the Committee on the Judiciary.

Mr. JEFFORDS. Mr. President, I am proud to introduce the Veterans' Equal Access to Medicare Act. This bill will give all our nations' veterans the freedom to choose where they receive their medical care. I am joined by the Chairman and Ranking Member of the Veterans' Affairs Committee, Senators SPECTER and ROCKEFELLER, as well as Senators THURMOND, MURKOWSKI, CAMPBELL, CRAIG, HUTCHINSON, MCCAIN, SNOWE, DASCHLE, GRAHAM, AKAKA, WELLSTONE, MURRAY, HOLLINGS, CLELAND, LANDRIEU, JOHNSON, and my friend and colleague from Vermont, Senator LEAHY.

Known to some as ''Medicare Subvention,'' this legislation will authorize the Department of Veterans Affairs (VA) to set up 10 pilot sites around the country where Medicare-eligible Veterans could get Medicare-covered services at a Veterans hospital. The VA would then be reimbursed at a slightly reduced rate for provision of those services. Many Medicare-eligible veterans want to receive their care at a VA facility. This bill would allow certain veterans that option.

My legislation would implement a pilot project that is eagerly sought by both the Veterans Administration and the Veterans Service Organizations. Veterans want the right to choose where they get their Medicare-covered services. Many of them would like to go to a Veterans Administration facility where they would feel more comfortable. We want to make that option possible for those who have given so much of themselves in service to their country.

Our legislation starts with a 10-site demonstration project, limiting total Medicare reimbursements to $50 million annually. The VA is required to maintain its current level of effort, and provisions in the bill prevent it from shifting any current costs to the Medicare Trust Fund. In the event that the demonstration project in any way increased Medicare's costs, the VA would reimburse Medicare for these costs and suspend or terminate the program.

An independent auditor would monitor the demonstration project annually and make reports to Congress on its findings. A final report to Congress three and a half years after commencement of the project from the Secretaries of Veterans Affairs and Health and Human Services would recommend whether to terminate, continue or expand the program.

Almost two years ago, Senator ROCKEFELLER and I successfully included similar legislation in the 1997 Balanced Budget Reconciliation Act. The full Senate endorsed this measure. Unfortunately, our amendment was later dropped in conference.

But we feel strongly that now is the time to enact this legislation. Veterans want and deserve this option, and the VA should be allowed to become a Medicare provider. The Department of Health and Human Services and the Veterans Administration have already reached an agreement on how such a program would be implemented. It's time for us to give this project the green light.

In 1997 the Department of Defense Medicare Subvention program alleviated what our country's military retirees call a ''lockout'' from the military health care system. This bill will finish the job by allowing all our veterans access to the best and most appropriate health care facility of their choosing. Our nation's veterans deserve no less.

I look forward to working with the Senate Finance Committee, Secretary West and the Administration, the Veterans Service Organizations and my colleagues here and in the House to get this legislation signed into law this year.

Mr. SPECTER. Mr. President, along with all the Members of the Committee on Veterans' Affairs, I am pleased to be an original cosponsor of a bill, which my colleague and friend, Senator JIM JEFFORDS, is introducing today. Mr. President, this is a most welcome bill. When enacted, it would direct that the Department of Veterans Affairs (VA) and the Department of Health and Human Services (HHS) enter into an agreement establishing ten geographically dispersed demonstration projects under which VA would provide health care services to certain Medicare-eligible veterans, who would not have otherwise received care in VA, in exchange for reimbursement from the Medicare trust fund. Thus, VA would be able to occupy the same basic position as other health care providers which furnish care to Medicare-eligible patients: VA would be reimbursed by Medicare for providing this care, just as other providers may be reimbursed. The Department of Defense health care system is already authorized to provide such care for reimbursement on a demonstration project basis, and this authority should be extended to the VA as well.

Under the terms of this bill, VA is authorized to establish up to ten subvention sites or health plans, including a site near a closed military base and one that provides care predominately to rural veterans. These sites and plans would provide health care services to Medicare-eligible veterans. Medicare would reimburse VA for such services—similar to the way the Federal Health Care Financing Administration pays other providers in the private sector when they furnish health care services to Medicare-eligible persons—but subject to certain cost-saving conditions. First, while fees paid to VA would be based on those paid to other providers, they would be reduced, across the board, by 5%. Second, reimbursements to VA would be further reduced for subsidies paid by Medicare to private facilities to cover their capital expense and medical education costs, and costs incurred by such providers, if any, in serving a disproportionate number of low-income patients. Thus, Medicare would invariably save funds when care is provided to its patients by VA. In effect, VA would provide care to Medicare-eligible veterans at a discount to the Medicare trust fund.

The Department of Health and Human Services (HHS) would not, however, be required to refer Medicare-eligible patients to VA under this bill. Eligible veterans would continue to be free to select their own health care providers. It would be up to the VA ''demonstration program'' sites to entice Medicare-eligible patients to VA by offering services and care which are more attractive than those provided by community-care providers. One of the underlying purposes of this legislation is to test VA's contention that it can provide the kind of care which will attract veteran-patients who have other alternatives and, at the same time, provide care which is cost effective from the reimburser's, and VA's, viewpoints. Another purpose of the legislation will be to test the hypothesis that VA can meet the needs of its priority patients—veterans with service-connected disabilities and veterans who are poor—while, simultaneously positioning itself to attract other veteran-patients who, due to Medicare eligibility, have the wherewithal to go elsewhere for care.

Whether VA can succeed in providing cost-effective care which attracts patients without causing it to neglect its primary mission is the essence of the question that this bill is intended to answer. Indeed, time—and these demonstration projects—will tell whether providing such care to non-priority veterans for reimbursement will enhance VA's ability, due to an infusion of new Medicare funds, to provide better care to VA's mandated priority patients. Like the Department of Defense—which, as I have noted, already has authority from Congress to obtain reimbursement from Medicare—VA ought to have an opportunity to see if it can succeed in attracting and keeping patients by providing superior care. I can think of no better way to gauge VA quality than assessing the behavior of veterans who can ''vote with their feet.''

I hope that these VA ''demonstration project'' sites will show that VA can, in fact, fully serve its priority patients—veterans with service-connected disabilities and veterans who are poor—while also serving veteran-patients who are able to bring Medicare funding to the VA system. Budgetary constraints have required that VA operate under a ''flat-line'' medical

care appropriation for the past three years even as personnel and other inflationary costs continue to rise from year to year. VA has attempted to increase its collections from private sector, third-party insurers in order to supplement its funding base, but these collections have not been sufficient. I and my colleagues on the Committee on Veterans' Affairs believe that VA ought to have parallel authority to collect reimbursement from Medicare when it provides non-service-connected care to these patients. I ask that my colleagues give the Department this authority by approving this legislation.

Mr. President, I compliment my colleague and friend from Vermont for his leadership on establishing this innovative and crucial legislation that I believe will be an essential tool in the future for VA's care of veterans, and I urge my colleagues to give this bill high priority attention for early passage this year.

Mr. ROCKEFELLER. Mr. President, I am pleased to offer my support to the Veterans' Equal Access to Medicare Act. This bill will authorize a pilot project to allow VA to bill Medicare for health care services provided to certain dual beneficiaries. The legislation is known as VA Medicare subvention, which is a concept that has been discussed over the years by those of us in Congress, by veterans service organizations, and by virtually every advisory body that has studied the VA health care system. I join my colleague Senator JEFFORDS in this initiative.

In the past, many VA hospitals and clinics have been forced to turn away middle income, Medicare-eligible veterans who sought VA care. These hospitals simply did not have the resources to care for them. Now, with eligibility reform, all enrolled veterans will have access to a uniform, comprehensive benefit package. Yet, resources for veterans' health care have not increased, and, in fact, have remained flatlined.

During the first session of the 105th Congress, Senator JEFFORDS and I successfully pushed a similar proposal through the Senate Finance Committee and the full Senate. The basic tenets of the current bill remain the same. For veterans, enactment of the Veterans' Equal Access to Medicare Act would mean the infusion of new revenue and, thus, improved access to care. For the Health Care Financing Administration (HCFA), a VA subvention demonstration project will provide the opportunity to assess the effects of coordination on improving efficiency, access, and quality of care for dual-eligible beneficiaries in a selected number of sites. Finally, Congress would receive the results of this feasibility study, which, once and for all, would give us the necessary data to make rational policy decisions in the future about Medicare and VA's involvement.

The four VA medical centers in my own State of West Virginia spent nearly $5 million caring for Medicare-eligible veterans with middle incomes last year. Although this is telling information, I cannot provide my colleagues with the truly crucial piece of the story—that is, the number of these Medicare-eligible veterans who had been turned away over the years from the very facilities created to serve them because of lack of resources. This demonstration project would encourage these eligible veterans who have not previously received care from the Huntington, Beckley, Martinsburg, and Clarksburg VA Medical Centers to do so, while providing Medicare with cost-savings opportunities.

As in years past, the Veterans' Equal Access to Medicare Act is designed to be budget neutral. To that end, the VA would be required to maintain its current level of services to Medicare-eligible veterans already being served, and would be effectively limited to reimbursement for additional care provided to new users. Payments from Medicare would be at a reduced rate and would exclude Disproportionate Share Hospital adjustments, Graduate Medical Education payments, and a large percentage of capital-related costs. In effect, the VA would be providing health care to Medicare-eligible veterans at a deeply discounted rate. The Department of Health and Human Services and VA would have the ability to adjust payment rates, or to shrink or terminate the program if Medicare's costs increase. In the event that these safeguards included in the proposal fail—an event which the VA has declared unlikely—this proposal caps all Medicare payments to the VA at $50 million.

A HCFA representative testified before the last Congress and stated that this proposal will provide quality service to certain dual-eligible beneficiaries and, ''at the same time, preserve and protect the Medicare Trust Fund for all Americans.'' I believe this.

Although the VA subvention proposal is a small effort compared to the other recent changes made to the Medicare program and the changes yet to come, it is enormously important to our veterans and the health care system they depend upon. And regardless of any policy changes resulting from the Bipartisan Commission on the Future of Medicare, an excellent opportunity will remain to test the idea of Medicare subvention to VA.

Over the last couple of years, we have tried to enact this proposal. Unfortunately, we have continually met resistance. Others who favor the subvention concept have even tried to turn this Medicare-cost saving proposal into a way to make sweeping policy changes about the delivery of VA health care. My goal this session is to overcome this resistance and enact this proposal without any extraneous measures.

Truly, this VA/Medicare proposal is a way to provide quality health care to veterans who are also eligible for Medicare, while at the same time preserving and protecting the Medicare Trust Fund. With a signed Memorandum of Agreement between VA and HCFA, VA is ready to move ahead with this demonstration project. Finally, the Department of Defense Medicare Subvention test program—TRICARE Senior Prime—is progressing. Let us not delay VA any longer.

Mr. President, veterans deserve the opportunity to come to VA facilities for their care and bring their Medicare coverage with them. I look forward to working with my colleagues on the Committees on Finance and Veterans' Affairs to make this long sought-after proposal a reality.

Mr. MCCAIN. Mr. President, I am proud to be an original co-sponsor of the Veterans' Equal Access to Medicare Act, which would authorize a demonstration of Medicare subvention within the Department of Veterans Affairs (VA) health care system. Many of us supported similar legislation sponsored by Senator JEFFORDS and incorporated into the Senate version of the 1997 Budget Resolution. Unfortunately, this measure was removed by the conferees to the bill and did not become law. In the 105th Congress, separate legislation authorizing a test of Medicare subvention for veterans passed the House of Representatives but stalled in the Senate. The intervening period has only made more apparent the benefits of allowing Medicare-eligible veterans to use their Medicare entitlement for care at local VA medical facilities.

The Veterans' Equal Access to Medicare Act would establish a three-year demonstration project at up to 10 sites around the country, including a site near a military medical facility closed under the Base Realignment and Closure process and a site in an area where the target population is predominantly rural. The VA would bill Medicare for Medicare-covered services provided to eligible veterans at these sites. Veterans' participation would be voluntary, and participants would make the same Medicare co-payments to the VA as at non-VA facilities.

The legislation also contains important safeguards. The VA's Inspector General must certify the accounting and managerial capabilities of participating facilities; the VA must maintain its current level of effort to prevent cost shifting from the VA to the Medicare Trust Fund; the Comptroller General must audit the demonstration project annually to ensure that the Medicare Trust Fund does not incur any additional costs; and Medicare payments to the VA must be capped at $50 million annually. After three years, the Secretaries of Health and Human Services and Veterans Affairs would be required to submit recommendations to Congress on whether to extend or expand the project.

By permitting the VA to collect and retain Medicare payments for health care provided to eligible veterans, our legislation would demonstrate subvention's ability to enhance access to the VA medical system for veterans

and channel critical non-appropriated funding into the VA network without raising costs to the Medicare Trust Fund. But don't take my word for it. The Fiscal Year 2000 Independent Budget jointly proposed by AMVETS, Disabled American Veterans, Paralyzed Veterans of America, and Veterans of Foreign Wars summarizes the virtues of VA Medicare subvention as follows:

Medicare subvention will benefit veterans, taxpayers, and ultimately VA. It would give veterans who currently do not have access to VA health care the option of choosing the VA system. VA believes it can deliver care to Medicare beneficiaries at a discounted rate, which would save money for the Medicare Trust Fund and stretch taxpayer dollars.

In other words, this is win-win legislation for all concerned parties. Veterans receive better access to quality health care; the VA benefits from an inflow of non-appropriated funding; and VA provides more efficient care than other Medicare providers, saving scarce resources in this era of balanced budgets.

Military retirees, but not veterans, currently qualify for an ongoing Medicare subvention demonstration project authorized by Congress in 1997. In 1996, I had introduced legislation to authorize Medicare reimbursement to the Department of Defense for care provided to Medicare-eligible retirees and their families. Although the Senate included this provision in its version of the Fiscal Year 1997 Defense Appropriations bill, it was dropped in conference with the House.

A year later, I supported the current Medicare subvention demonstration project for military retirees, which was included in the Balanced Budget Act of 1997. It is my hope that this project will demonstrate the potential for Medicare subvention to defray the escalating costs of the Military Health Service System, slow the depletion of the Medicare Trust Fund, and provide a more generous benefit to retired service members seeking the quality health care our government promised them.

I do not need to remind my colleagues that we also promised medical benefits to veterans who served for fewer than 20 years and are not entitled to retirement benefits. That the Department of Veterans Affairs manages the largest health care network in the United States is testament to our continuing effort to make good on that promise. But the quantity of health care providers for veterans is not at issue today; rather, the quality of care is among the most pressing items on the agenda of America's veterans and their advocates.

The veterans from whom I am honored to hear on my travels across the United States and in my Senate office frequently remind me that the VA health care system does not always offer them the quality of care they have clearly earned. Authorizing a test of Medicare subvention for veterans would hopefully demonstrate its ability to improve veterans' access to VA facilities and enhance the quality of service there.

For this reason, the Department of Veterans Affairs supports a Medicare subvention demonstration. So do the major veterans' service organizations whose membership comprises the very individuals who would be affected by this legislation. I would also note that a majority of both houses of the 105th Congress voted in favor of legislation to authorize a Medicare subvention demonstration for veterans, even though the specific terms of that legislation differed somewhat.

Mr. President, I wish to conclude my remarks by once again drawing from the wisdom of the veterans' service organizations' Independent Budget, which warns that Medicare subvention funding must be a supplement to, not a substitute for, an adequate VA appropriation. Veterans' care and benefits have been underfunded for years. Implementing a test of Medicare subvention for veterans is but one step in what must be a concerted campaign to honor the promises made to all who have answered their country's call through their military service. Let no one forget the sacrifices made by every veteran to secure our liberty in what has been, and remains, a very dangerous world.

Mr. HUTCHINSON. Mr. President. I would like to express my strong support for Senator JEFFORD's bill, the Veterans' Equal Access to Medicare Act. I am proud to be an original cosponsor of this important legislation which would allow the VA to establish a Medicare subvention demonstration project. At ten sites across the country, Medicare would reimburse the VA for Medicare-covered services provided to eligible veterans.

As a former member of the House Veterans' Affairs Committee, and a current member of the Senate Veterans' Affairs Committee, I have been and remain a strong advocate of the Medicare subvention concept. As a member of the House, I was cosponsor of Representative JOEL HEFLEY's bill to create a demonstration project of Medicare subvention. During the 105th Congress, I was a cosponsor of Senator JEFFORD's bill, S. 2054.

The last four years of flat-lined Administration budgets have demonstrated the critical need for this legislation. To treat new veteran patients, the VA must be creative in finding new revenue sources. The perpetual volatility of the health care marketplace has made it more and more difficult for VA to collect under the standard fee for service arrangements. Currently, 85% of all insured Americans are under some form of managed care, and many of these plans do not recognize the VA as a network provider eligible for reimbursement. In order for the VA to be able to collect the millions that it needs to adequately serve veterans and to survive under the budget proposed by the Administration for FY 2000, there must be a new revenue source. Medicare subvention legislation would be a step in the right direction.

Historically, higher income veterans have been locked out of the VA health care system because of a severe lack of resources. Under subvention legislation, the VA would potentially be able to open its doors to millions of veterans 65 years and older who want to choose VA as their primary care giver. Our legislation will be the first in truly saving the Private Ryan's of WWII and the Korean conflict. Now more than ever, the VA needs to be able to collect and compete in the health care marketplace as an equal partner with other health plans. Medicare subvention will allow it that opportunity. I am proud to again be a cosponsor of this important legislation.

By Mrs. BOXER (for herself, Mr. KERRY, and Mr. TORRICELLI):

S. 446. A bill to provide for the permanent protection of the resources of the United States in the year 2000 and beyond; to the Committee on Energy and Natural Resources.

PERMANENT PROTECTION FOR AMERICA'S RESOURCES 2000 ACT

Mrs. BOXER. Mr. President, today, I am introducing the Permanent Protection for America's Resources 2000 Act—Resources 2000. This legislation is the most sweeping commitment to protecting America's natural heritage in more than a generation. It will establish a permanent, dedicated funding source for resource protection. I am honored to be working on this legislation with Congressman GEORGE MILLER in the House of Representatives, and my Senate Colleagues, Senator John KERRY and Senator ROBERT TORRICELLI.

As we embark upon the 21st Century, it is time to make a new commitment to our natural heritage—one that can take its place beside the legacy left by President Teddy Roosevelt as we began this century. That new commitment must go beyond a piecemeal approach to preserving our natural resources. It must be a comprehensive, long-term strategy that enables us to ensure that when our children's children enter the 22nd Century, they can herald our actions today, as we revere those of President Roosevelt.

Today our natural heritage is disappearing at an alarming rate. Each year, nearly 3 million acres of farmland and more than 170,000 acres of wetlands disappear. Each day, over 7,000 acres of open space are lost forever.

All across America, we now see parks closing, recreational facilities deteriorating, open space disappearing, historic structures crumbling.

Why is this happening? Because there is no dedicated fund for all these noble purposes—which can be used only for these noble purposes.

The legislation that I am introducing today will address this problem in a comprehensive Resources 2000 in a bold, historic initiative to provide substantial and permanent funding from

offshore oil resources for the acquisition, improvement and maintenance of public resources throughout the United States: public lands, parks, marine and coastal resources, historic preservation, fish and wildlife. Resources 2000 will provide permanent, annual funding for historically underfunded, high priority resources, preservation goals.

A major funding source for resource protection already exists. Each year, oil companies pay the federal government billions of dollars in rents, royalties, and other fees in connection with offshore drilling in federal waters. In 1998 alone, the government collected over $4.6 billion from oil and gas drilling on the Outer Continental Shelf.

My bill would allocate $1.4 billion every year for land acquisition, park and recreational development, historic preservation, land restoration, ocean conservation, farmland preservation, and endangered species recovery.

Resources 2000 will also mandate full funding of the Land and Water Conservation Fund. In 1965, Congress established this Fund, which was to receive $900 million a year from federal oil revenues for acquisition of sensitive lands and wetlands.

The good news is that Fund has collected over $21 billion since 1965. The bad news is that only $9 billion of this amount has been spent on its intended uses. More than $16 billion has been shifted into other federal accounts.

On the ground, this means that we have purchased some key tracts of land in the Golden Gate National Recreation Area, Redwood National Park, Tahoe National Forest, and Channel Islands National Park, among many others.

At the same time, however, we missed golden opportunities to buy critical open space because the Land and Water Conservation Fund was underfunded. Some of these parcels—in the Santa Monica Mountains, along the Pacific Crest Trail, and elsewhere throughout California—have since been lost. If we had been able to use the entire Fund, these areas would have been protected.

To preserve meaningful tracts of open space, we must spend the entire Fund to acquire land and water. Congress must move to take the Fund ''off budget'' and use it all for its intended purposes.

Resources 2000 would fund the Land and Water Conservation Fund at $900 million per year, the full level authorized by Congress. Half of this amount would be dedicated to federal acquisition of lands for our national parks, national forests, national wildlife refuges, and other public lands. The other half would go for matching grants to the states for land acquisition, planning, and development of outdoor recreation facilities.

Furthermore, this can be done without causing further harm to the environment. My bill does not contain any incentives for new offshore oil drilling. All of the revenue would have to come from already producing leases.

The bill contains eight titles as follows:

TITLE I—LAND AND WATER CONSERVATION FUND REVITALIZATION—$900 MILLION

Federal: $450 million

Stateside: $450 million

Summary of Title: Resources 2000 would take the Land and Water Conservation Fund (LWCF) ''off-budget'' and require the federal government to spend the entire $900 million for its designated purpose of land acquisition.

One-half of the annual $900 million allocation of the LWCF would be dedicated to federal land acquisition purposes. These funds would be used to acquire lands or interests in lands authorized by Congress for our national parks, national forests, national wildlife refuges, and public lands.

The other $450 million allocation of the LWCF would go for matching grants to the States for the acquisition of lands or interests in lands, planning, and development of outdoor recreation facilities. Of this $450 million, two-thirds will be allocated by formula of which 30 percent shall be distributed equally among the States, and 70 percent apportioned on the basis of the population each state bears to the total population of all states. The remaining one-third would be awarded on the basis of competitive grants.

TITLE II—URBAN PARKS AND RECREATIONAL RECOVERY PROGRAM AMENDMENTS—$100 MILLION

Summary of Title: Resources 2000 would provide a mandatory $100 million a year of OCS revenue for the Urban Parks and Recreational Recovery program (UPARR). This funding would be used by the Secretary of the Interior to provide competitive matching grants to local governments to rehabilitate recreation areas and facilities, provide for the development of improved recreation programs, and to acquire, develop, or construct new recreation sites and facilities.

This program is intended to encourage and stimulate local governments to revitalize their park and recreation systems and to make long-term commitments to continuing maintenance of these systems. UPARR is also designed to improve recreation facilities and expand recreation services in urban areas with a high incidence of crime and to help deter crime through the expansion of recreation opportunities for at-risk youth.

TITLE III—HISTORIC PRESERVATION FUND—$150 MILLION

Summary of Title: Your bill would take the Historic Preservation Fund ''off-budget'' and require the federal government to spend the entire $150 million a year of OCS revenue for the designated purposes of the Historic Preservation Fund. Your bill would also require that 50 percent of the funds provided be used for physically preserving historic properties (so-called ''brick and mortar'' activities).

Under current law, the National Historic Preservation Act established the Historic Preservation Fund (HPF) in 1977. The Act requires that $150 million in revenue from offshore oil drilling be placed in the HPF each year. Congress is authorized to appropriate money from the fund to carry out the National Historic Preservation Act. Such activities include grants to states, maintaining the National Register of Historic Places, and administering numerous historic preservation programs. The Act allows up to one-third of the funds for priority preservation projects of public and private entities, including preserving historic structures and sites, as well as, significant documents, photographs, works of art, etc.

TITLE IV—FARMLAND, RANCHLAND, OPEN SPACE, AND FORESTLAND PROTECTION—$150 MILLION

Summary of Title: Resources 2000 establishes the Farmland, Ranchland, Open Space, and Forestland Protection Fund to provide matching, competitive grants to state, local and tribal governments for purchase of conservation easements to protect privately owned farmland, ranchland and forests from encroaching development. To help communities grow in ways that maintain open space and viable agricultural sectors of their economies. Such grants could be used to match state or local long term bond initiatives approved by voters to preserve green spaces for conservation, recreation and other environmental goals.

The Fund has three basic sections. The first funds the Farmland Protection Program at $50 million a year. This funding would be used by the Secretary of Agriculture to provide matching grants to eligible entities to purchase permanent conservation easements in land so that it can be maintained as farmland or open space.

The second funds a new program—the Ranchland Protection Program—at $50 million a year. Modeled after the Farmland Protection Program, the Ranchland Protection Program would be used by the Secretary of the Interior to provide matching grants to eligible entities to purchase permanent conservation easements on ranchland that is in danger of conversion to non-agricultural uses and is pending offer for the preservation of open space and will yield a significant public benefit.

The third section funds the Forest Legacy Program at $50 million a year. The Forest Legacy Program is a similar program for protecting environmentally important forest areas that are threatened by conversion to non-forest uses. Under this program, the Secretary of Agriculture will provide matching grants to eligible entities to purchase conservation easements for forest lands.

For the purposes of this title an eligible entity is an agency of a State or local government, a federally recognized Indian tribe, or a non-profit environment/land trust organization.

TITLE V—FEDERAL AND INDIAN LANDS RESTORATION FUND—$250 MILLION

Summary of Title: Resources 2000 establishes a new fund to provide a mandatory $250 million a year to undertake

a coordinated program on Federal and Indian lands to restore degraded lands, protect resources that are threatened with degradation, and protect public health and safety.

$150 million of the funding will be available to the Secretary of the Interior to carry out restoration activities within the National Park System, National Wildlife Refuge System, and public lands administered by the Bureau of Land Management.

$75 million of the funding will be available to the Secretary of Agriculture to carry out restoration activities in National Forests.

$25 million of the funding will be available to the Secretary of the Interior to carry out a competitive grant program for Indian tribes to complete restoration activities on reservations.

TITLE VI—OCEAN FISH AND WILDLIFE CONSERVATION, RESTORATION, AND MANAGEMENT ASSISTANCE — $300 MILLION

Summary of Title: Resources 2000 establishes a new fund, entitled the Ocean Fish and Wildlife Conservation Fund, to provide a mandatory $300 million a year for the Department of Commerce to provide grants for the conservation, restoration and management of ocean fish and wildlife of the United States. The Fund would be allocated in two ways: (1) formula grants to States to develop and implement comprehensive state ocean fish and wildlife conservation plans, and (2) competitive grants to public and private persons to carry out projects for the conservation, restoration, or management of ocean fish and wildlife (Ocean Conservation Partnership grants).

a. State Ocean Fish and Wildlife Conservation Plans:

In order for states to be eligible for funding under this title, States would have to develop a comprehensive ''Ocean Fish and Wildlife Conservation Plan.'' The plan must be approved by the Secretary of Commerce. In order for the plan to be approved, the plan must provide for an inventory of the ocean fish and wildlife and their habitat; identification of any significant factors which may adversely affect ocean fish and wildlife species and their habitats; determination and implementation of conservation actions; monitoring of species and the effectiveness of conservation actions; periodic plan review and revision; and public input into plan development, revision and implementation. The State does not need to complete all of these activities for plan approval, it simply must have a plan in place that will show how the State proposes to meet the conservation objectives.

Two-thirds ($200 million) of the total would be available to coastal states (including Great Lakes States, territories, and possessions of the U.S.) for the development, revision, and implementation of the ''Ocean Fish and Wildlife Conservation Plans.'' Funds would be allocated to the states by a formula. Two-thirds (about $133 million) would be distributed to states based on the ratio of the population of the state to the population of all coastal states. One-third (about $66 million) would be distributed to states based on the ratio of the length of a state's shoreline to the length of the total shoreline of all coastal states. No state can receive less than ½ of one percent or more than 10 percent of the total funds allocated under this section.

b. Ocean Conservation Partnerships :

The remaining one-third ($100 million) of funds would be awarded by the Secretary of Commerce as competitive, peer-reviewed grants for living marine resource conservation. High priority would be given to proposals involving public/private conservation partnerships, but any person would be eligible to apply for a grant under this provision. Priority would also be given to proposals that assist in achieving the objectives of National Marine Sanctuaries, National Estuaries, or other federal or state marine protected areas. A maximum grant size (2 percent of funds available—about $2 million) will be established to ensure that a small number of large projects do not consume the bulk of the funding in a given fiscal year.

TITLE VII—FUNDING FOR STATE NATIVE FISH AND WILDLIFE CONSERVATION AND RESTORATION—$350 MILLION

Summary of Title: Resources 2000 provides a permanent appropriation of $350 for the conservation of native fish, wildlife and plants. It amends the Fish and Wildlife Conservation Act of 1980 (FWCA, 16 U.S.C. 2901 et seq.) to make funding available to the states for the development and implementation of comprehensive native wildlife conservation plans.

This title is similar to the Ocean Fish and Wildlife Conservation, Restoration and Management title, except this is for terrestrial fish and wildlife conservation efforts. States that choose to participate in the program would submit Fish and Wildlife Conservation Plans to the Secretary of the Interior for approval.

Funds are to be allocated on a formula. One-third of the funds would be allocated based on the area of a state relative to the total area of all the states and two-thirds on the relative population of a state.

States are eligible for reimbursement of 75 percent of the cost of developing and implementing state wildlife conservation plans. Federal funds are only available for plan development costs for the first 10 years. As an additional incentive, federal funds will pay for up to 90 percent of: plan development costs during the first three years; and conservation actions undertaken by two or more states. In addition, in the absence of an approved plan, the Secretary may reimburse a state for certain on-the-ground conservation actions during the first five years of the program.

TITLE VIII—ENDANGERED AND THREATENED SPECIES RECOVERY—$100 MILLION

Summary of Title: Resources 2000 establishes a new fund, entitled the Endangered and Threatened Species Recovery Fund, to provide a mandatory $100 million a year for the Fish and Wildlife Service and the National Marine Fisheries Service to implement a private landowners incentive program for the recovery of endangered and threatened species and the habitat that they depend on.

Monies would be used by the Secretaries to enter into ''endangered and threatened species recovery agreements'' with private landowners, providing grants to: (1) carry out activities and protect habitat (not otherwise required by the law) that would contribute to the recovery of a threatened or endangered species, or (2) to refrain from carrying out otherwise lawful activities that would inhibit the recovery of such species. Priority will be given to small landowners who would otherwise not have the resources to participate in such programs.

So it is time to act in a comprehensive way to permanently protect our heritage. It is time to heed the call that Teddy Roosevelt sent out so many years ago. It is time to build on the progress we have made and plan for the future.

Resources 2000 enjoys the enthusiastic support of major environmental, historic preservation, sporting, wildlife, and parks organizations throughout the nation.

I hope that my colleagues in the Senate take advantage of this historic opportunity by joining Senator TORRICELLI, Senator KERRY, and me in this effort to preserve America's heritage.

I ask unanimous consent that the full text of the bill be printed in the RECORD. I also ask unanimous consent that a list of groups who support the legislation, as well as letters from several conservation organizations be printed in the RECORD.

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

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 ''Resources 2000 Act''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

SEC. 3. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) By establishing the Land and Water Conservation Fund in 1965, Congress determined that revenues generated by extraction of nonrenewable oil and gas resources on the Outer Continental Shelf should be dedicated to conservation and preservation purposes.

(2) The Land and Water Conservation Fund has been used for over three decades to protect and enhance national parks, national forests, national wildlife refuges, and other public lands throughout the Nation. In past years, the Land and Water Conservation Fund has also provided States with vital resources to assist with acquisition and development of local park and outdoor recreation projects.

(3) In 1978, the Congress amended the Land and Water Conservation Fund to authorize $900,000,000 of annual oil and gas receipts to be used for Federal land acquisition and State recreation projects. In recent years, however, the Congress has failed to appropriate funds at the authorized levels to meet Federal land acquisition needs, and has entirely eliminated State recreation funding, leaving an unallocated surplus of over $12,000,000,000 for fiscal year 1999.

(4) To better meet land acquisition needs and address growing public demands for outdoor recreation, the Congress should assure that the Land and Water Conservation Fund is used as it was intended to acquire conservation lands and, in partnership with State and local governments, to provide for improved parks and outdoor recreational opportunities.

(5) The premise of using oil and gas receipts to meet conservation and preservation objectives also underlies the National Historic Preservation Act (16 U.S.C. 470 et seq.). Revenues to the Historic Preservation Fund accumulate at a rate of $150,000,000 annually, but because the Congress has failed in recent years to appropriate the authorized amounts, the fund has an unallocated surplus of over $2,000,000,000 for fiscal year 1999. To reduce the growing backlog of preservation needs, the Congress should assure that the Historic Preservation Fund is used as was intended.

(6) Building upon the commitment to devote revenues from existing offshore leases to resource protection through the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4) and the National Historic Preservation Act (16 U.S.C. 470 et seq.), the Congress should also dedicate revenues from existing oil and gas leases to meet critical national, State, and local preservation and conservation needs.

(7) Suburban sprawl presents a growing threat to open space and farmland in many areas of the Nation, with an estimated loss of 7,000 acres of farmland and open space every day. Financial resources and incentives are needed to promote the protection of open space, farmland, ranchland, and forests.

(8) National parks, national forests, national wildlife refuges, and other public lands have significant unmet repair and maintenance needs for trails, campgrounds, and other existing recreational infrastructure, even as outdoor recreation and user demands on these resources are increasing.

(9) Urban park and recreation needs have been neglected, with resulting increases in crime and other inappropriate activity, in part because the Congress has failed in recent years to provide appropriations as authorized by the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2501 et seq.).

(10) Although the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) has prevented the extinction of many plants and animals, the recovery of most species listed under that Act has been hampered by a lack of financial resources and incentives to encourage States and private landowners to contribute to the recovery of protected species.

(11) Native fish and wildlife populations have declined in many parts of the Nation, and face growing threats from habitat loss and invasive species. Financial resources and incentives are needed for States to improve conservation and management of native species.

(12) Ocean and coastal ecosystems are increasingly degraded by loss of habitat, pollution, over-fishing, and other threats to the health and productivity of the marine environment. Coastal States should be provided with financial resources and incentives to better conserve, restore, and manage living marine resources.

(13) The findings of the 1995 National Biological Survey study entitled ''Endangered Ecosystems of the United States: A Preliminary Assessment of Loss and Degradation'', demonstrate the need to escalate conservation measures that protect our Nation's wildlands and habitats.

(b) PURPOSE.—The purpose of this Act is to expand upon the promises of the Land and Water Conservation Act of 1965 (16 U.S.C. 460l–4 et seq.) and the National Historic Preservation Act (16 U.S.C. 470 et seq.) by providing permanent funding for the protection and enhancement of the Nations natural, historic, and cultural resources by a variety of means, including—

(1) the acquisition of conservation lands;

(2) improvement of State and urban parks;

(3) preservation of open space, farmland, ranchland, and forests;

(4) conservation of native fish and wildlife;

(5) recovery of endangered species; and

(6) restoration of coastal and marine resources.

SEC. 4. DEFINITIONS.

In this Act:

(1) COASTLINE.—The term ''coastline'' has the same meaning that term has in the Submerged Lands Act (43 U.S.C. 1301 et seq.).

(2) COASTAL STATE.—The term ''coastal State'' has the meaning given the term ''coastal state'' in the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(3) LEASED TRACT.—The term ''leased tract'' means a tract, leased under section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) for the purpose of drilling for, developing and producing oil and natural gas resources, which is a unit consisting of either a block, a portion of a block, a combination of blocks or portions of blocks (or both), as specified in the lease, and as depicted on an Outer Continental Shelf Official Protraction Diagram.

(4) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—The term ''qualified Outer Continental Shelf revenues''—

(A) except as provided in subparagraph (B)—

(i) means all moneys received by the United States from each leased tract or portion of a leased tract located in the Western or Central Gulf of Mexico, less such sums as may be credited to States under section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)) and amounts needed for adjustments and refunds as overpayments for rents, royalties, or other purposes; and

(ii) includes royalties (including payments for royalty taken in-kind and sold), net profit share payments, and related late-payment interest from natural gas and oil leases issued pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331) for such a lease tract or portion; and

(B) does not include any moneys received by the United States under—

(i) any lease issued on or after the date of the enactment of this Act; or

(ii) any lease under which no oil or gas production has occurred before January 1, 1999.

SEC. 5. REDUCTION IN DEPOSITS OF QUALIFIED OCS REVENUES FOR ANY FISCAL YEAR FOR WHICH THOSE REVENUES ARE REDUCED.

(a) REDUCTION IN DEPOSITS.—The amount of qualified Outer Continental Shelf revenues that is otherwise required to be deposited for a limited fiscal year into the Land and Water Conservation Fund, the Historic Preservation Fund, or any other fund or account established by this Act (including the amendments made by this Act) is hereby reduced, so that—

(1) the ratio that the amount deposited (after the reduction) bears to the amount that would otherwise be deposited, is equal to

(2) the ratio that the amount of qualified Outer Continental Shelf Revenues for the fiscal year bears to—

(A) $2,050,000 for fiscal years 2000 and 2001;

(B) $2,150,000 for fiscal years 2002, 2003, and 2004; and

(C) $2,300,000 for fiscal year 2005 and each fiscal year thereafter.

(b) NO REDUCTION IN DEPOSITS OF INTEREST.—Subsection (a) shall not apply to deposits of interest earned from investment of amounts in a fund or other account.

(c) LIMITED FISCAL YEAR DEFINED.—In this section, the term ''limited fiscal year'' means a fiscal year in which the total amount received by the United States as qualified Outer Continental Shelf revenues is less than—

(1) $2,050,000, for fiscal years 2000 and 2001;

(2) $2,150,000, for fiscal years 2002, 2003, and 2004; and

(3) $2,300,000, for fiscal year 2005 and each fiscal year thereafter.

SEC. 6. LIMITATION ON USE OF AVAILABLE AMOUNTS FOR ADMINISTRATION.

Notwithstanding any other provision of law, of amounts made available by this Act (including the amendments made by this Act) for a particular activity, not more than 2 percent may be used for administrative expenses of that activity.

SEC. 7. BUDGETARY TREATMENT OF RECEIPTS AND DISBURSEMENTS.

Notwithstanding any other provision of law, the receipts and disbursements of funds under this Act and the amendments made by this Act—

(1) shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

(A) the budget of the United States Government as submitted by the President;

(B) the congressional budget (including allocations of budget authority and outlays provided therein); or

(C) the Balanced Budget and Emergency Deficit Control Act of 1985; and

(2) shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

TITLE I—LAND AND WATER CONSERVATION FUND REVITALIZATION

SEC. 101. AMENDMENT OF LAND AND WATER CONSERVATION FUND ACT OF 1965.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.)

SEC. 102. EXTENSION OF PERIOD FOR DEPOSITING AMOUNTS INTO FUND.

Section 2 (16 U.S.C. 460l–5) is amended—

(1) in the matter preceding subsection (a) by striking ''During the period ending September 30, 2015, there shall be covered into'' and inserting ''There shall be deposited into'';

(2) in paragraph (c)(1) by striking ''through September 30, 2015''; and

(3) in paragraph (c)(2)—

(A) by striking ''shall be credited to the fund'' and all that follows through ''as amended (43 U.S.C. 1331 et seq.)'' and inserting ''shall be deposited into the fund, subject to section 5 of the Resources 2000 Act, from amounts due and payable to the United States as qualified Outer Continental Shelf revenues (as that term is defined in section 4 of that Act)''; and

(B) in the proviso by striking ''covered'' and inserting ''deposited''.

SEC. 103. AVAILABILITY OF AMOUNTS.

Section 3 (16 U.S.C. 460l–6) is amended by striking so much as precedes the third sentence and inserting the following:

''APPROPRIATIONS

''SEC. 3. (a) Of amounts in the fund, up to $900,000,000 shall be available each fiscal year for obligation or expenditure without further appropriation, and shall remain available until expended.

''(b) Moneys made available for obligation or expenditure from the fund or from the special account established under section 4(i)(1) may be obligated or expended only as provided in this Act.

''(c) The Secretary of the Treasury shall invest moneys in the fund that are excess to expenditures in public debt securities with maturities suitable to the needs of the fund, as determined by the Secretary of the Treasury, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. Interest earned on such investments shall be deposited into the fund.''.

SEC. 104. ALLOCATION AND USE OF FUND.

Section 5 (16 U.S.C. 460l–7) is amended to read as follows:

''SEC. 5. ALLOCATION AND USE OF FUNDS.

''(a) IN GENERAL.—Of the amounts made available for each fiscal year by this Act—

''(1) 50 percent shall be available for Federal purposes (in this section referred to as the 'Federal portion'); and

''(2) 50 percent shall be available for grants to States.

''(b) USE OF FEDERAL PORTION.—The President shall, in the annual budget submitted by the President for each fiscal year, specify the purposes for which the Federal portion of the fund is to be used by the Secretary of the Interior and the Secretary of Agriculture. Such funds shall be used by the Secretary concerned for the purposes specified by the President in such budget submission unless the Congress, in an Act making appropriations for the Department of the Interior and related agencies for such fiscal year, specifies that any part of such Federal portion shall be used by the Secretary concerned for other Federal purposes as authorized by this Act.

''(c) FEDERAL PRIORITY LIST.—(1) For purposes of the budget submission of the President for each fiscal year, the President shall require the Secretary of the Interior and the Secretary of Agriculture to prepare Federal priority lists for expenditure of the Federal portion.

''(2) The Secretaries shall prepare the lists in consultation with the head of each affected bureau or agency, taking into account the best professional judgment regarding the land acquisition priorities and policies of each bureau or agency.

''(3) In preparing the priority lists, the Secretaries shall consider—

''(A) the potential adverse impacts which might result if a particular acquisition is not undertaken;

''(B) the availability of land appraisal and other information necessary to complete an acquisition in a timely manner; and

''(C) such other factors as the Secretaries consider appropriate.''.

SEC. 105. EXPANSION OF STATE ASSISTANCE PURPOSES.

Section 6(a) (16 U.S.C. 460l–8) is amended by striking ''outdoor recreation:''.

SEC. 106. ALLOCATION OF AMOUNTS AVAILABLE FOR STATE PURPOSES.

Section 6(b) (16 U.S.C. 460l–8) is amended to read as follows:

''(b) DISTRIBUTION AMONG THE STATES.—(1) Sums made available from the fund each fiscal year for State purposes shall be apportioned among the several States by the Secretary, in accordance with this subsection. The determination of the apportionment by the Secretary shall be final.

''(2) Two-thirds of the sums made available from the fund each fiscal year for State purposes shall be distributed by the Secretary using criteria developed by the Secretary under the following formula:

''(A) 30 percent shall be distributed equally among the several States.

''(B) 70 percent shall be distributed on the basis of the ratio which the population of each State bears to the total population of all States.

''(3) One-third of the sums made available from the fund each fiscal year for State purposes shall be distributed among the several States by the Secretary under a competitive grant program, subject to such criteria as the Secretary determines necessary to further the purposes of the Act.

''(4) The total allocation to an individual State under paragraphs (2) and (3) for a fiscal year shall not exceed 10 percent of the total amount allocated to the several States under this subsection for that fiscal year.

''(5) The Secretary shall notify each State of its apportionment, and the amounts thereof shall be available thereafter to the State for planning, acquisition, or development projects as hereafter described. Any amount of any apportionment that has not been paid or obligated by the Secretary during the fiscal year in which such notification is given and the two fiscal years thereafter shall be reapportioned by the Secretary in accordance with paragraph (3), without regard to the 10 percent limitation to an individual State specified in paragraph (4).

''(6)(A) For the purposes of paragraph (2)(A)—

''(i) the District of Columbia shall be treated as a State; and

''(ii) Puerto Rico, the United States Virgin Islands, Guam, and American Samoa—

''(I) shall be treated collectively as one State; and

''(II) shall each be allocated an equal share of any amount distributed to them pursuant to clause (i).

''(B) Each of the areas referred to in subparagraph (A) shall be treated as a State for all other purposes of this Act.''.

SEC. 107. STATE PLANNING.

Section 6(d) (16 U.S.C. 460l–8(d)) is amended to read as follows:

''(d) STATE PLAN.—(1)(A) A State plan shall be required prior to the consideration by the Secretary of financial assistance for acquisition or development projects. In order to reduce costly repetitive planning efforts, a State may use for such plan a current State comprehensive outdoor recreation plan, a State recreation plan, or a State action agenda under criteria developed by the Secretary if, in the judgment of the Secretary,

the plan used encompasses and promotes the purposes of this Act. No plan shall be approved for a State unless the Governor of the State certifies that ample opportunity for public participation in development and revision of the plan has been accorded. The Secretary shall develop, in consultation with others, criteria for public participation, and such criteria shall constitute the basis for certification by the Governor.

''(B) The plan or agenda shall contain—

''(i) the name of the State agency that will have the authority to represent and act for the State in dealing with the Secretary for purposes of this Act;

''(ii) an evaluation of the demand for and supply of outdoor conservation and recreation resources and facilities in the State;

''(iii) a program for the implementation of the plan or agenda; and

''(iv) such other necessary information as may be determined by the Secretary.

''(C) The plan or agenda shall take into account relevant Federal resources and programs and be correlated so far as practicable with other State, regional, and local plans.

''(2) The Secretary may provide financial assistance to any State for the preparation of a State plan under subsection (d)(1) when such plan is not otherwise available or for the maintenance of such a plan.''.

SEC. 108. ASSISTANCE TO STATES FOR OTHER PROJECTS.

Section 6(e) (16 U.S.C. 460l–8(e)) is amended—

(1) in subsection (e)(1) by striking '', but not including incidental costs relating to acquisition''; and

(2) in subsection (e)(2) by inserting before the period at the end the following: ''or to enhance public safety.''.

SEC. 109. CONVERSION OF PROPERTY TO OTHER USE.

Section 6(f)(3) (16 U.S.C. 460l–8(f)) is amended—

(1) by inserting ''(A)'' before ''No property''; and

(2) by striking the second sentence and inserting the following:

''(B)(i) The Secretary shall approve such conversion only if the State demonstrates that no prudent or feasible alternative exists.

''(ii) Clause (i) shall not apply to property that is no longer viable as an outdoor conservation or recreation facility due to changes in demographics, or that must be abandoned because of environmental contamination which endangers public health and safety.

''(C)(i) The Secretary may not approve such conversion unless the conversion satisfies any conditions the Secretary considers necessary to assure the substitution of other conservation and recreation properties of at least equal market value and reasonable equivalent usefulness and location and which are in accord with the existing State Plan for conservation and recreation.

''(ii) For purposes of clause (i), wetland areas and interests therein, as identified in a plan referred to in that clause and proposed to be acquired as suitable replacement property within the same State, that is otherwise acceptable to the Secretary shall be considered to be of reasonably equivalent usefulness with the property proposed for conversion.''.

TITLE II—URBAN PARK AND RECREATION RECOVERY PROGRAM AMENDMENTS

SEC. 201. AMENDMENT OF URBAN PARK AND RECREATION RECOVERY ACT OF 1978.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2501 et seq.).

SEC. 202. PURPOSES.

The purpose of this title is to provide a dedicated source of funding to assist local governments in improving their park and recreation systems.

SEC. 203. AUTHORITY TO DEVELOP NEW AREAS AND FACILITIES.

Section 1003 (16 U.S.C. 2502) is amended by inserting ''development of new recreation areas and facilities, including the acquisition of lands for such development,'' after ''rehabilitation of critically needed recreation areas, facilities,''.

SEC. 204. DEFINITIONS.

Section 1004 (16 U.S.C. 2503) is amended—

(1) in paragraph (j) by striking ''and'' after the semicolon;

(2) in paragraph (k) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(l) 'development grants'—

''(1) means matching capital grants to units of local government to cover costs of development, land acquisition, and construction on existing or new neighborhood recreation sites, including indoor and outdoor recreational areas and facilities, and support facilities; and

''(2) does not include landscaping, routine maintenance, and upkeep activities;

''(m) 'qualified Outer Continental Shelf revenues' has the meaning given that term in section 4 of the Resources 2000 Act; and

''(n) 'Secretary' means the Secretary of the Interior.''.

SEC. 205. ELIGIBILITY.

Section 1005(a) (16 U.S.C. 2504(a)) is amended to read as follows:

''(a) Eligibility of general purpose local governments to compete for assistance under this title shall be based upon need as determined by the Secretary. Generally, eligible general purpose local governments shall include the following:

''(1) All political subdivisions of Metropolitan, Primary, or Consolidated Statistical Areas, as determined by the most recent Census.

''(2) Any other city or town within such a Metropolitan Statistical Area, that has a total population of 50,000 or more as determined by the most recent Census.

''(3) Any other county, parish, or township with a total population of 250,000 or more as determined by the most recent Census.''.

SEC. 206. GRANTS.

Section 1006 (16 U.S.C. 2505) is amended by striking so much as precedes subsection (a)(3) and inserting the following:

''SEC. 1006. (a)(1) The Secretary may provide 70 percent matching grants for rehabilitation, development, and innovation purposes to any eligible general purpose local government upon approval by the Secretary of an application submitted by the chief executive of such government.

''(2) At the discretion of such an applicant, a grant under this section may be transferred in whole or part to independent special purpose local governments, private nonprofit agencies, or county or regional park authorities, if—

''(A) such transfer is consistent with the approved application for the grant; and

''(B) the applicant provides assurance to the Secretary that the applicant will maintain public recreation opportunities at assisted areas and facilities owned or managed by the applicant in accordance with section 1010.

''(3) Payments may be made only for those rehabilitation, development, or innovation projects that have been approved by the Secretary. Such payments may be made from time to time in keeping with the rate of progress toward completion of a project, on a reimbursable basis.''.

SEC. 207. RECOVERY ACTION PROGRAMS.

Section 1007(a) (16 U.S.C. 2506(a)) is amended—

(1) in subsection (a) in the first sentence by inserting ''development,'' after ''commitments to ongoing planning,''; and

(2) in subsection (a)(2) by inserting ''development and'' after ''adequate planning for''.

SEC. 208. STATE ACTION INCENTIVES.

Section 1008 (16 U.S.C. 2507) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before the first sentence; and

(2) by striking the last sentence of subsection (a) (as designated by paragraph (1) of this section) and inserting the following:

''(b) COORDINATION WITH LAND AND WATER CONSERVATION FUND ACTIVITIES.—(1) The Secretary and general purpose local governments are encouraged to coordinate preparation of recovery action programs required by this title with State plans required under section 6 of the Land and Water Conservation Fund Act of 1965, including by allowing flexibility in preparation of recovery action programs so they may be used to meet State and local qualifications for local receipt of Land and Water Conservation Fund grants or State grants for similar purposes or for other conservation or recreation purposes.

(2) The Secretary shall encourage States to consider the findings, priorities, strategies, and schedules included in the recovery action programs of their urban localities in preparation and updating of State plans in accordance with the public coordination and citizen consultation requirements of subsection 6(d) of the Land and Water Conservation Fund Act of 1965.''.

SEC. 209. CONVERSION OF RECREATION PROPERTY.

Section 1010 (16 U.S.C. 2509) is amended to read as follows:

''CONVERSION OF RECREATION PROPERTY

''SEC. 1010. (a)(1) No property developed, acquired, or rehabilitated under this title shall, without the approval of the Secretary, be converted to any purpose other than public recreation purposes.

''(2) Paragraph (1) shall apply to—

''(A) property developed with amounts provided under this title; and

''(B) the park, recreation, or conservation area of which the property is a part.

''(b)(1) The Secretary shall approve such conversion only if the grantee demonstrates no prudent or feasible alternative exists.

''(2) Paragraph (1) shall apply to property that is no longer a viable recreation facility due to changes in demographics or that must be abandoned because of environmental contamination which endangers public health or safety.

''(c) Any conversion must satisfy any conditions the Secretary considers necessary to assure substitution of other recreation property that is—

''(1) of at least equal fair market value, or reasonably equivalent usefulness and location; and

''(2) in accord with the current recreation recovery action plan of the grantee.''.

SEC. 210. AVAILABILITY OF AMOUNTS.

Section 1013 (16 U.S.C. 2512) is amended to read as follows:

''APPROPRIATIONS

''SEC. 1013. (a) IN GENERAL.—

''(1) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund that shall be known as the 'Urban Park and Recreation Recovery Fund' (in this section referred to as the 'Fund'). The Fund shall consist of such amounts as

are deposited into the Fund under this subsection. Amounts in the fund shall only be used to carry out this title.

''(2) DEPOSITS.—Subject to section 5 of the Resources 2000 Act, from amounts received by the United States as qualified Outer Continental Shelf revenues there shall be deposited into the fund $100,000,000 each fiscal year.

''(3) AVAILABILITY.—Of amounts in the fund, up to $100,000,000 shall be available each fiscal year without further appropriation, and shall remain available until expended.

''(4) INVESTMENT OF EXCESS AMOUNTS.—The Secretary of the Treasury shall invest moneys in the Fund that are excess to expenditures in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary of the Treasury, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. Interest earned on such investments shall be deposited into the Fund.

''(b) LIMITATIONS ON ANNUAL GRANTS.—Of amounts available to the Secretary each fiscal year under this section—

''(1) not more that 3 percent may be used for grants for the development of local park and recreation recovery action programs pursuant to sections 1007(a) and 1007(c);

''(2) not more than 10 percent may be used for innovation grants pursuant to section 1006; and

''(3) not more than 15 percent may be provided as grants (in the aggregate) for projects in any one State.

''(c) LIMITATION ON USE FOR GRANT ADMINISTRATION.—The Secretary shall establish a limit on the portion of any grant under this title that may be used for grant and program administration.''.

SEC. 211. REPEAL.

Section 1015 (16 U.S.C. 2514) is repealed.

TITLE III—HISTORIC PRESERVATION FUND

SEC. 301. AVAILABILITY OF AMOUNTS.

Section 108 of the National Historic Preservation Act (16 U.S.C. 470h) is amended—

(1) by inserting ''(a)'' before the first sentence;

(2) in subsection (a) (as designated by paragraph (1) of this section) by striking ''There shall be covered into such fund'' and all that follows through ''(43 U.S.C. 338),'' and inserting ''Subject to section 5 of the Resources 2000 Act, there shall be deposited into such fund $150,000,000 for each fiscal year after fiscal year 1998 from revenues due and payable to the United States as qualified Outer Continental Shelf revenues (as that term is defined in section 4 of that Act),''.

(3) by striking the third sentence of subsection (a) (as so designated) and all that follows through the end of the subsection and inserting ''Such moneys shall be used only to carry out the purposes of this Act.''; and

(4) by adding at the end the following:

''(b)(1) Of amounts in the fund, up to $150,000,000 shall be available each fiscal year after September 30, 1999, for obligation or expenditure without further appropriation to carry out the purposes of this Act, and shall remain available until expended.

''(2) At least ½ of the funds obligated or expended each fiscal year under this section shall be used in accordance with this Act for preservation projects on historic properties. In making such funds available, the Secretary shall give priority to the preservation of endangered historic properties.

''(c) The Secretary of the Treasury shall invest moneys in the fund that are excess to expenditures in public debt securities with maturities suitable to the needs of the fund, as determined by the Secretary of the Treasury, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. Interest earned on such investments shall be deposited into the fund.''.

TITLE IV—FARMLAND, RANCHLAND, OPEN SPACE, AND FORESTLAND PROTECTION

SEC. 401. PURPOSE.

The purpose of this title is to provide a dedicated source of funding to the Secretary of Agriculture and the Secretary of the Interior for programs to provide matching grants to certain eligible entities to facilitate the purchase of conservation easements on farmland, ranchland, open space, and forestland in order to—

(1) protect the ability of these lands to continue in productive sustainable agricultural use; and

(2) prevent the loss of their value to the public as open space because of nonagricultural development.

SEC. 402. FARMLAND, RANCHLAND, OPEN SPACE, AND FORESTLAND PROTECTION FUND; AVAILABILITY OF AMOUNTS.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund that shall be known as the ''Farmland, Ranchland, Open Space, and Forestland Protection Fund'' (in this title referred to as the ''Fund''). Subject to section 5 of this Act, there shall be deposited into the Fund $150,000,000 of qualified Outer Continental Shelf revenues received by the United States each fiscal year.

(b) AVAILABILITY.—Amounts in the Fund shall be available as provided in section 403, without further appropriation, and shall remain available until expended.

(c) INVESTMENT OF EXCESS AMOUNTS.—The Secretary of the Treasury shall invest moneys in the Fund that are excess to expenditures in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary of the Treasury, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. Interest earned on such investments shall be deposited into the Fund

SEC. 403. AUTHORIZED USES OF FARMLAND, RANCHLAND, OPEN SPACE, AND FORESTLAND PROTECTION FUND.

(a) FARMLAND PROTECTION PROGRAM.—The Secretary of Agriculture may use up to $50,000,000 annually from the Farmland, Ranchland, Open Space, and Forestland Protection Fund for the Farmland Protection Program established under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 16 U.S.C. 3830 note), as amended by section 404.

(b) RANCHLAND PROTECTION PROGRAM.—The Secretary of the Interior may use up to $50,000,000 annually from the Fund for the Ranchland Protection Program established by section 405.

(c) FOREST LEGACY PROGRAM.—The Secretary of Agriculture may use up to $50,000,000 annually from the Fund for the Forest Legacy Program established by section 7 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103c).

SEC. 404. FARMLAND PROTECTION PROGRAM.

(a) EXPANSION OF EXISTING PROGRAM.—Section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 16 U.S.C. 3830 note) is amended to read as follows:

''SEC. 388. FARMLAND PROTECTION PROGRAM.

''(a) GRANTS AUTHORIZED; PURPOSE.—The Secretary of Agriculture shall establish and carry out a program, to be known as the 'Farmland Protection Program', under which the Secretary shall provide grants to eligible entities described in subsection (c) to provide the Federal share of the cost of purchasing permanent conservation easements in land with prime, unique, or other productive soil for the purpose of protecting the continued use of the land as farmland or open space by limiting nonagricultural uses of the land.

''(b) FEDERAL SHARE.—The Federal share of the cost of purchasing a conservation easement described in subsection (a) may not exceed 50 percent of the total cost of purchasing the easement.

''(c) ELIGIBLE ENTITY DEFINED.—In this section, the term 'eligible entity' means—

(1) an agency of a State or local government;

(2) a federally recognized Indian tribe; or

(3) any organization that is organized for, and at all times since its formation has been operated principally for, one or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A) of the Internal Revenue Code of 1986 and—

(A) is described in section 501(c)(3) of the Code;

(B) is exempt from taxation under section 501(a) of the Code; and

(C) is described in paragraph (2) of section 509(a) of the Code, or paragraph (3) of such section, but is controlled by an organization described in paragraph (2) of such section.

''(d) TITLE; ENFORCEMENT.—Any eligible entity may hold title to a conservation easement described in subsection (a) and enforce the conservation requirements of the easement.

''(e) STATE CERTIFICATION.—As a condition of the receipt by an eligible entity of a grant under subsection (a), the attorney general of the State in which the conservation easement is to be purchased using the grant funds shall certify that the conservation easement to be purchased is in a form that is sufficient, under the laws of the State, to achieve the conservation purpose of the Farmland Protection Program and the terms and conditions of the grant.

''(f) CONSERVATION PLAN.—Any land for which a conservation easement is purchased under this section shall be subject to the requirements of a conservation plan to the extent that the plan does not negate or adversely affect the restrictions contained in the easement.

''(g) TECHNICAL ASSISTANCE.—The Secretary of Agriculture may not use more than 10 percent of the amount that is made available for any fiscal year under this program to provide technical assistance to carry out this section.''.

(b) EFFECT ON EXISTING EASEMENTS.—The amendment made by subsection (a) shall not affect the validity or terms of conservation easements and other interests in lands purchased under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 16 U.S.C. 3830 note) before the date of the enactment of this Act.

SEC. 405. RANCHLAND PROTECTION PROGRAM.

(a) GRANTS AUTHORIZED; PURPOSE.—The Secretary of Interior shall establish and carry out a program, to be known as the ''Ranchland Protection Program'', under which the Secretary shall provide grants to eligible entities described in subsection (c) to provide the Federal share of the cost of purchasing permanent conservation easements on ranchland, which is in danger of conversion to nonagricultural uses, for the purpose of protecting the continued use of the land as ranchland or open space.

(b) FEDERAL SHARE.—The Federal share of the cost of purchasing a conservation easement described in subsection (a) may not exceed 50 percent of the total cost of purchasing the easement.

(c) ELIGIBLE ENTITY DEFINED.—In this section, the term ''eligible entity'' means—

(1) an agency of a State or local government;

(2) a federally recognized Indian tribe; or

(3) any organization that is organized for, and at all times since its formation has been operated principally for, one or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A) of the Internal Revenue Code of 1986 and—

(A) is described in section 501(c)(3) of the Code;

(B) is exempt from taxation under section 501(a) of the Code; and

(C) is described in paragraph (2) of section 509(a) of the Code, or paragraph (3) of such section, but is controlled by an organization described in paragraph (2) of such section.

(d) TITLE; ENFORCEMENT.—Any eligible entity may hold title to a conservation easement described in subsection (a) and enforce the conservation requirements of the easement.

(e) STATE CERTIFICATION.—As a condition of the receipt by an eligible entity of a grant under subsection (a), the attorney general of the State in which the conservation easement is to be purchased using the grant funds shall certify that the conservation easement to be purchased is in a form that is sufficient, under the laws of the State, to achieve the conservation purpose of the Ranchland Protection Program and the terms and conditions of the grant.

(f) CONSERVATION PLAN.—Any land for which a conservation easement is purchased under this section shall be subject to the requirements of a conservation plan to the extent that the plan does not negate or adversely affect the restrictions contained in the easement.

(g) RANCHLAND DEFINED.—In this section, the term ''ranchland'' means private or tribally owned rangeland, pastureland, grazed forest land, and hay land.

(h) TECHNICAL ASSISTANCE.—The Secretary of the Interior may not use more than 10 percent of the amount that is made available for any fiscal year under this program to provide technical assistance to carry out this section.

TITLE V—FEDERAL AND INDIAN LANDS RESTORATION FUND

SEC. 501. PURPOSE.

The purpose of this title is to provide a dedicated source of funding for a coordinated program on Federal and Indian lands to restore degraded lands, protect resources that are threatened with degradation, and protect public health and safety.

SEC. 502. FEDERAL AND INDIAN LANDS RESTORATION FUND; AVAILABILITY OF AMOUNTS; ALLOCATION.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund that shall be known as the ''Federal and Indian Lands Restoration Fund''. Subject to section 5 of this Act, there shall be deposited into the fund $250,000,000 of qualified Outer Continental Shelf revenues received by the United States each fiscal year. Amounts in the fund shall only be used to carry out the purpose of this title.

(b) AVAILABILITY.—Of amounts in the fund, up to $250,000,000 shall be available each fiscal year without further appropriation, and shall remain available until expended.

(c) ALLOCATION.—Amounts made available under this section shall be allocated as follows:

(1) DEPARTMENT OF THE INTERIOR.—60 percent shall be available to the Secretary of the Interior to carry out the purpose of this title on lands within the National Park System, National Wildlife Refuge System, and public lands administered by the Bureau of Land Management.

(2) DEPARTMENT OF AGRICULTURE.—30 percent shall be available to the Secretary of Agriculture to carry out the purpose of this title on lands within the National Forest System.

(3) INDIAN TRIBES.—10 percent shall be available to the Secretary of the Interior for competitive grants to qualified Indian tribes under section 503(b).

(d) INVESTMENT OF EXCESS AMOUNTS.—The Secretary of the Treasury shall invest moneys in the fund that are excess to expenditures in public debt securities with maturities suitable to the needs of the fund, as determined by the Secretary of the Treasury, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. Interest earned on such investments shall be deposited into the fund.

SEC. 503. AUTHORIZED USES OF FUND.

(a) IN GENERAL.—Funds made available pursuant to this title shall be used solely for restoration of degraded lands, resource protection, maintenance activities related to resource protection, or protection of public health or safety.

(b) COMPETITIVE GRANTS TO INDIAN TRIBES.—

(1) GRANT AUTHORITY.—The Secretary of the Interior shall administer a competitive grant program for Indian tribes, using such criteria as may be developed by the Secretary to achieve the purpose of this title.

(2) LIMITATION.—The amount received for a fiscal year by a single Indian tribe in the form of grants under this subsection may not exceed 10 percent of the total amount provided to all Indian tribes for that fiscal year in the form of such grants.

(c) PRIORITY LIST.—The Secretary of the Interior and the Secretary of Agriculture shall each establish priority lists for the use of funds available under this title. Each list shall give priority to projects based upon the protection of significant resources, the severity of damages or threats to resources, and the protection of public health or safety.

(d) COMPLIANCE WITH APPLICABLE PLANS.—Any project carried out on Federal lands with amounts provided under this title shall be carried out in accordance with all management plans that apply under Federal law to the lands.

(e) TRACKING RESULTS.—Not later than the end of the first full fiscal year for which funds are available under this title, the Secretary of the Interior and the Secretary of Agriculture shall jointly establish a coordinated program for—

(1) tracking the progress of activities carried out with amounts made available by this title; and

(2) determining the extent to which demonstrable results are being achieved by those activities.

SEC. 504. INDIAN TRIBE DEFINED.

In this title, the term ''Indian tribe'' means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior recognizes as an Indian tribe under section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a–1).

TITLE VI—LIVING MARINE RESOURCES CONSERVATION, RESTORATION, AND MANAGEMENT ASSISTANCE

SEC. 601. PURPOSE.

The purpose of this title is to provide a dedicated source of funding for a coordinated program to—

(1) preserve biological diversity and natural assemblages of living marine resources, and their habitat; and

(2) provide financial assistance to the coastal States, private citizens, and nongovernmental entities for the conservation, restoration, and management of living marine resources and their habitat.

SEC. 602. FINANCIAL ASSISTANCE TO COASTAL STATES.

(a) AUTHORIZATION OF ASSISTANCE.—

(1) IN GENERAL.—The Secretary may use amounts allocated to an eligible coastal State under subsection (b) to reimburse the State for costs described in paragraph (3) that are incurred by the State.

(2) ELIGIBLE COASTAL STATES.—A coastal State shall be an eligible coastal State under paragraph (1) if—

(A) the State has an Living Marine Resources Conservation Plan that is approved under subsection (d); or

(B) the Secretary determines that the State is making sufficient progress toward completion of such a plan.

(3) COSTS ELIGIBLE FOR REIMBURSEMENT.—The costs referred to in paragraph (1) are the following:

(A) The costs of developing an Living Marine Resources Conservation Plan pursuant to subsection (d), as follows:

(i) Not to exceed 90 of such costs incurred in each of the first three fiscal years that begin after the date of the enactment of this Act.

(ii) Not to exceed 75 percent of such costs incurred in each of the fourth and fifth fiscal years that begin after the date of the enactment of this Act.

(iii) Not to exceed 75 percent of such costs incurred in the sixth or seventh year that begins after the date of the enactment of this Act (or both), upon a showing by the State of a need for that assistance for that year and a finding by the Secretary that the plan is likely to be completed within that 2-fiscal-year period.

(B) Not to exceed 75 percent of the costs of implementing and revising an approved conservation plan.

(C) Not to exceed 90 percent of implementing conservation actions under an approved conservation plan that are undertaken—

(i) in cooperation with one or more other coastal States; or

(ii) in coordination with Federal actions for the conservation, restoration, or management of living marine resources.–

(4) EMERGENCY FUNDING.—Notwithstanding paragraph (1), the Secretary may reimburse a coastal State for 100 percent of the cost of conservation actions on a showing of need by the State and if those actions—

(A) are substantial in character and design;

(B) meet such of the requirements of subsection (d) as may be appropriate; and

(C) are considered by the Secretary to be necessary to fulfill the purpose of this title.

(5) IN-KIND CONTRIBUTIONS; LIMITATION ON INCLUDED COSTS.—(A) In computing the costs incurred by any State during any fiscal year for purposes of paragraphs (1) and (4), the Secretary, subject to subparagraph (B), shall take into account, in addition to each outlay by the State, the value of in-kind contributions (including real and personal property and services) received and applied by the State during the year for activities for which the costs are computed.

(B) In computing the costs incurred by any State during any fiscal year for purposes of paragraphs (1) and (4)—

(i) the Secretary shall not include costs paid by the State using Federal moneys received and applied by the State, directly or indirectly, for the activities for which the costs are computed; and

(ii) the Secretary shall not include in-kind contributions in excess of 50 percent of the amount of reimbursement paid to the State under this subsection for the fiscal year.

(C) For purposes of subparagraph (A), in-kind contributions may be in the form of, but are not required to be limited to, personal services rendered by volunteers in carrying out surveys, censuses, and other scientific studies regarding living marine resources. The Secretary shall by regulation establish—

(i) the training, experience, and other qualifications which such volunteers must have in order for their services to be considered as in-kind contributions; and

(ii) the standards under which the Secretary will determine the value of in-kind contributions and real and personal property for purposes of subparagraph (A).

(D) Any valuation determination made by the Secretary for purposes of this paragraph shall be final and conclusive.

(b) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—The Secretary shall allocate among all coastal States the funds available each fiscal year under section 604(b), as follows:

(A) A portion equal to ⅔ of the funds shall be allocated by allocating to each coastal State an amount that bears the same ratio to that portion as the coastal population of the State bears to the total coastal population of all coastal States.

(B) A portion equal to ⅓ of the funds shall be allocated by allocating to each coastal State an amount that bears the same ratio to that portion as the shoreline miles of the State bears to the shoreline miles of all coastal States.

(2) MINIMUM AND MAXIMUM ALLOCATIONS.—Notwithstanding paragraph (1), the total amount allocated to a coastal State under subparagraphs (A) and (B) of paragraph (1) for a fiscal year shall be not less than ½ of one percent, and not more than 10 percent, of the total amount of funds available under section 604(b) for the fiscal year.

(c) AVAILABILITY OF FUNDS TO STATES.—

(1) IN GENERAL.—Amounts allocated to a coastal State under this section for a fiscal year shall be available for expenditure by the State in accordance with this section without further appropriation, and shall remain available for expenditure for the subsequent fiscal year.

(2) REVERSION.—(A) Except as provided in subparagraph (B), amounts allocated under subsection (b)(1) to a coastal State for a fiscal year that are not expended before the end of the subsequent fiscal year shall, upon the expiration of the subsequent fiscal year, revert to the Fund and remain available for reallocation under subsection (b).

(B) Subparagraph (A) shall not apply to amounts that are otherwise subject to reallocation under this paragraph if the Secretary certifies in writing that the purposes of this title would be better served if the amounts remained available for use by the coastal State.

(C) Amounts that remain available to a coastal State pursuant to a certification under subparagraph (B) may remain available for a period specified by the Secretary in the certification, which shall not exceed 2 fiscal years.

(d) APPROVAL OF COASTAL STATE LIVING MARINE RESOURCES CONSERVATION PLANS.—

(1) SUBMISSION.—A coastal State that seeks financial assistance under this section shall submit to the Secretary, in such manner as the Secretary shall by regulation prescribe, an application that contains a proposed Living Marine Resources Conservation Plan.

(2) REVIEW AND APPROVAL.—As soon as is practicable, but no later than 180 days, after the date on which a coastal State submits (or resubmits in the case of a prior disapproval) an application for the approval of a proposed Living Marine Resources Conservation Plan, the Secretary shall—

(A) approve the plan, if the Secretary determines that the plan—

(i) fulfills the purpose of this title;

(ii) is substantial in character and design; and

(iii) meets the requirements set forth in subsection (e); or

(B) if the proposed plan does not meet the criteria set forth in subparagraph (A), disapprove the conservation plan and provide the coastal State—

(i) a written statement of the reasons for disapproval;

(ii) an opportunity to consult with the Secretary regarding deficiencies in the plan and the modifications required for approval; and

(iii) an opportunity to revise and resubmit the plan.

(e) LIVING MARINE RESOURCES CONSERVATION PLANS.—The Secretary may not approve an Living Marine Resources Conservation Plan proposed by a coastal State unless the Secretary determines that the plan—

(1) promotes balanced and diverse assemblages of living marine resources;

(2) provides for the vesting in a designated State agency the overall responsibility for the development and revision of the plan;

(3) provides for an inventory of the living marine resources that are within the waters of the State and are of value to the public for ecological, economic, cultural, recreational, scientific, educational, and esthetic benefits;

(4) with respect to species inventoried under paragraph (3) (in this subsection referred to as ''plan species''), provides for—

(A) determination of the size, range, and distribution of their populations; and

(B) identification of the extent, condition, and location of their habitats;

(5) provides for identification of any significant factors which may adversely affect the plan species and their habitats;

(6) provides for determination and implementation of the actions that should be taken to conserve, restore, and manage the plan species and their habitats;

(7) provides for establishment of priorities for implementing conservation actions determined under paragraph (6);

(8) provides for the monitoring, on a regular basis, of the plan species and the effectiveness of the conservation actions determined under paragraph (6);

(9) provides for review and, if appropriate, revision of the plan, at intervals of not more than 3 years;

(10) ensures that the public is given opportunity to make its views known and considered during the development, revision, and implementation of the plan;

(11) identifies and establishes mechanisms for coordinating conservation, restoration, and management actions under the plan with appropriate Federal and interstate bodies with responsibility for living marine resources management and conservation; and

(12) provides for consultation by the State agency designated under paragraph (2), as appropriate, with Federal and State agencies, interstate bodies, nongovernmental entities, and the private sector during the development, revision, and implementation of the plan, in order to minimize duplication of effort and to ensure that the best information is available to all parties.

SEC. 603. OCEAN CONSERVATION PARTNERSHIPS.

(a) IN GENERAL.—The Secretary may use amounts available under section 604(b) to make grants for the conservation, restoration, or management of living marine resources.

(b) ELIGIBILITY AND APPLICATION.—Any person may apply to the Secretary for a grant under this section, in such manner as the Secretary shall by regulation prescribe.

(c) REVIEW PROCESS.—Not later than 6 months after receiving an application for a grant under this section, the Secretary shall—

(1) request written comments on the project proposal contained in the application from each State or territory of the United States, and from each Regional Fishery Management Council established under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), having jurisdiction over any area in which the project is proposed to be carried out;

(2) provide for the merit-based peer review of the project proposal and require standardized documentation of that peer review;

(3) after reviewing any written comments and recommendations received under subsection (c)(1), and based on such comments and recommendations and peer review, approve or disapprove the proposal; and

(4) provide written notification of that approval or disapproval to the applicant.

(d) CRITERIA FOR APPROVAL.—The Secretary may approve a proposal for a grant under this section only if the Secretary determines that the proposed project—

(1) fulfills the purposes of this title;

(2) is substantial in character and design; and

(3) provide for the long-term conservation, restoration, or management of living marine resources.

(e) PRIORITY CONSIDERATION.—In approving and disapproving proposals under this section, the Secretary shall give priority to funding proposed projects that, in addition to satisfying the criteria of subsection (d), will—

(1) establish or enhance existing cooperation and coordination between the public and private sectors;

(2) assist in achieving the objectives of a National Estuary, National Marine Sanctuary, National Estuarine Research, Reserve, or other marine protected area established under Federal or State law; or

(3) assist in the conservation and enhancement of essential fish habitat pursuant to the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(f) LIMITATION ON AMOUNT OF GRANTS.—The amount provided to a private person in a fiscal year in the form of a grant under this section may not exceed 2 percent of the total amount available for the fiscal year for such grants.

(g) TERMS AND CONDITIONS OF GRANTS.—The Secretary shall require that each grantee under this section shall conform with such record-keeping requirements, reporting requirements, and other terms and conditions as the Secretary shall by regulation prescribe.

SEC. 604. LIVING MARINE RESOURCES CONSERVATION FUND; AVAILABILITY OF AMOUNTS.

(a) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a fund which shall be known as the ''Living Marine Resources Conservation Fund''.

(2) CONTENTS.—The Fund shall consist of—

(A) amounts deposited into the Fund under this section; and

(B) amounts that revert to the Fund under section 602(c)(2).

(3) DEPOSIT OF OCS REVENUES.—Subject to section 5 of this Act, from amounts received by the United States as qualified Outer Continental Shelf revenues each fiscal year, there shall be deposited into the Fund the following:

(A) For each of fiscal years 2000 and 2001, $100,000,000.

(B) For each of fiscal years 2002, 2003, and 2004, $200,000,000.

(C) For each of fiscal year 2005 and each fiscal year thereafter, $300,000,000.

(b) AVAILABILITY OF AMOUNTS.—

(1) IN GENERAL.—Of amounts in the Fund, up to the amount stated for a fiscal year in paragraph (3) shall be available to the Secretary for that fiscal year without further appropriation to carry out this title, and shall remain available until expended.

(2) USE.—Of the amounts expended under this subsection for a fiscal year—

(A) ⅔ shall be used by the Secretary for providing financial assistance to coastal States under section 602; and

(B) ⅓ shall used by the Secretary for grants under section 603.

(c) INVESTMENT OF EXCESS AMOUNTS.—The Secretary of the Treasury shall invest moneys in the Fund that are excess to expenditures in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary of the Treasury, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. Interest earned on such investments shall be deposited into the Fund.

SEC. 605. DEFINITIONS.

In this title:

(1) COASTAL POPULATION.—The term ''coastal population'' means the population of all political subdivisions, as determined by the most recent official data of the Census Bureau, contained in whole or in part within the designated coastal boundary of a State as defined in a State's coastal zone management program under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(2) FUND.—The term ''Fund'' means the Living Marine Resources Conservation Fund established by section 604.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

(4) LIVING MARINE RESOURCES.—The term ''living marine resources'' means indigenous fin fish, anadromous fish, mollusks, crustaceans, and all other forms of marine animal and plant life, including marine mammals and birds, that inhabit marine or brackish waters of the United States during all or part of their life cycle.

TITLE VII—FUNDING FOR STATE NATIVE FISH AND WILDLIFE CONSERVATION AND RESTORATION

SEC. 701. AMENDMENTS TO FINDINGS AND PURPOSES.

(a) FINDINGS.—Section 2(a) of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901(a)) is amended—

(1) in paragraph (1) by striking ''Fish and wildlife'' and inserting ''Native fish and wildlife'';

(2) in paragraph (2)—

(A) by striking ''fish and wildlife, particularly nongame fish and wildlife'' and inserting ''native fish and wildlife, particularly nongame species''; and

(B) by striking ''maintaining fish and wildlife'' and inserting ''maintaining biological diversity'';

(3) in paragraph (3) by striking ''fish and wildlife'' and inserting ''native fish and wildlife'';

(4) in paragraph (4) by striking ''nongame fish and wildlife'' and inserting ''native fish and wildlife''; and

(5) in paragraph (5) by striking ''fish and wildlife'' and all that follows through the end of the sentence and inserting ''native fish and wildlife.''.

(b) PURPOSES.—Section 2(b) of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901(b)) is amended—

(1) by striking ''nongame fish and wildlife'' each place it appears and inserting ''native fish and wildlife'';

(2) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and inserting before paragraph (2) (as so redesignated) the following:

''(1) to preserve biological diversity by maintaining natural assemblages of native fish and wildlife;''; and

(3) in paragraph (2), as redesignated, by inserting after ''States'' the following: ''(and through the States to local governments where appropriate)''.

SEC. 702. DEFINITIONS.

Section 3 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2902) is amended—

(1) in paragraph (2) by striking ''fish and wildlife'' and inserting ''native fish and wildlife'';

(2) in paragraph (3)—

(A) by striking ''fish and wildlife'' and inserting ''native fish and wildlife''; and

(B) by striking ''development'' and inserting ''and restoration'';

(3) in paragraph (4) by striking ''fish and wildlife'' and inserting ''native fish and wildlife'';

(4) by amending paragraph (5) to read as follows:

''(5) The term 'native fish and wildlife'—

''(A) subject to subparagraph (B), means a fish, animal, or plant species that—

''(i) historically occurred or currently occurs in an ecosystem, other than as a result of an introduction; and

''(ii) lives in an unconfined state; and

''(B) does not include any population of a domesticated species that has reverted to a feral existence.

Any determination by the Secretary that a species is or is not a species of native fish and wildlife for purposes of this Act shall be final.'';

(5) by striking paragraph (6) and redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively; and

(6) by adding at the end the following:

''(8) The term 'Native Wildlife Fund' means the Native Fish and Wildlife Conservation and Restoration Fund established by section 11.

''(9) The term 'qualified Outer Continental Shelf revenues' has the meaning given that term in section 4 of the Resources 2000 Act.''.

SEC. 703. CONSERVATION PLANS.

Section 4 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2903) is amended—

(1) by redesignating paragraphs (1) through (10) in order as paragraphs (2) through (11);

(2) by inserting before paragraph (2) (as so redesignated) the following:

''(1) promote balanced and diverse assemblages of native fish and wildlife;'';

(3) in paragraph (3) (as so redesignated) by striking ''nongame'' and all that follows through ''appropriate,'' and inserting ''native fish and wildlife'';

(4) in paragraph (4) (as so redesignated) by striking ''(2)'' and inserting ''(3)'';

(5) in paragraph (5) (as so redesignated) by striking ''problems'' and inserting ''factors''; and

(6) in paragraphs (7) and (8) (as so redesignated) by striking ''(5)'' and inserting ''(6)''.

SEC. 704. CONSERVATION ACTIONS IN ABSENCE OF CONSERVATION PLAN.

(a) IN GENERAL.—Section 5 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2904) is amended—

(1) in the section heading by striking ''nongame'';

(2) by striking subsection (c), and redesignating subsection (d) as subsection (c); and

(3) in subsection (c) (as so redesignated) by—

(A) in the subsection heading, by striking ''NONGAME'';

(B) striking ''nongame fish and wildlife'' and inserting ''native fish and wildlife''; and

(C) striking ''and'' after the semicolon at the end of paragraph (1), striking the period at the end of paragraph (2) and inserting ''; and'', and adding at the end the following:

''(3) are consistent with the purposes of this Act.''.

(b) CONFORMING AMENDMENTS.—Section 6 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2905) is amended by striking ''section 5(c) and (d)'' each place it appears and inserting ''section 5(c)''.

SEC. 705. AMENDMENTS RELATING TO REIMBURSEMENT PROCESS.

Section 6 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2905) is amended—

(1) in the section heading by striking ''**NONGAME**'';

(2) in subsection (a)(3) by striking ''nongame fish and wildlife'';

(3) in subsection (d) by striking ''appropriated'' and inserting ''available'';

(4) in subsection (e)(2)—

(A) in subparagraph (A) by striking ''1991'' and inserting ''2010'';

(B) in subparagraph (B)—

(i) by striking ''1986'' and inserting ''2005'';

(ii) by striking ''section 5(d)'' and inserting ''section 5(c)'';

(iii) by striking ''nongame fish and wildlife'' and inserting ''conservation''; and

(iv) by adding ''or'' after the semicolon;

(C) by striking subparagraphs (C), (D), and (E);

(D) by redesignating subparagraph (F) as subparagraph (C);

(E) in subparagraph (C) (as so redesignated) by striking ''nongame fish and wildlife'' and inserting ''native fish and wildlife''; and

(F) in subparagraph (C)(ii) (as so redesignated) by striking ''10 percent'' and inserting ''50 percent'';

(5) in subsection (e)(3)—

(A) in subparagraph (A) by striking ''1982, 1983, and 1984'' and inserting ''2001, 2002, and 2003'';

(B) in subparagraph (B) by striking ''nongame fish and wildlife''; and

(C) by amending subparagraph (D) to read as follows:

''(D) after September 30, 2010, may not exceed 75 percent of the cost of implementing and revising the plan during the fiscal year.''; and

(6) in subsection (e)(4)—

(A) in subparagraph (A) by striking ''nongame fish and wildlife''; and

(B) in subparagraph (B) by striking ''fish and wildlife'' and inserting ''native fish and wildlife''.

SEC. 706. ESTABLISHMENT OF NATIVE FISH AND WILDLIFE CONSERVATION AND RESTORATION TRUST FUND; AVAILABILITY OF AMOUNTS.

(a) ESTABLISHMENT OF FUND.—Section 11 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2910) is amended to read as follows:

''SEC. 11. NATIVE FISH AND WILDLIFE CONSERVATION AND RESTORATION FUND.

''(a) ESTABLISHMENT OF FUND.—(1) There is established in the Treasury of the United States a fund which shall be known as the 'Native Fish and Wildlife Conservation and Restoration Fund'. The Native Fish and Wildlife Conservation Fund shall consist of amounts deposited into the Fund under this subsection.

''(2) Subject to section 5 of the Resources 2000 Act, from amounts received by the United States as qualified Outer Continental Shelf revenues each fiscal year, there shall be deposited into the Fund the following amounts:

''(A) For each of fiscal years 2000 and 2001, $100,000,000.

''(B) For each of fiscal years 2002, 2003, and 2004, $200,000,000.

''(C) For fiscal year 2005 and each fiscal year thereafter, $350,000,000.

''(3) The Secretary of the Treasury shall invest moneys in the Fund that are excess to expenditures in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary of the Treasury, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. Interest earned on such investments shall be deposited into the Fund.

''(b) AVAILABILITY FOR REIMBURSEMENT TO STATES.—Of amounts in the Native Wildlife Fund—

''(1) up to the amount stated in subsection (a)(2) for a fiscal year shall be available to the Secretary of the Interior for that fiscal year, without further appropriation, to reimburse States under section 6 in accordance with the terms and conditions that apply under sections 7 and 8; and

''(2) shall remain available until expended.''.

(b) CONFORMING AMENDMENTS.—Section 8 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2907) is amended—

(1) in subsection (a) by striking ''appropriated'' and inserting ''available''; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1) by striking ''appropriated'' and inserting ''available''; and

(B) in paragraph (1)—

(i) by striking ''8 percent'' and inserting ''2 percent''; and

(ii) by striking ''the purposes for which so appropriated'' and inserting ''the purposes for which the amount is available''.

TITLE VIII—ENDANGERED AND THREATENED SPECIES RECOVERY

SEC. 801. PURPOSES.

The purposes of this title are the following:

(1) To provide a dedicated source of funding to the Fish and Wildlife Service and the National Marine Fisheries Service for the purpose of implementing an incentives program to promote the recovery of endangered species and threatened species and the habitat upon which they depend.

(2) To promote greater involvement by non-Federal entities in the recovery of the Nation's endangered species and threatened species and the habitat upon which they depend.

SEC. 802. ENDANGERED AND THREATENED SPECIES RECOVERY ASSISTANCE.

(a) FINANCIAL ASSISTANCE.—The Secretary may use amounts in the Endangered and Threatened Species Recovery Fund established by section 804 to provide financial assistance to any person for development and implementation of Endangered and Threatened Species Recovery Agreements entered into by the Secretary under section 804.

(b) PRIORITY.—In providing assistance under this section, the Secretary shall give priority to the development and implementation of recovery agreements that—

(1) implement actions identified under recovery plans approved by the Secretary under section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f));

(2) have the greatest potential for contributing to the recovery of an endangered or threatened species; and

(3) to the extent practicable, require use of the assistance—

(A) on land owned by a small landowner; or

(B) on a family farm by the owner or operator of the family farm.

(c) PROHIBITION ON ASSISTANCE FOR REQUIRED ACTIVITIES.—The Secretary may not provide financial assistance under this section for any action that is required by a permit issued under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or that is otherwise required under that Act or any other Federal law.

(d) PAYMENTS UNDER OTHER PROGRAMS.—

(1) OTHER PAYMENTS NOT AFFECTED.—Financial assistance provided to a person under this section shall be in addition to, and shall not affect, the total amount of payments that the person is otherwise eligible to receive under the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.), the wetlands reserve program established under subchapter C of that chapter (16 U.S.C. 3837 et seq.), or the Wildlife Habitat Incentives Program established under section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a).

(2) LIMITATION.—A person may not receive financial assistance under this section to carry out activities under a species recovery agreement in addition to payments under the programs referred to in paragraph (1) made for the same activities if the terms of the species recovery agreement do not require financial or management obligations by the person in addition to any such obligations of the person under such programs.

SEC. 803. ENDANGERED AND THREATENED SPECIES RECOVERY AGREEMENTS.

(a) IN GENERAL.—The Secretary may enter into Endangered and Threatened Species Recovery Agreements for purposes of this title in accordance with this section.

(b) REQUIRED TERMS.—The Secretary shall include in each species recovery agreement provisions that—

(1) require the person—

(A) to carry out on real property owned or leased by the person activities not otherwise required by law that contribute to the recovery of an endangered or threatened species;

(B) to refrain from carrying out on real property owned or leased by the person otherwise lawful activities that would inhibit the recovery of an endangered or threatened species; or

(C) to do any combination of subparagraphs (A) and (B);

(2) describe the real property referred to in paragraph (1)(A) and (B) (as applicable);

(3) specify species recovery goals for the agreement, and measures for attaining such goals;

(4) require the person to make measurable progress each year in achieving those goals, including a schedule for implementation of the agreement;

(5) specify actions to be taken by the Secretary or the person (or both) to monitor the effectiveness of the agreement in attaining those recovery goals;

(6) require the person to notify the Secretary if—

(A) any right or obligation of the person under the agreement is assigned to any other person; or

(B) any term of the agreement is breached by the person or any other person to whom is assigned a right or obligation of the person under the agreement;

(7) specify the date on which the agreement takes effect and the period of time during which the agreement shall remain in effect;

(8) provide that the agreement shall not be in effect on and after any date on which the Secretary publishes a certification by the Secretary that the person has not complied the agreement; and

(9) allocate financial assistance provided under this title for implementation of the agreement, on an annual or other basis during the period the agreement is in effect based on the schedule for implementation required under paragraph (4).

(c) REVIEW AND APPROVAL OF PROPOSED AGREEMENTS.—Upon submission by any person of a proposed species recovery agreement under this section, the Secretary—

(1) shall review the proposed agreement and determine whether it complies with the requirements of this section and will contribute to the recovery of endangered or threatened species that are the subject of the proposed agreement;

(2) propose to the person any additional provisions necessary for the agreement to comply with this section; and

(3) if the Secretary determines that the agreement complies with the requirements of this section, shall approve and enter with the person into the agreement.

(d) MONITORING IMPLEMENTATION OF AGREEMENTS.—The Secretary shall—

(1) periodically monitor the implementation of each species recovery agreement entered into by the Secretary under this section; and

(2) based on the information obtained from that monitoring, annually or otherwise disburse financial assistance under this title to implement the agreement as the Secretary determines is appropriate under the terms of the agreement.

SEC. 804. ENDANGERED AND THREATENED SPECIES RECOVERY FUND; AVAILABILITY OF AMOUNTS.

(a) ESTABLISHMENT OF FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund that shall be known as the ''Endangered and Threatened Species Recovery Fund''. The Fund shall consist of such amounts as are deposited into the Fund under this section.

(2) DEPOSITS.—Subject to section 5 of this Act, from amounts received by the United States as qualified Outer Continental Shelf revenues there shall be deposited into the Fund $100,000,000 each fiscal year.

(b) AVAILABILITY.—Of amounts in the Fund up to $100,000,000 shall be available to the Secretary each fiscal year, without further appropriation, for providing financial assistance under section 802, and shall remain available until expended.

(c) INVESTMENT OF EXCESS AMOUNTS.—The Secretary of the Treasury shall invest moneys in the Fund that are excess to expenditures in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary of the Treasury, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. Interest earned on such investments shall be deposited into the Fund.

SEC. 805. DEFINITIONS.

In this title:

(1) ENDANGERED OR THREATENED SPECIES.—The term ''endangered or threatened species'' means any species that is listed as an endangered species or threatened species under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533).

(2) FAMILY FARM.—The term ''family farm'' means a farm that—

(A) produces agricultural commodities for sale in such quantities so as to be recognized in the community as a farm and not as a rural residence;

(B) produces enough income, including off-farm employment, to pay family and farm operating expenses, pay debts, and maintain the property;

(C) is managed by the operator;

(D) has a substantial amount of labor provided by the operator and the operator's family; and

(E) uses seasonal labor only during peak periods, and uses no more than a reasonable amount of full-time hired labor.

(3) FUND.—The term ''Fund'' means the Endangered and Threatened Species Recovery Fund established by section 804.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior or the Secretary of Commerce, in accordance with section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532).

(5) SMALL LANDOWNER.—The term ''small landowner'' means an individual who owns 50 acres or fewer of land.

(6) SPECIES RECOVERY AGREEMENT.—The term ''species recovery agreement'' means an Endangered and Threatened Species Recovery Agreement entered into by the Secretary under section 803.

ORGANIZATIONS SUPPORTING RESOURCES 2000

America Oceans Campaign.
Bay Area Open Space Council.
Bay Area Ridge Trail Council.
Bay Institute.
California Police Activities League.
Carquinez Strait Preservation Trust.
Defenders of Wildlife.
Earth Island Institute.
East Bay Regional Park District.
Environmental Defense Fund.
Friends of the Earth.
Friends of the River.
Golden Gate Audubon Society.
Greater Vallejo Recreation District.
Izaak Walton League.
Land Trust Alliance.
Marin Conservation League.
Martinez Regional Land Trust.
National Conference of State Historic Preservation Officers.
National Audubon Society.
National Environmental Trust.
National Parks and Conservation Association.
National Association of Police Athletic Leagues.
National Wildlife Federation.
Natural Resources Defense Council.
Physicians for Social Responsibility.
Preservation Action.
Save San Francisco Bay Association.
Save the Redwoods.
Scenic America.
Sierra Club.
Society for American Archaeology.
Trust for Public Land.
U.S. Public Interest Research Group.
Wilderness Society.

EXCERPTS OF LETTERS SUPPORTING RESOURCES 2000

''America's Resources 2000 would significantly help our lands, oceans and creatures in the next millennium. Representative Miller and Senator Boxer have listened to the demand of the American people and are pushing for critical, much-needed funding for the environment.''—Brent Blackwelder, President, Friends of the Earth.

''Congress ought to lay down the law: federal lands must be kept safe, even added to, instead as a national yard sale for wealthy corporations to raid for cheap resources. The Permanent Protection for America's Resources 2000 bill sends that message loud and clear.''—Philip E. Clapp, President, National Environmental Trust.

''The Carquinez Strait Preservation Trust applauds your initiatives to provide protection for American resources . . . We strongly support your legislation.''—Jerry Ashland, President, Carquinez Strait Preservation Trust.

''The Bay Area Open Space Council thanks you for your bold leadership in introducing the Permanent Protection for America's Resources 2000 legislation.''—John Woodbury, Program Director, Bay Area Open Space Council.

''Millions of acres within our national parks are still privately owned and not protected because the federal government has failed to acquire the lands America wants preserved. Resources 2000 will provide the funding, not only this year, but in years to come, to secure these treasured places for the ages.''—Tom Kiernan, President, National Parks and Conservation Association.

''Your Resources 2000 offers the hope that permanent, annual funding will be secured for resource preservation goals.''—Susan West Montgomery, President, Preservation Action.

''Implementation of Permanent Protection for America's Resources 2000 would be a dream come true for conservationists and truly usher in a new millennium for wildlife.''—Rodger Schlickeisen, President, Defenders of Wildlife.

''We have been advocating for the use of the Land and Water Conservation Funds for land acquisition for several years, and we are very glad to see that this is one of the key elements in this proposed legislation.''—Jerry Edelbrock, Executive Director, Marin Conservation League.

CITIZEN GROUPS CALL LAND AND WATER PROTECTION A TOP LEGISLATIVE PRIORITY

A broad range of citizen organizations today expressed support for the principles of the Permanent Protection for America's Resources 2000 initiative to be introduced this week by Rep. George Miller (D–CA) and Sen. Barbara Boxer (D–CA). The initiative provides guaranteed annual funding for conservation from the Land & Water Conservation Fund and other long-sought measures to protect America's public lands, wildlife, and historical resources. Selected comments by environmental leaders follow.

''Implementation of Permanent Protection for America's Resources 2000 would be a dream come true for conservationists and truly usher in a new millennium for wildlife. This far-sighted legislation is Defenders of Wildlife's top legislative priority because it provides long-needed permanent protection for the Land and Water Conservation Fund as well as funding for endangered species recovery, restoration of public lands, ocean fish and wildlife, and native wildlife and plant programs.''—Rodger Schlickeisen, President, Defenders of Wildlife.

''Sen. Boxer and Rep. Miller have outlined an inspired vision for protecting and restoring the irreplaceable elements of our heritage for the future. This bill shows that we can find ways to protect all our resources, including the ocean and its creatures, without the danger of incentives for unnecessary offshore oil drilling. We applaud their effort and look forward to working with them to ensure the vitality of our ocean and coastal resources for our children.''—David Younkman, Executive Director, American Oceans Campaign.

''Citizens in communities all across the country voted last fall for over a hundred ballot and bond initiatives to protect America's special places. Now it's time for our lawmakers to catch up with the American people. The Congress should act quickly to pass this popular bill.''—Carl Pope, Executive Director, Sierra Club.

''Millions of acres within our national parks are still privately owned and not protected because the federal government has failed to acquire the lands America wants preserved. Resources 2000 will provide the funding, not only this year, but in years to come, to secure these treasured places for the ages.''—Tom Kiernan, President, National Parks & Conservation Association.

''Resources 2000 is a bold, comprehensive approach to conservation. The legislation directs money where it is desperately needed: to purchase land for bird and wildlife habitat, to help endangered species recover, and to fight sprawl. Congressman Miller and Senator Boxer are to be commended for charting the course of conservation for the next century. By providing permanent protection, our children will be able to enjoy the splendors of our land and wildlife.''—Dan Beard, Vice President for Public Policy, National Audubon Society.

''The National Wildlife Federation's top priority for this Congress is passage of significant long-term funding for wildlife and wild places for both federal and state programs. This proposal helps set the parameters to achieve a bipartisan victory for conservation funding this year.''—Mark Van Putten, President & CEO, National Wildlife Federation.

''Now that we have successfully moved past the Cold War and large budget deficits, it is essential that we Americans invest in the stewardship of our natural resources and the sustainability of our environment for the benefit of our children and their children. Permanent Protection for America's Resources 2000 is a bold initiative to protect our precious natural and cultural heritage and the quality of life for all Americans. As we approach the millennium we must pass this program as our generation's legacy for the future.''—John Adams, President, Natural Resources Defense Council.

Resources 2000 provides long-overdue funding for bipartisan conservation initiatives which will help Americans protect natural beauty, the character of their communities, and their heritage as we move into the new millennium.''—Meg Maguire, Executive Director/President, Scenic America.

''A healthy ecosystem is the bedrock of a healthy society. The Miller/Boxer bills will help to preserve the biodiversity we need for the development of new medicines and vaccines, and safeguard the parks and recreation areas so vital to human health and well-being. PSR is pleased to add its voice to the chorus of support for this important legislation.''—Robert K. Musil, Ph.D., Executive Director, Physicians for Social Responsibility.

''We applaud Rep. Miller and Sen. Boxer for their effort to reinvigorate chronically underfunded land acquisition programs and provide much-needed funds to protect urban areas and open spaces and conserve fish and wildlife. Resources 2000 will provide a substantial down payment in the effort to preserve and protect our natural heritage while protecting our coastal areas from increased offshore drilling.''—Gene Karpinski, Executive Director, U.S. PIRG.

''America's Resources 2000 would significantly help our lands, oceans, and creatures in the next millennium. Rep. Miller and Sen. Boxer have listened to the demand of the American people and are pushing for critical, much-needed funding for the environment.''—Brent Blackwelder, President, Friends of the Earth.

''It is vital that Congress adequately fund the programs that care for the public's lands, whether in parks, national forests, wildlife preserves, or historic sites. Without adequate funding, federal stewardship of the public's lands will fall further and further behind, and America's natural heritage will be lost to future generations. Congress ought to lay down the law: federal lands must be kept safe, even added to, instead of treated as a national yard sale for wealthy corporations to raid for cheap resources. The Permanent Protection for America's Resources 2000 bill sends that message loud and clear.''—Philip E. Clapp, President, National Environmental Trust.

''We welcome Rep. George Miller's proposal that joins with the Administration's initiative and the previously introduced Senate and House bills, calling for full funding for the Land and Water Conservation Fund and much-needed support for fish and wildlife to state agencies. We are especially encouraged by the expressed commitment of all parties to work cooperatively on these proposals with all those who have a stake in the nation's natural resources to craft a landmark conservation bill in this Congress.''—Paul Hansen, Executive Director, Izaak Walton League of America.

SIERRA CLUB,
Washington, DC, February 19, 1999.

DEAR SENATOR: Please support Permanent Protection for America's Resources.

On behalf of the more than half million members of the Sierra Club, I am writing to encourage you to support full and permanent funding for the Land and Water Conservation Fund this year. There are a number of positive initiatives underway that will increase this critical land acquisition fund, as well as support numerous other land protection programs such as farmland preservation and fish, wildlife and land restoration programs.

In particular, I urge you to become an original cosponsor of a new bill to be introduced shortly by Senator Barbara Boxer (D–CA). The Permanent Protection for America's Resources 2000 Act builds upon the Clinton Administration's proposed new Land Legacy initiative by providing a secure source of funding for natural resource protection programs.

Senator Boxer's bill provides full and permanent annual funding of the LWCF, funding for local governments and States for conservation and recreation purposes, special funding for coastal states to conserve and restore marine resources; and farmland and open space preservation incentives.

Senator Boxer's bill stands in contrast to S. 25, a bill recently introduced by Senators Frank Murkowski (R–AK) and Mary Landrieu (D–LA). The Murkowski/Landrieu bill shares the goal of funding important natural resource protection and wildlife programs, but unfortunately does this at the expense of our coastal environment. We are strongly opposed to this bill in its current form because it would encourage increased oil drilling by providing financial incentives to states based in part on the amount of drilling off their coasts.

Thre has been some confusion about the relationship of S. 25 to Teaming with Wildlife, a legislative proposal that received significant support last year. The Sierra Club supported the Teaming with Wildlife proposal, which also generated funding for wildlife programs. However, we are actively opposed to the Murkowski/Landrieu bill due to the drilling incentives in this bill.

Please consider becoming an original cosponsor of Senator Boxer's bill. We also urge you not to cosponsor S. 25 unless the drilling incentives are completely removed from the bill.

Sincerely,

MELANIE L. GRIFFIN,
Director, Land Protection Programs.

FRIENDS OF THE RIVER,
Sacramento, CA, February 19, 1999.

Resupport for Resources 2000.

Hon. BARBARA BOXER,
U.S. Senate, Washington, DC.

DEAR SENATOR BOXER: As California's leading river conservation group, we would like to add our name to the list of those supporting the Resources 2000 legislation that you and Congressman MILLER have authored.

Your effort to provide substantial and permanent funding for the improvement acquisition and maintenance of natural resource areas throughout the country is critical for preserving fisheries, wildlife habitat and outdoor recreation opportunities. Here in California, it will clearly benefit our state's wonderful rivers and watersheds.

We greatly appreciate your leadership in trying to find and direct the monies necessary to support the Land and Water Conservation funds at the State and federal levels, urban parks and recreation, endangered species recovery programs, historic preservation, fishery restoration, and the like.

On behalf of Friends of the River's 8,000 members, we thank you for your good work and pledge to help see it through to success.

Sincerely,

BETSY REIFSNIDER,
Executive Director.

NATIONAL PARKS AND CONSERVATION ASSOCIATION PACIFIC REGIONAL OFFICE,
Oakland, CA, February 12, 1999.

Hon. BARBARA BOXER,
U.S. Senate, Washington, DC.

DEAR SENATOR BOXER: On behalf of the National Parks and Conservation Association (NPCA), I would like to thank you for your leadership as you strive to achieve a fully funded Land and Water Conservation Fund. The ''Permanent Protection for America's Resources 2000'' legislation, which you will be introducing with Congressman George Miller, represents a bold step in resolving the long standing gap between the list of lands identified as critical for the protection of our nation's natural and cultural heritage and the funds necessary to acquire and restore them. NPCA strongly endorses the bill.

Since its inception, the Land and Water Conservation Fund has often been the court of last resort for sensitive lands threatened by development. However, due to competing demands for these revenues generated by offshore oil profits, the Fund has never been allowed to fulfill its mandate. As such, our national parks remain incomplete, native habitat for fish and wildlife has been fragmented, and opportunities to recover endangered species have been lost. With the number of threats to our nation's heritage growing exponentially, it is clearly time to renew our commitment to a permanent, fully funded Land and Water Conservation Fund.

NPCA looks forward to working with you and Congressman Miller in passing this important legislation. Thank you again.

Sincerely,

BRIAN HUSE,
Regional Director.

SOCIETY FOR AMERICAN ARCHAEOLOGY,
Washington, DC, February 19, 1999.

Hon. BARBARA BOXER,
United States Senate, Washington, DC.

DEAR SENATOR BOXER: The Society for American Archaeology enthusiastically supports the ''Permanent Protection for America's Resources 2000'' legislation that you will be introducing with Congressman George Miller. SAA believes this legislation is a comprehensive approach to insure long-term protection of not only natural resources, but archaeological and historic sites as well.

SAA applauds your joint efforts to fully fund the Land and Water Conservation Fund, the Historic Preservation Fund, and other programs that have long suffered from diminished financial support from the Congress. SAA is particularly enthusiastic about the proposed annual funding for programs fundable through the Historic Preservation Fund at $150 million, including grants to the states and National Park Service.

Enactment of this legislation will offer a comprehensive set of tools to help protect the cultural and natural environment in the future, and fulfills the Congressional intent of earlier laws, which mandated that income from offshore oil leases be directed towards the preservation of our country's rich and diverse cultural and natural heritages.

SAA looks forward to working with you and your staff in support of this legislation, and, ultimately, to securing its passage.

Sincerely,

VIN STEPONAITIS,
President.

PRESERVATION ACTION
Washington, DC, February 12, 1999.

HON. BARBARA BOXER,
Senate Hart Office Building, Washington, DC.

DEAR SENATOR BOXER: Preservation Action offers its support of your Permanent Protection for America's Resources 2000 legislation. For too long, the portion of the revenue from offshore oil resources meant for natural and historic resource protection has gone unappropriated. Your Resources 2000 legislation offers the hope that permanent, annual funding will be secured for resource preservation goals.

In particular, Preservation Action supports Resources 2000 because it includes consideration for the Historic Preservation Fund (HPF). Established in 1977 and authorized at $150 million dollars annually since 1980, the HPF over the last twenty years has never received more than about one-third its annual authorized amount. Indeed, near level funding for most of the 1990s meant that appropriations were not even keeping pace with cost of living increases. Your bill will not only direct much-needed dollars to HPF's core programs—tax credit certification, Section 106 review, National Register survey work and nominations, and technical assistance—but ensures that the fund can meet preservation needs at all levels.

Preservation Action is a national grassroots organization dedicated to advocating the goals of the historic preservation community. Since 1974, Preservation Action has worked to see historic preservation used to protect America's past—its neighborhoods, landmarks, and architectural treasures—and build healthier communities. The best way to preserve and protect our historic resources is to keep them viable for today. Resources 2000, including its consideration of the HPF, is an important step towards this goal.

Sincerely,

SUSAN WEST MONTGOMERY,
President.

NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS,
Washington, DC, February 16, 1999.

Re: Historic Preservation Fund.

Hon BARBARA BOXER,
United States Senate, Washington, DC.

DEAR SENATOR BOXER: On behalf of the State Historic Preservation Officers, thank you for including the Historic Preservation Fund in your legislation ''Permanent Protection for America's Resources 2000,'' to be introduced with Congressman George Miller.

Congress was extremely far-sighted two decades ago when it created the Land and Water Conservation and Historic Preservation Funds. The idea of dedicating a portion of the revenues generated by depleting non renewable resources to the conservation of irreplaceable natural and cultural resources is as powerful now as it was then. The fact that so little of the offshore oil revenues have been going for their intended purposes has been very frustrating to those trying to preserve the nation's heritage.

The National Historic Preservation Act programs, administered by partners in State,

local and tribal governments, provide the infrastructure for every community to identify and protect significant landmarks, to create incentives for reinvesting in existing settled areas as opposed to abandonment and ''sprawl,'' and to encourage sustainable industries such as heritage tourism. These programs are an essential complement to greater assistance for federal properties in order to achieve a truly comprehensive program for America's heritage.

The National Conference of State Historic Preservation Officers thanks you for your leadership on this issue and looks forward to working with you and your staff in support of this legislation.

Sincerely,

ERIC HERTFELDER,
Executive Director.

NATIONAL ASSOCIATION OF POLICE ATHLETIC LEAGUES,
North Palm Beach, FL, February 19, 1999.

Hon. BARBARA BOXER,
United States Senate, Washington, DC.

DEAR SENATOR BOXER: I am writing on behalf of the National Association of Police Athletic Leagues (PAL) to support your legislation to provide permanent funding for high priority resource preservation objectives through the Permanent Protection for America's Resources 2000.

National PAL believes that participation in outdoor recreation provides important physical, mental, and social benefits to young people. Continued growth in demand for outdoor recreation opportunities has brought overcrowding to some areas, while budgetary constraints, environmental pollution, and open space availability to other uses has further added to the challenges we face. To effectively meet this challenge, federal recreation efforts must receive permanent federal commitment to support public land acquisition and improvements, fish and wildlife programs, urban recreation and historic preservation, and farmland and open space.

We share in your vision of safe, clean, planned, and well-maintained recreation areas, available to all Americans. It is essential that funding of state and local recreation areas increase to meet demand. These areas in particular bear the brunt of recreational use but have not seen the increases in funding necessary to support the growth, rehabilitation, development, acquisition and improvements of recreation land. The Resources 2000 initiative addresses the need to target funds and restore our national commitment to the protection and preservation of our public resources.

PAL Police Officers and volunteers work with young people and depend on public lands to provide diverse and high quality opportunities for recreation. Your concern for America's Resources and passage of the Land and Water Conservation Fund legislation will guarantee that our PAL kids and future generations of Americans will be assured of our precious natural resources.

We are proud to join you and Congressman George Miller in advocating support for Resources 2000. If I may be of any assistance, please do not hesitate to call me at 561–844–1823.

Sincerely,

JOE WILSON,
Executive Director.

BAY AREA OPEN SPACE COUNCIL,
February 18, 1999.

Hon. GEORGE MILLER,
United States House of Representatives, District Office, Concord, CA.

RE: PERMANENT PROTECTION FOR AMERICA'S RESOURCES 2000

CONGRESSMAN MILLER: The Bay Area Open Space Council thanks you for your bold leadership in introducing the Permanent Protection for America's Resources 2000 legislation. We would like to express our strongest support.

The legislation proposes a comprehensive and thoughtful approach for effectively addressing national resource conservation needs.

Utilizing offshore oil lease revenues for resource conservation is reasonable, practical, and consistent with the original intent and commitment of Congress in establishing the Land and Water Conservation Fund.

This legislation is urgently needed. Our rapidly growing population is placing unprecedented pressure on a wide range of irreplaceable resources. The balanced package of programs in your legislation will enable our economy to grow, and our communities to prosper, by providing funding for the protection of many of the resources which underpin our economy and quality of life.

The Bay Area Open Space Council is a cooperative effort of approximately 40 land conservation organizations and agencies with responsibilities in the San Francisco Bay Area. We applaud your leadership in proposing Permanent Protection For America's Resources 2000, and commit to doing all we can to assist.

Sincerely,

JOHN WOODBURY,
Program Director.

By Mr. BURNS:

S. 447. A bill to deem as timely filed, and process for payment, the applications submitted by the Dodson School Districts for certain Impact Aid payments for fiscal year 1999; to the Committee on Health, Education, Labor, and Pensions.

DODSON SCHOOL DISTRICTS LEGISLATION

Mr. BURNS. Mr. President, I rise today to introduce a bill that may not impact our nation but will have an impact on 120 students in my state of Montana. These students are victims of a bureaucratic bamboozle that should be an easily reconciled mistake.

I would like to request the compassion of my colleagues. We all make mistakes and sometimes these mistakes have a financial cost to us as individuals. However, in the case of the Dodson Public School District, a misdirected application could result in a loss of impact aid funding. As you all know, Impact Aid funding is necessary for areas that have no local revenue raising mechanism.

This application was inadvertently sent to the wrong office within the Department of Education by the deadline. Last year, we say how unbending the Internal Revenue Service was in terms of customer service—I would like to think the rest of the federal government does not follow suit. According to the Department of Education, deadlines are deadlines. During hearing last year, Congress determined this is not the culture we would like to see in the Department of Education or any other arm of the nation's federal government.

The loss of funds would likely mean the demise of the entire public school system—a system that serves many residents of the Fort Belknap Indian Reservation. The economic state of Montana's reservations is not well and losing this school district would require many students additional transportation costs and travel of over thirty miles. Additionally, adjoining school districts and local governments would be extremely pressed to pick up the tab for additional education and transportation costs with much less proportionate revenue share.

Dodson Public Schools in Dodson, Montana has a total enrollment of 120 students in K–12. In grades K–8, 53% of the total 74 students reside on federal land. In grades 9–12, 31% of the total 46 students reside on federal land. Of the total enrollment, 75% of the students are eligible for our free and reduced lunch program.

Mr. President, I'm certain you'll agree not many schools in America can rival the need for impact aid funds like Dodson's schools.

Now that you know the facts, I think you'll agree we cannot ignore the plight of Dodson School District. This is a simple plea from a modest Montana community that would like to continue their rich, historic culture and legacy.

Mr. President, as you know, it is the role of Congress to protect the students of our nation. This bill will fix an unfortunate situation that could happen to any state in our nation.

By Mr. SMITH of New Hampshire:

S.J. Res. 11. A joint resolution prohibiting the use of funds for military operations in the Federal Republic of Yugoslavia (Serbia and Montenegro) unless Congress enacts specific authorization in law for the conduct of those operations; read the first time.

PROHIBITING THE USE OF FUNDS FOR MILITARY OPERATIONS IN THE FEDERAL REPUBLIC OF YUGOSLAVIA

Mr. SMITH of New Hampshire. Mr. President, as President Reagan would say, ''Here we go again.'' This administration is now on the verge of making a commitment of American forces to another 911 humanitarian crisis around the world, without the approval of Congress.

As I stand here today, the United States is poised to launch airstrikes against the sovereign nation of Federal Republic of Yugoslavia. Given the apparent failure of the talks in France regarding the issue of the peacekeeping force, there is a real possibility that airstrikes may be imminent and that American forces, as part of a NATO force, may be committed in Kosovo. I would venture to say that many Americans would be hard-pressed to find Kosovo on a map; yet here again our sons and daughters are going to be asked to put their lives on the line for this administration without approval of their elected representatives in Congress, and without any declaration of war.

Mr. President, this is very, very disturbing. I have spoken out in the past against the Bosnia operation. I have spoken out against our occupation of

Haiti. But Kosovo is the last straw for me. Today I am introducing a bill to ensure that Congress exercises its constitutional right of approval before this administration commits us to an act of war against a sovereign nation. If we are going to be taking offensive military action, I don't believe there ought to be any troops in any sovereign nation unless there is a declaration of war, or at least a specific authorization by Congress.

The resolution I am introducing simply says that there will be no troops committed in any force of any kind without a specific authorization from the U.S. Congress. I am going to call on my colleagues to join me in this effort before we get embroiled in another long-term conflict that is not in the United States' interest.

I want to make a few points about this.

This administration apparently thinks nothing of committing an act of war without congressional approval—they will commit troops first, and come to us later and ask for our support.

On the contrary, when President Bush wanted to repel Iraq from Kuwait, he came to the Congress—a Democrat-controlled Congress—and Congress authorized him to do that. He came here. He took his chance. He did the right thing. But that is not happening now.

While this body has been wrestling with impeachment proceedings, President Clinton's administration has been preparing to wage war.

I want to repeat that. We were tied down here for almost 2 months talking about the impeachment of the President of the United States, and while we were doing that, the same President who was nearly removed from office was preparing to wage war against a sovereign nation without congressional approval. That is absolutely outrageous, and I am not going to stand by any longer and be silent about it.

The administration has crafted a plan to fix the internal problems of a sovereign state. And it proceeds, then, to hold a so-called peace conference where it threatens to use lethal force against that sovereign state if they don't accept the deal. The two parties are not even interested in an agreement. They still want to fight. They have been fighting in that region of the world for centuries. So we jam an agreement down their throats. And here come U.S. forces, again in harm's way, with no approval from Congress.

Before we send our troops to another dangerous part of the world, which this President has been prone to do for a long time, we have a sacred responsibility to these men and women to consider the risks. We did not fight and win the Cold War so that—as the sole remaining superpower—we would get bogged down in parts of the world that the vast majority of Americans have never heard of.

Kosovo is as much a part of Yugoslavia as New Hampshire is of the United States. We are dictating, under the threat of American military action, the internal policy of the Federal Republic of Yugoslavia. It may be a policy that I despise, that I hate, that I am upset about. But do we have that right, without an act of war or some authorization from Congress? We may not like it. It may be horrible. But that alone is not a reason to go to war. Should we go to war in Zimbabwe or Ethiopia or some other nation where some other problems are occurring that we don't like? Where do you draw the line?

The administration tells us we must become involved in the internal affairs of a sovereign nation to prevent the spread of this conflict into neighboring nations, including perhaps NATO members. This is a bogey-man argument. It is meant to scare us into resolving the conflict with the American military. This argument is false and it obscures the real issue of placing troops at risk in an area of the world where were we have no real interest to justify direct intervention. Frankly, I am tired of it. I am tired of risking American lives when we do not have American interests at stake. The precedent we would be setting by intervening in Kosovo is far more dangerous to American interests than the small risk that this conflict is going to spread somewhere. What other troubled Balkan region will we go to next? Montenegro? Macedonia? Where do we stop, Mr. President?

There was a letter to the Washington Post on February 20, written from a gentleman by the name of Alex N. Dragnich. He said:

> We are threatening to bomb the Serbs, not because they have invaded a foreign country but because they refuse to accept an agreement which we have crafted, to resolve a domestic conflict inside Yugoslavia and to permit the entrance of NATO troops to enforce it. . . .

That is what this is about

> More serious [he says] in the long run will be the precedent we would be creating. Our proposed actions would provide the arguments to justify a power or a combination of powers to invade some country in search of justice for a minority or minorities. This could be some Arab states, perhaps in agreement with Russia, or it could be China seeking to take over Taiwan.

The administration has created a situation where, no matter how the negotiations conclude, our military people will likely be placed at risk. Let me correct that—they will be placed at risk. The recklessness with which this administration treats our men and women in uniform is shameful—shameful. We had to fight in the Senate on this floor 2 years ago to get the administration to give them a pay raise. We fight on this floor to try to get a national missile defense to protect our own Nation—and we still cannot get it. If the parties do agree to a foreign military presence, then our troops will be committed to peace enforcement for more years than the administration is ready to admit; a lot more years than this administration has left in office. And they will be in great jeopardy from retaliation, not by one side, but by both sides. They will be in the middle of a civil war.

If the Serbs do not agree, then this administration is prepared to send our troops into combat against an aggressive nation that is well equipped to defend itself from attack. Let there be no doubt, American lives will be endangered. This is not Iraq where everything is out in the open. There are SAM sites embedded in mountains. The Serbs have the capability to shoot down American aircraft. Remember that.

We all remember the promises made by the administration about Bosnia. They said the troops will be out in a year. It was one year, then another year, then another; now it is 3 years, with no end in sight, and it's cost $10 billion. Most of the time the President didn't even fund the operation; he took it out of funds for the troops, he raided their equipment modernization accounts to fund it. One of the primary reasons given by the administration, justifying the Bosnia intervention, was it would stabilize the region—yet today we are about to commit American troops to intervening in a new unstable region, Kosovo.

We field an army, not a Salvation Army. Our military is woefully underfunded. We need $125 billion over the next 5 years just to recover from where this administration has cut us. There are mounting concerns about readiness. Should a crisis emerge that truly does endanger America's legitimate interests, what happens? By volunteering to send forces to Kosovo, the President is again stretching our military too thin. The President is not just risking the lives of soldiers sent to the region, but also our troops around the world. And for what?

Later on today we are going to be debating pay increases and retirement benefits for our troops. That is a serious need. The operations tempo that we require from our troops is a serious concern as well. Yet as we try to help on these problems, the administration once again overextends our forces. There are troops that have been in three or four hot spots in the last 3 years. Some have been in Bosnia, some have been in the Persian Gulf, some have been in Haiti, some have been in Korea, and there will probably be a fifth one, Kosovo, for some people. How much more can we take?

The administration says the possible troop commitment for peace enforcement in Kosovo is only for 4,000 troops. In the military there is the three-times rule. Not only do we commit those 4,000 on the ground, but 4,000 more are preparing to go and 4,000 are recovering from being deployed there. This 4,000-man operation ties up 12,000 troops. In truth, a four-times rule is probably more realistic, so it is more like 16,000.

We are already facing serious problems in recruiting, spare parts, and

other results of this high operating tempo. The administration has strained the budget of the Defense Department to the limit, and our troops are going to be the losers because of it. We simply cannot ask our military to do more and more with less. That is what this President has continued to do.

Mr. President, we are 7,000 troops down in recruitment for the U.S. Navy. We don't even have enough sailors to man our ships. We are short 23,000 recruits in the U.S. Army. Spare parts bins are empty in military bases all over this country. They cannot repair some vehicles— they are just too old. And yet here is the administration, ready to send them into Kosovo.

In conclusion, throughout the Cold War we fought to protect the rights of sovereign nations to conduct themselves according to their own laws. We fought World War II over the same thing. In the Gulf War we sent American soldiers to war to turn back an unlawful and immoral invasion of the sovereign nation of Kuwait. There was much disagreement over that policy, but it was an attack of one sovereign nation on another. Now, look at what has happened in just 8 years. Today we find our commitment to sovereignty turned on its head.

Let me issue a warning. The KLA, the Kosovo Liberation Army—these are not Boy Scouts. Neither is Slobodan Milosevic. This is going to be a bloody mess, and we are going to be right in the middle of it. The KLA started a war that it cannot finish and now the administration wants U.S. pilots serve as its Air Force the American people know what we are spending in Bosnia—$4 billion a year and growing, now adding to that in Kosovo, and at the same time not yet deploying a missile defense system for this country which is imperative for the security of our own people and our troops wherever they may be in the world.

I applaud the efforts of the Senator from New Hampshire. I certainly hope that we will get a chance to talk about this. I look forward to having the leaders in Congress stand up and say, What is the policy; how many more times are we going to put troops in harm's way, paid for by the taxpayers of America, when there is no exit strategy, there is no plan, there is no rotation out, there is no temporariness about this. It is open-ended.

I applaud my colleague from New Hampshire, and I hope that the Senate will address this before we have a fait accompli, troops on the ground, as we have had in Bosnia in an unending mission, with no strategy, no plan and no exit.

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. WARNER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 4, a bill to improve pay and retirement equity for members of the Armed Forces; and for other purposes.

At the request of Mr. BUNNING, his name was added as a cosponsor of S. 4, supra.

S. 25

At the request of Ms. LANDRIEU, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 25, a bill to provide Coastal Impact Assistance to State and local governments, to amend the Outer Continental Shelf Lands Act Amendments of 1978, the Land and Water Conservation Fund Act of 1965, the Urban Park and Recreation Recovery Act, and the Federal Aid in Wildlife Restoration Act (commonly referred to as the Pittman-Robertson Act) to establish a fund to meet the outdoor conservation and recreation needs of the American people, and for other purposes.

S. 26

At the request of Mr. MCCAIN, the names of the Senator from New Jersey (Mr. TORRICELLI) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 26, a bill entitled the ''Bipartisan Campaign Reform Act of 1999''.

S. 98

At the request of Mr. MCCAIN, the names of the Senator from Colorado (Mr. CAMPBELL) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 98, a bill to authorize appropriations for the Surface Transportation Board for fiscal years 1999, 2000, 2001, and 2002, and for other purposes.

S. 185

At the request of Mr. ASHCROFT, the names of the Senator from Wyoming (Mr. THOMAS) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 185, a bill to establish a Chief Agricultural Negotiator in the Office of the United States Trade Representative.

S. 197

At the request of Mrs. BOXER, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from Florida (Mr. GRAHAM) were added as cosponsors of S. 197, a bill to amend the Outer Continental Shelf Lands Act to direct the Secretary of the Interior to cease mineral leasing activity on the outer Continental Shelf seaward of a coastal State that has declared a moratorium on mineral exploration, development, or production activity in State water.

S. 218

At the request of Mr. MOYNIHAN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 218, a bill to amend the Harmonized Tariff Schedule of the United States to provide for equitable duty treatment for certain wool used in making suits.

S. 258

At the request of Mr. WARNER, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 258, a bill to authorize additional rounds of base closures and realignments under the Defense Base Closure and Realignment Act of 1990 in 2001 and 2003, and for other purposes.

S. 271

At the request of Mr. FRIST, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 271, a bill to provide for education flexibility partnerships.

S. 274

At the request of Mr. COVERDELL, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 274, a bill to amend the Internal Revenue Code of 1986 to increase the maximum taxable income for the 15 percent rate bracket.

S. 279

At the request of Mr. MCCAIN, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 279, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 280

At the request of Mr. FRIST, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 280, a bill to provide for education flexibility partnerships.

S. 311

At the request of Mr. WARNER, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. 311, a bill to authorize the Disabled Veterans' LIFE Memorial Foundation to establish a memorial in the District of Columbia or its environs, and for other purposes.

S. 312

At the request of Mr. WARNER, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 312, a bill to require certain entities that operate homeless shelters to identify and provide certain counseling to homeless veterans, and for other purposes.

S. 314

At the request of Mr. BOND, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 314, a bill to provide for a loan guarantee program to address the Year 2000 computer problems of small business concerns, and for other purposes.

S. 315

At the request of Mr. ASHCROFT, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 315, a bill to amend the Agricultural Trade Act of 1978 to require the President to report to Congress on any selective embargo on agricultural commodities, to provide a termination date for the embargo, to provide greater assurances for contract sanctity, and for other purposes.

S. 346

At the request of Mrs. HUTCHISON, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 346, a bill to amend title

XIX of the Social Security Act to prohibit the recoupment of funds recovered by States from one or more tobacco manufacturers.

S. 348

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 348, a bill to authorize and facilitate a program to enhance training, research and development, energy conservation and efficiency, and consumer education in the oilheat industry for the benefit of oilheat consumers and the public, and for other purposes.

S. 403

At the request of Mr. ALLARD, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 403, a bill to prohibit implementation of ''Know Your Customer'' regulations by the Federal banking agencies.

S. 427

At the request of Mr. ABRAHAM, the names of the Senator from Georgia (Mr. COVERDELL) and the Senator from Minnesota (Mr. GRAMS) were added as cosponsors of S. 427, a bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

S. 433

At the request of Mr. THURMOND, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 433, a bill to amend the Alcoholic Beverage Labeling Act of 1988 to prohibit additional statements and representations relating to alcoholic beverages and health, and for other purposes.

SENATE JOINT RESOLUTION 7

At the request of Mr. HATCH, the names of the Senator from New Hampshire (Mr. SMITH), the Senator from Arizona (Mr. KYL) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of Senate Joint Resolution 7, a joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget.

SENATE CONCURRENT RESOLUTION 5

At the request of Mr. BROWNBACK, the names of the Senator from Colorado (Mr. ALLARD), the Senator from Alaska (Mr. STEVENS), the Senator from Missouri (Mr. BOND), the Senator from Alabama (Mr. SHELBY), the Senator from Montana (Mr. BAUCUS), the Senator from Iowa (Mr. HARKIN), the Senator from Wisconsin (Mr. KOHL), and the Senator from California (Mrs. BOXER) were added as cosponsors of Senate Concurrent Resolution 5, a concurrent resolution expressing congressional opposition to the unilateral declaration of a Palestinian state and urging the President to assert clearly United States opposition to such a unilateral declaration of statehood.

SENATE RESOLUTION 26

At the request of Mr. MURKOWSKI, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of Senate Resolution 26, a resolution relating to Taiwan's Participation in the World Health Organization.

AMENDMENT NO. 6

At the request of Mr. CLELAND, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of amendment No. 6 proposed to S. 4, a bill to improve pay and retirement equity for members of the Armed Forces; and for other purposes.

SENATE RESOLUTION 48—DESIGNATING NATIONAL GIRL SCOUT WEEK

Mrs. HUTCHISON (for herself and Ms. MIKULSKI) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 48

Whereas March 12, 1999, is the 87th anniversary of the founding of the Girl Scouts of the United States of America;

Whereas on March 16, 1950, the Girl Scouts became the first national organization for girls to be granted a Federal charter by Congress;

Whereas through annual reports required to be submitted to Congress by its charter, the Girl Scouts regularly informs Congress of its progress and program initiatives;

Whereas the Girl Scouts is dedicated to inspiring girls and young women with the highest ideals of character, conduct, and service to others so that they may become model citizens in their communities;

Whereas the Girl Scouts offers girls aged 5 through 17 a variety of opportunities to develop strong values and life skills and provides a wide range of activities to meet girls' interests and needs;

Whereas the Girl Scouts has a membership of nearly 3,000,000 girls and over 850,000 adult volunteers, and is one of the preeminent organizations in the United States committed to girls growing strong in mind, body, and spirit; and

Whereas by fostering in girls and young women the qualities on which the strength of the United States depends, the Girl Scouts, for 87 years, has significantly contributed to the advancement of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week beginning March 7, 1999, as ''National Girl Scout Week''; and

(2) requests the President to issue a proclamation designating the week beginning March 7, 1999, as ''National Girl Scout Week'' and calling on the people of the United States to observe the day with appropriate ceremonies and activities.

Mrs. HUTCHISON. Mr. President, I rise today to submit an important resolution recognizing the Girl Scouts of America.

This year commemorates the 87th anniversary of the founding of this outstanding organization. On March 16, 1950, the Girl Scouts of the United States of America became the first national organization for girls to be granted a Federal charter by Congress.

The Girl Scout Organization has long been dedicated to inspiring girls and young women with the highest ideals of character, conduct, and service to others to that they may become model citizens in their communities.

For 86 years, the Girl Scout movement has provided valuable leadership skills for countless girls and young women across the nation. Today, overall membership in the Girl Scouts is the highest it has been in 26 years, with 2.7 million girls and over 850,000 adult volunteers. I am proud to say that I, too, was a Girl Scout.

I am pleased to be joined by Senator MIKULSKI in introducing this legislation, which would designate the week beginning March 7, 1999, as ''National Girl Scout Week.'' I ask our colleagues to join us.

AMENDMENTS SUBMITTED

SOLDIERS', SAILORS', AIRMEN'S, AND MARINES' BILLS OF RIGHTS ACT OF 1999

ROBB (AND OTHERS) AMENDMENT NO. 8

Mr. ROBB (for himself, Mr. CLELAND, Mr. KENNEDY, Mr. BINGAMAN, and Mr. KERREY) proposed an amendment to the bill (S. 4) to improve pay and retirement equity for members of the Armed Forces; and for other purposes; as follows:

On page 28, between lines 8 and 9, insert the following new sections:

SEC. 104. INCREASE IN RATE OF DIVING DUTY SPECIAL PAY.

(a) INCREASE.—Section 304(b) of title 37, United States Code, is amended—

(1) by striking ''$200'' and inserting ''$240''; and

(2) by striking ''$300'' and inserting ''$340''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999, and shall apply with respect to special pay paid under section 304 of title 37, United States Code, for months beginning on or after that date.

SEC. 105. INCREASE IN MAXIMUM AMOUNT AUTHORIZED FOR REENLISTMENT BONUS FOR ACTIVE MEMBERS.

(a) INCREASE IN MAXIMUM AMOUNT.—Section 308(a)(2)(B) of title 37, United States Code, is amended by striking ''$45,000'' and inserting ''$60,000''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1999, and shall apply with respect to reenlistments and extensions of enlistments taking effect on or after that date.

SEC. 106. INCREASE IN ENLISTMENT BONUS FOR MEMBERS WITH CRITICAL SKILLS.

(a) INCREASE.—Section 308a(a) of title 37, United States Code, is amended in the first sentence by striking ''$12,000'' and inserting ''$20,000''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1999, and shall apply with respect enlistments and extensions of enlistments taking effect on or after that date.

SEC. 107. INCREASE IN SPECIAL PAY AND BONUSES FOR NUCLEAR-QUALIFIED OFFICERS.

(a) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(a) of title 37, United States Code, is amended by striking ''$15,000'' and inserting ''$25,000''.

(b) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(a)(1) of title 37, United States Code, is amended by striking ''$10,000'' and inserting ''$20,000''.

(c) NUCLEAR CAREER ANNUAL INCENTIVE BONUSES.—Section 312c of title 37, United States Code, is amended—

(1) in subsection (a)(1), by striking ''$12,000'' and inserting ''$22,000''; and

(2) in subsection (b)(1), by striking ''$5,500'' and inserting ''$10,000''.

(d) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect on October 1, 1999.

(2) The amendments made by subsections (a) and (b) shall apply with respect to agreements accepted under section 312(a) and 312b(a), respectively, of title 37, United States Code, on or after October 1, 1999.

(3) The amendments made by subsection (c) shall apply with respect to nuclear service years beginning on or after October 1, 1999.

SEC. 108. INCREASE IN MAXIMUM MONTHLY RATE AUTHORIZED FOR FOREIGN LANGUAGE PROFICIENCY PAY.

(a) INCREASE IN MAXIMUM MONTHLY RATE.—Section 316(b) of title 37, United States Code, is amended by striking ''$100'' and inserting ''$300''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1999, and shall apply with respect to foreign language proficiency pay paid under section 316 of title 37, United States Code, for months beginning on or after that date.

SEC. 109. CAREER ENLISTED FLYER INCENTIVE PAY.

(a) INCENTIVE PAY AUTHORIZED.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 301e the following new section 301f:

''§ 301f. Incentive pay: career enlisted flyers

''(a) PAY AUTHORIZED.—An enlisted member described in subsection (b) may be paid career enlisted flyer incentive pay as provided in this section.

''(b) ELIGIBLE MEMBERS.—An enlisted member referred to in subsection (a) is an enlisted member of the armed forces who—

''(1) is entitled to basic pay under section 204 of this title or is entitled to compensation under paragraph (1) or (2) of section 206(a) of this title;

''(2) holds a military occupational specialty or military rating designated as a career enlisted flyer specialty or rating by the Secretary concerned in regulations prescribed under subsection (f) and continues to be proficient in the skills required for that specialty or rating, or is in training leading to the award of such a specialty or rating; and

''(3) is qualified for aviation service.

''(c) MONTHLY PAYMENT.—(1) Career enlisted flyer incentive pay may be paid a member referred to in subsection (b) for each month in which the member performs aviation service that involves frequent and regular performance of operational flying duty by the member.

''(2)(A) Career enlisted flyer incentive pay may be paid a member referred to in subsection (b) for each month in which the member performs service, without regard to whether or the extent to which the member performs operational flying duty during the month, as follows:

''(i) In the case of a member who has performed at least 6, and not more than 15, years of aviation service, the member may be so paid after the member has frequently and regularly performed operational flying duty in each of 72 months if the member so performed in at least that number of months before completing the member's first 10 years of performance of aviation service.

''(ii) In the case of a member who has performed more than 15, and not more than 20, years of aviation service, the member may be so paid after the member has frequently and regularly performed operational flying duty in each of 108 months if the member so performed in at least that number of months before completing the member's first 15 years of performance of aviation service.

''(iii) In the case of a member who has performed more than 20, and not more than 25, years of aviation service, the member may be so paid after the member has frequently and regularly performed operational flying duty in each of 168 months if the member so performed in at least that number of months before completing the member's first 20 years of performance of aviation service.

''(B) The Secretary concerned, or a designee of the Secretary concerned not below the level of personnel chief of the armed force concerned, may reduce the minimum number of months of frequent and regular performance of operational flying duty applicable in the case of a particular member under—

''(i) subparagraph (A)(i) to 60 months;

''(ii) subparagraph (A)(ii) to 96 months; or

''(iii) subparagraph (A)(iii) to 144 months.

''(C) A member may not be paid career enlisted flyer incentive pay in the manner provided under subparagraph (A) after the member has completed 25 years of aviation service.

''(d) MONTHLY RATES.—(1) The monthly rate of any career enlisted flyer incentive pay paid under this section to a member on active duty shall be prescribed by the Secretary concerned, but may not exceed the following:

''Years of aviation service	Monthly rate
4 or less	$150
Over 4	$225
Over 8	$350
Over 14	$400.

''(2) The monthly rate of any career enlisted flyer incentive pay paid under this section to a member of a reserve component for each period of inactive-duty training during which aviation service is performed shall be equal to 1/30 of the monthly rate of career enlisted flyer incentive pay provided under paragraph (1) for a member on active duty with the same number of years of aviation service.

''(e) NONAPPLICABILITY TO MEMBERS RECEIVING HAZARDOUS DUTY INCENTIVE PAY OR SPECIAL PAY FOR DIVING DUTY.—A member receiving incentive pay under section 301(a) of this title or special pay under section 304 of this title may not be paid special pay under this section for the same period of service.

''(f) REGULATIONS.—The Secretary concerned shall prescribe regulations for the administration of this section. The regulations shall include the following:

''(1) Definitions of the terms 'aviation service' and 'frequently and regularly performed operational flying duty' for purposes of this section.

''(2) The military occupational specialties or military rating, as the case may be, that are designated as career enlisted flyer specialties or ratings, respectively, for purposes of this section.

''(g) DEFINITION.—In this section, the term 'operational flying duty' means—

''(1) flying performed under competent orders while serving in assignments in which basic flying skills normally are maintained in the performance of assigned duties as determined by the Secretary concerned; and

''(2) flying performed by members in training that leads to the award of a military occupational specialty or rating referred to in subsection (b)(2).''.

(2) The table of sections at the beginning of chapter 5 of title 37, United States Code, is amended by inserting after the item relating to section 301e the following new item:

''301f. Incentive pay; career enlisted flyers.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999.

(c) SAVE PAY PROVISION.—In the case of an enlisted member of a uniformed service who is a designated career enlisted flyer entitled to receive hazardous duty incentive pay under section 301(b) or 301(c)(2)(A) of title 37, United States Code, as of October 1, 1999, the member shall be entitled from that date to payment of incentive pay at the monthly rate that is the higher of—

(1) the monthly rate of incentive pay authorized by such section 301(b) or 301(c)(2)(A) as of September 30, 1999; or

(2) the monthly rate of incentive pay authorized by section 301f of title 37, United States Code, as added by subsection (a).

SEC. 110. RETENTION BONUS FOR SPECIAL WARFARE OFFICERS EXTENDING PERIODS OF ACTIVE DUTY.

(a) BONUS AUTHORIZED.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 301f, as added by section 109(a) of this Act, the following new section:

''§ 301g. Special pay: special warfare officers extending period of active duty

''(a) BONUS AUTHORIZED.—A special warfare officer described in subsection (b) who executes a written agreement to remain on active duty in special warfare service for at least one year may, upon the acceptance of the agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

''(b) COVERED OFFICERS.—A special warfare officer referred to in subsection (a) is an officer of a uniformed service who—

''(1) is qualified for a military occupational specialty or designator identified by the Secretary concerned as a special warfare military occupational specialty or designator and is serving in a position for which that specialty or designator is authorized;

''(2) is in pay grade O–3, or is in pay grade O–4 and is not on a list of officers recommended for promotion, at the time the officer applies for an agreement under this section;

''(3) has completed at least 6, but not more than 14, years of active commissioned service; and

''(4) has completed any service commitment incurred to be commissioned as an officer.

''(c) AMOUNT OF BONUS.—The amount of a retention bonus paid under this section may not be more than $15,000 for each year covered by the written agreement.

''(d) PRORATION.—The term of an agreement under subsection (a) and the amount of the bonus payable under subsection (c) may be prorated as long as such agreement does not extend beyond the date on which the officer making such agreement would complete 14 years of active commissioned service.

''(e) PAYMENT.—Upon acceptance of a written agreement under subsection (a) by the Secretary concerned, the total amount payable pursuant to the agreement becomes fixed and may be paid—

''(1) in a lump sum equal to the amount of half the total amount payable under the agreement at the time the agreement is accepted by the Secretary concerned followed by payments of equal annual installments on the anniversary of the acceptance of the agreement until the payment in full of the balance of the amount that remains payable under the agreement after the payment of the lump sum amount under this paragraph; or

''(2) in graduated annual payments under regulations prescribed by the Secretary concerned with the first payment being payable

at the time the agreement is accepted by the Secretary concerned and subsequent payments being payable on the anniversaries of the acceptance of the agreement.

''(f) ADDITIONAL PAY.—A retention bonus paid under this section is in addition to any other pay and allowances to which an officer is entitled.

''(g) REPAYMENT.—(1) If an officer who has entered into a written agreement under subsection (a) and has received all or part of a retention bonus under this section fails to complete the total period of active duty in special warfare service as specified in the agreement, the Secretary concerned may require the officer to repay the United States, on a pro rata basis and to the extent that the Secretary determines conditions and circumstances warrant, all sums paid the officer under this section.

''(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

''(3) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of a written agreement entered into under subsection (a) does not discharge the officer signing the agreement from a debt arising under such agreement or under paragraph (1).

''(h) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section, including the definition of the term 'special warfare service' for purposes of this section. Regulations prescribed by the Secretary of a military department under this section shall be subject to the approval of the Secretary of Defense.''.

(2) The table of section at the beginning of chapter 5 of title 37, United States Code, as amended by section 109(a) of this Act, is amended by inserting after the item relating to section 301f the following new item:

''301g. Special pay: special warfare officers extending period of active duty.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999.

SEC. 111. RETENTION BONUS FOR SURFACE WARFARE OFFICERS EXTENDING PERIODS OF ACTIVE DUTY.

(a) BONUS AUTHORIZED.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 301g, as added by section 110(a) of this Act, the following new section:

''§ 301h. Special pay: surface warfare officers extending period of active duty

''(a) SPECIAL PAY AUTHORIZED.—(1) A surface warfare officer described in subsection (b) who executes a written agreement described in paragraph (2) may, upon the acceptance of the agreement by the Secretary of the Navy, be paid a retention bonus as provided in this section.

''(2) An agreement referred to in paragraph (1) is an agreement in which the officer concerned agrees—

''(A) to remain on active duty for at least two years and through the tenth year of active commissioned service; and

''(B) to complete tours of duty to which the officer may be ordered during the period covered by subparagraph (A) as a department head afloat.

''(b) COVERED OFFICERS.—A surface warfare officer referred to in subsection (a) is an officer of the Regular Navy or Naval Reserve on active duty who—

''(1) is designated and serving as a surface warfare officer;

''(2) is in pay grade O–3 at the time the officer applies for an agreement under this section;

''(3) has been selected for assignment as a department head on a surface ship;

''(4) has completed at least four, but not more than eight, years of active commissioned service; and

''(5) has completed any service commitment incurred to be commissioned as an officer.

''(c) AMOUNT OF BONUS.—The amount of a retention bonus paid under this section may not be more than $15,000 for each year covered by the written agreement.

''(d) PRORATION.—The term of an agreement under subsection (a) and the amount of the bonus payable under subsection (c) may be prorated as long as such agreement does not extend beyond the date on which the officer making such agreement would complete 10 years of active commissioned service.

''(e) PAYMENT.—Upon acceptance of a written agreement under subsection (a) by the Secretary of the Navy, the total amount payable pursuant to the agreement becomes fixed and may be paid—

''(1) in a lump sum equal to the amount of half the total amount payable under the agreement at the time the agreement is accepted by the Secretary followed by payments of equal annual installments on the anniversary of the acceptance of the agreement until the payment in full of the balance of the amount that remains payable under the agreement after the payment of the lump sum amount under this paragraph; or

''(2) in equal annual payments with the first payment being payable at the time the agreement is accepted by the Secretary and subsequent payments being payable on the anniversaries of the acceptance of the agreement.

''(f) ADDITIONAL PAY.—A retention bonus paid under this section is in addition to any other pay and allowances to which an officer is entitled.

''(g) REPAYMENT.—(1) If an officer who has entered into a written agreement under subsection (a) and has received all or part of a retention bonus under this section fails to complete the total period of active duty specified in the agreement, the Secretary of the Navy may require the officer to repay the United States, on a pro rata basis and to the extent that the Secretary determines conditions and circumstances warrant, all sums paid under this section.

''(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owned to the United States.

''(3) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of a written agreement entered into under subsection (a) does not discharge the officer signing the agreement from a debt arising under such agreement or under paragraph (1).

''(h) REGULATIONS.—The Secretary of the Navy shall prescribe regulations to carry out this section.''.

(2) The table of sections at the beginning of chapter 5 of title 37, United States Code, is amended by inserting after the item relating to section 301g, as added by section 110(a) of this Act, the following new item:

''301h. Special pay: surface warfare officers extending period of active duty.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999.

CRAPO AMENDMENT NO. 9

Mr. CRAPO proposd an amendment to the bill, S. 4, supra; as follows:

On page 39, between lines 8 and 9, insert the following:

SEC. 204. REPEAL OF REDUCTION IN RETIRED PAY FOR CIVILIAN EMPLOYEES.

(a) REPEAL.—(1) Section 5532 of title 5, United States Code, is repealed.

(2) The chapter analysis at the beginning of chapter 55 of such title is amended by striking out the item relating to section 5532.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the first month that begins after the date of the enactment of this Act.

HUTCHINSON (AND WELLSTONE) AMENDMENT NO. 10

(Ordered to lie on the table.)

Mr. HUTCHINSON (for himself and Mr. WELLSTONE) submitted an amendment intended to be proposed by them to the bill, S. 4, supra, as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF SENATE REGARDING HUMAN RIGHTS SITUATION IN THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—The Senate makes the following findings:

(1) The annual meeting of the United Nations Commission on Human Rights in Geneva, Switzerland, provides a forum for discussing human rights and expressing international support for improved human rights performance.

(2) According to the United States Department of State and international human rights organizations, the Government of the People's Republic of China continues to commit widespread and well-documented human rights abuses in China and Tibet and continues the coercive implementation of family planning policies and the sale of human organs taken from executed prisoners.

(3) Such abuses stem from an intolerance of dissent and fear of unrest on the part of authorities in the People's Republic of China and from the absence or inadequacy of laws in the People's Republic of China that protect basic freedoms.

(4) Such abuses violate internationally accepted norms of conduct.

(5) The People's Republic of China is bound by the Universal Declaration of Human Rights and recently signed the International Covenant on Civil and Political Rights, but has yet to take the steps necessary to make the covenant legally binding.

(6) The President decided not to sponsor a resolution criticizing the People's Republic of China at the United Nations Human Rights Commission in 1998 in consideration of commitments by the Government of the People's Republic of China to sign the International Covenant on Civil and Political Rights and based on a belief that progress on human rights in the People's Republic of China could be achieved through other means.

(7) Authorities in the People's Republic of China have recently escalated efforts to extinguish expressions of protest or criticism and have detained scores of citizens associated with attempts to organize a legal democratic opposition, as well as religious leaders, writers, and others who petitioned the authorities to release those arbitrarily arrested.

(8) These efforts underscore that the Government of the People's Republic of China's has not retreated from its longstanding pattern of human rights abuses, despite expectations to the contrary following two summit meetings between President Clinton and President Jiang in which assurances were made regarding improvements in the human rights record of the People's Republic of China.

(b) SENSE OF SENATE.—It is the sense of the Senate that, at the 55th Session of the United Nations Human Rights Commission in Geneva, Switzerland, the United States should introduce and make all efforts necessary to pass a resolution criticizing the People's Republic of China for its human rights abuses in China and Tibet.

ENZI AMENDMENT NO. 11

(Ordered to lie on the table.)

Mr. ENZI submitted an amendment intended to be proposed by him to the bill, S. 4, supra; as follows:

At the end of title I, add the following:

SEC. 104. INCREASED TUITION ASSISTANCE FOR MEMBERS OF THE ARMED FORCES DEPLOYED IN SUPPORT OF A CONTINGENCY OPERATION OR SIMILAR OPERATION.

(a) INAPPLICABILITY OF LIMITATION ON AMOUNT.—Section 2007(a) of title 10, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; and''; and

(3) by adding at the end the following:

''(4) in the case of a member deployed outside the United States in support of a contingency operation or similar operation, all of the charges may be paid while the member is so deployed.''.

(b) INCREASED AUTHORITY SUBJECT TO APPROPRIATIONS.—The authority to pay additional tuition assistance under paragraph (4) of section 2007(a) of title 10, United States Code, as added by subsection (a), may be exercised only to the extent provided for in appropriations Acts.

JEFFORDS (AND OTHERS) AMENDMENTS NOS. 12–14

(Ordered to lie on the table.)

Mr. JEFFORDS (for himself, Mr. BINGAMAN, Mr. CLELAND, and Ms. LANDRIEU) submitted three amendments intended to be proposed by them to the bill, S. 4, supra; as follows:

AMENDMENT NO. 12

On page 46, strike lines 6 through 8 and insert the following:

TITLE IV—OTHER EDUCATIONAL BENEFITS

SEC. 401. ACCELERATED PAYMENTS OF CERTAIN EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE.

Section 16131 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(j)(1) Whenever a person entitled to an educational assistance allowance under this chapter so requests and the Secretary concerned, in consultation with the Chief of the reserve component concerned, determines it appropriate, the Secretary may make payments of the educational assistance allowance to the person on an accelerated basis.

''(2) An educational assistance allowance shall be paid to a person on an accelerated basis under this subsection as follows:

''(A) In the case of an allowance for a course leading to a standard college degree, at the beginning of the quarter, semester, or term of the course in a lump-sum amount equivalent to the aggregate amount of monthly allowance otherwise payable under this chapter for the quarter, semester, or term, as the case may be, of the course.

''(B) In the case of an allowance for a course other than a course referred to in subparagraph (A)—

''(i) at the later of (I) the beginning of the course, or (II) a reasonable time after the Secretary concerned receives the person's request for payment on an accelerated basis; and

''(ii) in any amount requested by the person up to the aggregate amount of monthly allowance otherwise payable under this chapter for the period of the course.

''(3) If an adjustment in the monthly rate of educational assistance allowances will be made under subsection (b)(2) during a period for which a payment of the allowance is made to a person on an accelerated basis, the Secretary concerned shall—

''(A) pay on an accelerated basis the amount of the allowance otherwise payable for the period without regard to the adjustment under that subsection; and

''(B) pay on the date of the adjustment any additional amount of the allowance that is payable for the period as a result of the adjustment.

''(4) A person's entitlement to an educational assistance allowance under this chapter shall be charged at a rate equal to one month for each month of the period covered by an accelerated payment of the allowance to the person under this subsection.

''(5) The regulations prescribed by the Secretary of Defense and the Secretary of Transportation under subsection (a) shall provide for the payment of an educational assistance allowance on an accelerated basis under this subsection. The regulations shall specify the circumstances under which accelerated payments may be made and the manner of the delivery, receipt, and use of the allowance so paid

''(6) In this subsection, the term 'Chief of the reserve component concerned' means the following:

''(A) The Chief of the Army Reserve, with respect to members of the Army Reserve.

''(B) the Chief of Naval Reserve, with respect to members of the Naval Reserve.

''(C) The Chief of the Air Force Reserve, with respect to members of the Air Force Reserve.

''(D) The Commander, Marine Reserve Forces, with respect to members of the Marine Corps Reserve.

''(E) The Chief of the National Guard Bureau, with respect to members of the Army National Guard and the Air National Guard.

''(F) The Commandant of the Coast Guard, with respect to members of the Coast Guard Reserve.''.

TITLE V—REPORT

SEC. 501. ANNUAL REPORT ON EFFECTS OF INITIATIVES ON RECRUITMENT AND RETENTION.

AMENDMENT NO. 13

On page 46, strike lines 6 through 8 and insert the following:

TITLE IV—OTHER EDUCATIONAL BENEFITS

SEC. 401. MODIFICATION OF TIME FOR USE BY CERTAIN MEMBERS OF THE SELECTED RESERVE OF ENTITLEMENT TO CERTAIN EDUCATIONAL ASSISTANCE.

Section 16133(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(5)(A) In the case of a person who continues to serve as member of the Selected Reserve as of the end of the 10-year period applicable to the person under subsection (a), as extended, if at all, under paragraph (4), the period during which the person may use the person's entitlement shall expire at the end of the 5-year period beginning on the date the person is separated from the Selected Reserve.

''(B) The provisions of paragraph (4) shall apply with respect to any period of active duty of a person referred to in subparagraph (A) during the 5-year period referred to in that subparagraph.''.

TITLE V—REPORT

SEC. 501. ANNUAL REPORT ON EFFECTS OF INITIATIVES ON RECRUITMENT AND RETENTION.

AMENDMENT NO. 14

On page 46, strike lines 6 through 8 and insert the following:

TITLE IV—OTHER EDUCATIONAL BENEFITS

SEC. 401. TRANSFER OF ENTITLEMENT TO CERTAIN EDUCATIONAL ASSISTANCE BY MEMBERS OF THE SELECTED RESERVE.

(a) AUTHORITY TO TRANSFER.—Chapter 1606 of title 10, United States Code, is amended by inserting after section 16133 the following new section:

''§ 16133a. Transfer of entitlement

''(a) The Secretary concerned, in consultation with the Chief of the reserve component and in the Secretary's sole discretion, may, for purposes of enhancing recruiting and retention, permit a person entitled to educational assistance under this chapter to transfer the person's entitlement to such assistance, in whole or in part, to the individuals specified in subsection (b).

''(b) A person's entitlement to educational assistance may be transferred when authorized under subsection (a) as follows:

''(1) To the person's spouse.

''(2) To one or more of the person's children.

''(3) To a combination of the individuals referred to in paragraphs (1) and (2).

''(c)(1) A person electing to transfer an entitlement to educational assistance under this section shall—

''(A) designate the person or persons to whom the entitlement is being transferred and the percentage of the entitlement to be transferred to each such person; and

''(B) specify the period for which the transfer shall be effective for each person so designated.

''(2) The aggregate amount of the entitlement transferable by a person under this section may not exceed the aggregate amount of the person's entitlement to educational assistance under this chapter.

''(3) A person electing to transfer an entitlement under this section may modify or revoke the transfer at any time before the use of the transferred entitlement. A person shall elect to modify or revoke a transfer by submitting written notice submitted to the Secretary concerned.

''(d)(1) The use of any entitlement transferred under this section shall be charged against the entitlement of the person making the transfer at the rate of one month for each month of transferred entitlement that is used.

''(2) Except as specified under subsection (c)(1)(B) and subject to paragraph (3), a person to whom entitlement is transferred under this section is entitled to educational assistance under this chapter in the same manner and at the same rate as the person from whom the entitlement was transferred.

''(3) A child shall complete the use of any entitlement transferred to the child under this section before the child attains the age of 26 years.

''(e) For purposes of section 3685 of title 38 (as made applicable under section 16136 of this title), a person to whom entitlement is transferred under this section and the person making the transfer shall be jointly and severally liable to the United States for the amount of any overpayment of educational assistance under this chapter.

''(f) The regulations prescribed by the Secretary of Defense and the Secretary of

Transportation under section 16131(a) of this title shall provide for the administration of this section. The regulations shall specify the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (c)(3).

''(g) In this section:

''(1) The term 'child' shall have the meaning given that term in section 101(4) of title 38.

''(2) The term 'Chief of the reserve component concerned' means the following:

''(A) The Chief of the Army Reserve, with respect to members of the Army Reserve.

''(B) the Chief of Naval Reserve, with respect to members of the Naval Reserve.

''(C) The Chief of the Air Force Reserve, with respect to members of the Air Force Reserve.

''(D) The Commander, Marine Reserve Forces, with respect to members of the Marine Corps Reserve.

''(E) The Chief of the National Guard Bureau, with respect to members of the Army National Guard and the Air National Guard.

''(F) The Commandant of the Coast Guard, with respect to members of the Coast Guard Reserve.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1606 of that title is amended by inserting after the item relating to section 16133 the following new item:

''16133a. Transfer of entitlement.''.

TITLE V—REPORT

SEC. 501. ANNUAL REPORT ON EFFECTS OF INITIATIVES ON RECRUITMENT AND RETENTION.

ROBB (AND OTHERS) AMENDMENT NO. 15

Mr. ROBB (for himself, Mr. MCCAIN, and Mr. BINGAMAN) proposed an amendment to the bill, S. 4, supra; as follows:

On page 28, between lines 8 and 9, insert the following:

SEC. 104. AVIATION CAREER OFFICER SPECIAL PAY.

(a) PERIOD OF AUTHORITY.—Subsection (a) of section 301b of title 37, United States Code, is amended—

(1) by inserting ''(1)'' after ''AUTHORIZED.—'';

(2) by striking ''during the period beginning on January 1, 1989, and ending on December 31, 1999,'' and inserting ''during the period described in paragraph (2),''; and

(2) adding at the end the following:

''(2) Paragraph (1) applies with respect to agreements executed during the period beginning on the first day of the first month that begins on or after the date of the enactment of the Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999 and ending on December 31, 2004.''.

(b) REPEAL OF LIMITATION TO CERTAIN YEARS OF CAREER AVIATION SERVICE.—Subsection (b) of such section is amended—

(1) by striking paragraph (5);

(2) by inserting ''and'' at the end of paragraph (4); and

(4) by redesignating paragraph (6) as paragraph (5).

(c) REPEAL OF LOWER ALTERNATIVE AMOUNT FOR AGREEMENT TO SERVE FOR 3 OR FEWER YEARS.—Subsection (c) of such section is amended by striking ''than—'' and all that follows and inserting ''than $25,000 for each year covered by the written agreement to remain on active duty.''.

(d) PRORATION AUTHORITY FOR COVERAGE OF INCREASED PERIOD OF ELIGIBILITY.—Subsection (d) of such section is amended by striking ''14 years of commissioned service'' and inserting ''25 years of aviation service''.

(e) TERMINOLOGY.—Such section is further amended—

(1) in subsection (f), by striking ''A retention bonus'' and inserting ''Any amount''; and

(2) in subsection (i)(1), by striking ''retention bonuses'' in the first sentence and inserting ''special pay under this section''.

(f) REPEAL OF CONTENT REQUIREMENTS FOR ANNUAL REPORT.—Subsection (i)(1) of such section is further amended by striking the second sentence.

(g) TECHNICAL AMENDMENT.—Subsection (g)(3) of such section if amended by striking the second sentence.

(h) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the first day of the first month that begins on or after the date of the enactment of this Act.

WELLSTONE (AND MURRAY) AMENDMENT NO. 16

Mr. WELLSTONE (for himself and Mrs. MURRAY) proposed an amendment to the bill, S. 4, supra; as follows:

On page 46, after line 16, add the following:

SEC. 402. REPORT AND REGULATIONS ON DEPARTMENT OF DEFENSE POLICIES ON PROTECTING THE CONFIDENTIALITY OF COMMUNICATIONS WITH PROFESSIONALS PROVIDING THERAPEUTIC OR RELATED SERVICES REGARDING SEXUAL OR DOMESTIC ABUSE.

(a) REQUIREMENT FOR STUDY.—(1) The Comptroller General shall study the policies, procedures, and practices of the military departments for protecting the confidentiality of communications between—

(A) a dependent of a member of the Armed Forces who—

(i) is a victim of sexual harassment, sexual assault, or intrafamily abuse; or

(ii) has engaged in such misconduct; and

(B) a therapist, counselor, advocate, or other professional from whom the dependent seeks professional services in connection with effects of such misconduct.

(2) The Comptroller General shall conclude the study and submit to the Secretary of Defense a report on the results of the study within such period as is necessary to enable the Secretary to satisfy the reporting requirement under subsection (d).

(b) REGULATIONS.—The Secretary of Defense shall prescribe in regulations the policies and procedures that the Secretary considers necessary to provide the [maximum] possible protections for the confidentiality of communications described in subsection (a) relating to misconduct described in that subsection, consistent with—

(1) the findings of the Comptroller General;

(2) the standards of confidentiality and ethical standards issued by relevant professional organizations;

(3) applicable requirements of Federal and State law;

(4) the best interest of victims of sexual harassment, sexual assault, or intrafamily abuse; and

(5) such other factors as the Secretary, in consultation with the Attorney General, may consider appropriate.

HARKIN (AND BINGAMAN) AMENDMENT NO. 17

(Ordered to lie on the table.)

Mr. HARKIN (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by them to the bill, S. 4, supra; as follows:

On page 25, strike lines 10 through 15, and insert the following:

(b)(1), the Secretary concerned shall pay the member a special subsistence allowance for each month for which the member is eligible to receive food stamp assistance, as determined by the Secretary.

''(b) COVERED MEMBERS.—(1) A member referred to subsection (a) is an enlisted member in pay grade E–5 or below.

''(2) For the purposes of this section, a member shall be considered as being eligible to receive food stamp assistance if the household of the member meets the income standards of eligibility established under section 5(c)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(2)), not taking into account the special subsistence allowance that may be payable to the member under this section and any allowance that is payable to the member under section 403 or 404a of this title.

On page 28, between lines 8 and 9, insert the following:

SEC. 104. IMPLEMENTATION OF THE SPECIAL SUPPLEMENTAL NUTRITION PROGRAM.

(a) CLARIFICATION OF BENEFITS RESPONSIBILITY.—Subsection (a) of section 1060a of title 10, United States Code, is amended by striking ''may carry out a program to provide special supplemental food benefits'' and inserting ''shall carry out a program to provide supplemental foods and nutrition education''.

(b) RELATIONSHIP TO WIC PROGRAM.—Subsection (b) of such section is amended to read as follows:

''(b) FEDERAL PAYMENTS.—The Secretary of Defense shall use funds available for the Department of Defense to provide supplemental foods and nutrition education and to pay for costs for nutrition services and administration under the program.''.

(c) PROGRAM ADMINISTRATION.—Subsection (c)(1)(A) of such section is amended by adding at the end the following: ''In the determining of eligibility for the program benefits, a person already certified for participation in the special supplemental nutrition program for women, infants, and children under section 17 of the Child Nutrition Act of 1996 (42 U.S.C. 1786) shall be considered eligible for the duration of the certification period under that program.''.

(d) NUTRITIONAL RISK STANDARDS.—Subsection (c)(1)(B) of such section is amended by inserting ''and nutritional risk standards'' after ''income eligibility standards''.

(e) DEFINITIONS.—Subsection (f) of such section is amended by adding at the end the following:

''(4) The terms 'costs for nutrition services and administration', 'nutrition education' and 'supplemental foods' have the meanings given the terms in paragraphs (4), (7), and (14), respectively, of section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)).''.

(f) REPORT.—Not later than March 1, 2001, the Secretary of Defense, in consultation with the Secretary of Agriculture, shall submit to Congress a report on the implementation of the special supplemental food program required under section 1060a of title 10, United States Code. The report shall include a discussion of whether the amount required to be provided by the Secretary of Agriculture for supplemental foods under subsection (b) of that section is adequate for the purpose and, if not, an estimate of the amount necessary to provide supplemental foods under the program.

HUTCHISON (AND OTHERS) AMENDMENT NO. 18

Mrs. HUTCHISON (for herself, Mr. EDWARDS, Mr. HAGEL, Mr. HELMS, Mr. FITZGERALD, Mr. COVERDELL, Mr. JOHNSON, Mr. BINGAMAN, Mr. KENNEDY, Mr.

SANTORUM, and Mr. SESSIONS) proposed an amendment to the bill, S. 4, supra; as follows:

On page 46, after line 16, add the following:

TITLE V—MISCELLANEOUS

SEC. 501. IMPROVEMENT OF TRICARE PROGRAM.

(a) IMPROVEMENT OF TRICARE PROGRAM.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1097a the following new section:

"§ 1097b. TRICARE: comparability of benefits with benefits under Federal Employees Health Benefits program; other requirements and authorities

''(a) COMPARABILITY OF BENEFITS.—The Secretary of Defense shall, to the maximum extent practicable, ensure that the health care coverage available through the TRICARE program is substantially similar to the health care coverage available under similar health benefits plans offered under the Federal Employees Health Benefits program established under chapter 89 of title 5.

''(b) PORTABILITY OF BENEFITS.—The Secretary of Defense shall provide that any covered beneficiary enrolled in the TRICARE program may receive benefits under that program at facilities that provide benefits under that program throughout the various regions of that program.

''(c) PATIENT MANAGEMENT.—(1) The Secretary of Defense shall, to the maximum extent practicable, minimize the authorization or certification requirements imposed upon covered beneficiaries under the TRICARE program as a condition of access to benefits under that program.

''(2) The Secretary of Defense shall, to the maximum extent practicable, utilize practices for processing claims under the TRICARE program that are similar to the best industry practices for processing claims for health care services in a simplified and expedited manner. To the maximum extent practicable, such practices shall include electronic processing of claims.

''(d) REIMBURSEMENT OF HEALTH CARE PROVIDERS.—(1) Subject to paragraph (2), the Secretary of Defense may increase the reimbursement provided to health care providers under the TRICARE program above the reimbursement otherwise authorized such providers under that program if the Secretary determines that such increase is necessary in order to ensure the availability of an adequate number of qualified health care providers under that program.

''(2) The amount of reimbursement provided under paragraph (1) with respect to a health care service may not exceed the lesser of—

''(A) the amount equal to the local usual and customary charge for the service in the service area (as determined by the Secretary) in which the service is provided; or

''(B) the amount equal to 115 per cent of the CHAMPUS maximum allowable charge for the service.

''(e) AUTHORITY FOR CERTAIN THIRD-PARTY COLLECTIONS.—(1) A medical treatment facility of the uniformed services under the TRICARE program may collect from a third-party payer the reasonable charges for health care services described in paragraph (2) that are incurred by the facility on behalf of a covered beneficiary under that program to the extent that the beneficiary would be eligible to receive reimbursement or indemnification from the third-party payer if the beneficiary were to incur such charges on the beneficiary's own behalf.

''(2) The reasonable charges described in this paragraph are reasonable charges for services or care covered by the medicare program under title XVIII of the Social Security Act.

''(3) The collection of charges, and the utilization of amounts collected, under this subsection shall be subject to the provisions of section 1095 of this title. The term 'reasonable costs', as used in that section shall be deemed for purposes of the application of that section to this subsection to refer to the reasonable charges described in paragraph (2).

''(f) CONSULTATION.—The Secretary of Defense shall carry out any actions under this section after consultation with the other administering Secretaries.''.

(2) The table of sections at the beginning of chapter 55 of such title is amended by inserting after the item relating to section 1097a the following new item:

''1097b. TRICARE: comparability of benefits with benefits under Federal Employees Health Benefits program; other requirements and authorities.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect one year after the date of the enactment of this Act.

(c) REPORT ON IMPLEMENTATION.—(1) Not later than 6 months after the date of the enactment of this Act, the Secretary of Defense, in consultation with the other administering Secretaries, shall submit to Congress a report assessing the effects of the implementation of the requirements and authorities set forth in section 1097b of title 10, United States Code (as added by subsection (a)).

(2) The report shall include the following:

(A) An assessment of the cost of the implementation of such requirements and authorities.

(B) An assessment whether or not the implementation of any such requirements and authorities will result in the utilization by the TRICARE program of the best industry practices with respect to the matters covered by such requirements and authorities.

(3) In this subsection, the term ''administering Secretaries'' has the meaning given that term in section 1072(3) of title 10, United States Code.

(d) INAPPLICABILITY OF REPORTING REQUIREMENTS.—The reports required by section 401 shall not address the amendments made by subsection (a).

SARBANES (AND OTHERS) AMENDMENT NO. 19

Mr. SARBANES (for himself, Mr. WARNER, Mr. ROBB, and Ms. MIKULSKI) proposed an amendment to the bill, S. 4, supra; as follows:

On page 28, between lines 8 and 9, insert the following:

SEC. 104. SENSE OF CONGRESS REGARDING PARITY BETWEEN ADJUSTMENTS IN MILITARY AND CIVIL SERVICE PAY.

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

(1) Members of the uniformed services of the United States and civilian employees of the United States make significant contributions to the general welfare of the United States.

(2) Increases in the levels of pay of members of the uniformed services and of civilian employees of the United States have not kept pace with increases in the overall levels of pay of workers in the private sector so that there is now up to a 30 percent gap between the compensation levels of Federal civilian employees and the compensation levels of private sector workers and a 9 to 14 percent gap between the compensation levels of members of the uniformed services and the compensation levels of private sector workers.

(3) In almost every year of the past two decades, there have been equal adjustments in the compensation of members of the uniformed services and the compensation of civilian employees of the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that there should continue to be parity between the adjustments in the compensation of members of the uniformed services and the adjustments in the compensation of civilian employees of the United States.

NOTICE OF HEARING

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MCCONNELL. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Thursday, February 25, 1999 at 9:30 a.m. in Room SR–301 Russell Senate Office Building, to conduct the Committee's organizational meeting for the 106th Congress.

For further information concerning this meeting, please contact Lory Breneman at the Rules Committee on 4–0281.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, February 23, 1999, to conduct an oversight hearing on monetary policy report to Congress pursuant to the Full Employment and Balanced Growth Act of 1978. The witness will be: Hon. Alan Greenspan, Chairman, Board of Governors of the Federal Reserve System. Chairman Greenspan, will also give testimony on financial services modernization legislation.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ALLARD. Mr. President, I ask unanimous consent that the Commerce, Science, and Transportation Committee be authorized to meet on Tuesday, February 23, 1999, at 9:30 am on S. 303, Satellite Home Viewers Act.

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

COMMITTEE ON FINANCE

Mr. ALLARD. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Tuesday, February 23, 1999 beginning at 10:00 a.m. in room 215 Dirksen.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, be authorized to meet for a hearing on Education Reform: Governors' Views during the session of the Senate on Tuesday, February 23, 1999, at 8:30 am.

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

ADDITIONAL STATEMENTS

RULES OF THE SENATE COMMITTEE ON THE BUDGET

● Mr. DOMENICI. Mr. President, pursuant to paragraph 2 of Rule XXVI of the Standing Rules of the Senate, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD the rules of the Committee on the Budget for the 106th Congress as adopted by the Committee.

The rules follow:

RULES OF THE COMMITTEE ON THE BUDGET
ONE-HUNDRED-SIXTH CONGRESS

I. MEETINGS

(1) The committee shall hold its regular meeting on the first Thursday of each month. Additional meetings may be called by the chair as the chair deems necessary to expedite committee business.

(2) Each meeting of the Committee on the Budget of the Senate, including meetings to conduct hearings, shall be open to the public, except that a portion or portions of any such meeting may be closed to the public if the committee determines by record vote in open session of a majority of the members of the committee present that the matters to be discussed or the testimony to be taken at such portion or portions—

(a) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(b) will relate solely to matters of the committee staff personnel or internal staff management or procedure;

(c) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(d) will disclose the identity of any informer law enforcement agent or will disclosed any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement; or

(e) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(i) an act of Congress requires the information to be kept confidential by Government officers and employees; or

(ii) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person.

(f) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

II. QUORUMS AND VOTING

(1) Except as provided in paragraphs (2) and (3) of this section, a quorum for the transaction of committee business shall consist of not less than one-third of the membership of the entire committee: Provided, that proxies shall not be counted in making a quorum.

(2) A majority of the committee shall constitute a quorum for reporting budget resolutions, legislative measures or recommendations: Provided, that proxies shall not be counted in making a quorum.

(3) For the purpose of taking sworn or unsworn testimony, a quorum of the committee shall consist of one Senator.

(4)(a) The Committee may poll—

(i) internal Committee matters including those concerning the Committee's staff, records, and budget;

(ii) steps in an investigation, including issuance of subpoenas, applications for immunity orders, and requests for documents from agencies; and

(iii) other Committee business that the Committee has designed for polling at a meeting, except that the Committee may not vote by poll on reporting to the Senate any measure, matter, or recommendation, and may not vote by poll on closing a meeting or hearing to the public.

(b) To conduct a poll, a Chair shall circulate polling sheets to each Member specifying the matter being polled and the time limit for completion of the poll. If any Member requests, the matter shall be held for a meeting rather than being polled. The chief clerk shall keep a record of polls; if the committee determines by record vote in open session of a majority of the members of the committee present that the polled matter is one of those enumerated in rule I(2)(a)–(f), then the record of the poll shall be confidential. Any Member may move at the Committee meeting following a poll for a vote on the polled decision.

III. PROXIES

When a record vote is taken in the committee on any bill, resolution, amendment, or any other question, a quorum being present, a member who is unable to attend the meeting may vote by proxy if the absent member has been informed of the matter on which the vote is being recorded and has affirmatively requested to be so recorded; except that no member may vote by proxy during the deliberations on Budget Resolutions.

IV. HEARINGS AND HEARING PROCEDURES

(1) The committee shall make public announcement of the date, place, time, and subject matter of any hearing to be conducted on any measure or matter at least 1 week in advance of such hearing, unless the chair and ranking minority member determines that there is good cause to begin such hearing at an earlier date.

(2) A witness appearing before the committee shall file a written statement of proposed testimony at least 1 day prior to appearance, unless the requirement is waived by the chair and the ranking minority member, following their determination that there is good cause for the failure of compliance.

V. COMMITTEE REPORTS

(1) When the committee has ordered a measure or recommendation reported, following final action, the report thereon shall be filed in the Senate at the earliest practicable time.

(2) A member of the committee who gives notice of an intention to file supplemental, minority, or additional views at the time of final committee approval of a measure or matter, shall be entitled to not less than 3 calendar days in which to file such views, in writing, with the chief clerk of the committee. Such views shall then be included in the committee report and printed in the same volume, as a part thereof, and their inclusions shall be noted on the cover of the report. In the absence of timely notice, the committee report may be filed and printed immediately without such views.

VI. USE OF DISPLAY MATERIALS IN COMMITTEE

(1) Graphic displays used during any meeting or hearing of the committee are limited to the following:

Charts, photographs, or renderings:

Size: no larger than 36 inches by 48 inches.

Where: on an easel stand next to the Senator's seat or at the rear of the committee room.

When: only at the time the Senator is speaking.

Number: no more than two may be displayed at a time.●

TRIBUTE TO HERBERT TANZMAN

● Mr. TORRICELLI. Mr. President, I rise today in recognition of Herbert Tanzman, a man of many talents and accomplishments, who is a dedicated member of the Highland Park Conservative Temple and Center. From the time of his Bar Mitzvah in 1935; to his membership on the Board of Trustees for forty-four years; to his Vice-Presidency and Temple Finance Committee Chairmanship; and to his service as Gabbai, with his brother-in-law Charlie for over forty years, Herb has been committed to the temple. In recognition of this service, he was named to the select group of Honorary Life Members of the Board of Trustees, and he was on the Rabbinical Search Committees for both Rabbi Yakov Hilsenrath and Rabbi Eliot Malomet.

Herb has been active in civic and Jewish communal activities for many years, and he is currently Director of the real estate firm of Jacobson Goldfarb and Tanzman Associates. Having served Highland Park as both councilman and mayor, Herb is well-known in the community. In addition to his responsibilities at the temple, he has been active in the local chapter of the Multiple Sclerosis Association, Central New Jersey Jewish Home for the Aged, YM-YWHA of Raritan Valley, New Brunswick post #138 of Jewish War Veterans, National Executive Estate Commission, Job Corps, United Community Services, and Raritan Valley UJA Federation. In the past, Herb has been on the Executive Board of the Jewish Federation of Greater Monmouth County, and he currently serves as National Vice-Chairman and National Campaign Cabinet Member of the State of Israel Bonds. Herb is also President of the Ocean Cove Condominium Association in West End, New Jersey.

While these activities are impressive, Herb truly distinguished himself as a serviceman during World War II and has since been honored for his numerous achievements. As a combat veteran of the Battle of Iwo Jima, he was awarded the Navy Air Medal. Herb is also the proud recipient of the Jerusalem Covenant Award, the Humanitarian Award of the National Conference of Christians and Jews, the Ben Gurion Award, and Israel's coveted ''Sword of the Haganah'' award for record breaking achievement in bond sales. Together with his son, Roy, Herb received the Family Achievement Award of the State of Israel Bonds last year at the International Prime Ministers Club Dinner. The Chaver Award, which Herb is to receive from his temple, is a testament to his continued service on behalf of the community.●

TRIBUTE TO MARY BUCCA

• Mr. ABRAHAM. Mr. President, I rise today to honor Mary Bucca who is receiving the Outstanding Volunteer Award from the Italian American Cultural Society Senior Group in Warren, Michigan, on March 3, 1999.

Mary is a shining example of service above self. She is a Charter Member of the Senior Group which was founded in 1985, and since that time has served as President of the Loggia Yolanda Club, as well as a member of the Seniors Board of Directors, and as a member of the Italian American Cultural Center Board of Directors. In addition, Mary has served as chair and/or committee member of their weekly bingo, dinner dances and many other events.

Mary has two children and four grandchildren and will be 80 years young in March of this year. She is known for her tremendous energy and spirit. Through her dedication to family and local community, she has made a tremendous impact by helping others.

I want to express my congratulations to Mary Bucca in being awarded the Italian American Cultural Society Senior Group Outstanding Volunteer Award. Most importantly, I would like to thank her for her commitment to helping others. Mary, you truly are an example for others to follow.•

HONORING OUR AFRICAN-AMERICAN LEADERS

• Mr. KERRY. Mr. President. February 23rd is an important day not just in Black History Month, but in the history of Massachusetts. Today is the birthday of one of the most significant leaders ever to call Massachusetts home, one of the brave leaders of the early civil rights movement whose words still stir us today.

131 years ago, W.E.B. DuBois was born in Great Barrington, Massachusetts. He studied at Harvard University in Cambridge, where he earned his doctorate and published his landmark book ''Souls of Black Folk,'' through the Harvard University press.

On college campuses around the country, in our high schools, in our cities, and on our village greens, we are still reading that pioneering text—and we remember the way it touched off a movement and challenged a nation to consider the issue of race in a more honest and personal light.

DuBois's prophetic words about the age in which he was living still ring true. ''The problem of the twentieth century,'' he wrote, ''is the problem of the color line.''

DuBois was right. We look back this month and honor the struggles and the perseverance of so many courageous trailblazers in the civil rights movement, so many leaders whose sacrifices paved the way for a society more attune to the guarantees of equal opportunity under God and under the law—ideas as fundamental to the promise of America as the Declaration of Independence itself.

This month we remember Dr. King, Medgar Evers, James Meredith, Julian Bond, the late Rep. Barbara Jordan, and my distinguished colleague from Georgia, Rep. JOHN LEWIS. We honor their efforts to remove the barriers of race that kept America from knowing the full measure of its own greatness—and we look towards their legacy as a polestar to guide us towards the future.

There could be no more appropriate time to reflect on the future of the Civil Rights Movement and the future of our nation itself than today—in this historic month, in this, the last year of the twentieth century.

No one can deny that ''the problem of the color line'' was indeed the great problem of the twentieth century. But no one can deny that America made strides in putting that problem to rest, in healing our wounds—and in moving forward towards a brighter day in American history. African American family income, college admissions, and home ownership have hit an all-time high. African American poverty is down to near-record levels. African Americans have written some of the pivotal decisions of our Supreme Court, written the laws of our land in the Congress, and written their own inspiring stories into the fabric of our history.

But still more must be done before we can say the problem of the color line has been eradicated.

The question before us today is simple—to paraphrase the words of the late Rev. Dr. Martin Luther King, Jr. in his last book, ''where do we go from here?''

The violence in Jasper, Texas; the conditions of too many of our nation's inner city schools; the subtler forms of discrimination still prevalent in so many of our top corporations; all these problems require our attention if we are to make good on the promise that never—never again—will an American century be defined by our struggles over race and our encounters with an intransigent crisis.

With open hearts and open minds—and with the commitment and determination of W.E.B. DuBois or Rosa Parks, who forty years ago sat down on a bus and said she 'would not be moved'—we too can tell those who stand against equality that America will not be moved from an unshakable belief in the fundamental rights of every American—no matter their race, creed, or color—to life, liberty, and the pursuit of happiness.

The challenge before us today is to summon the leadership in the twenty-first century—at the highest levels of government, and in our daily lives—to wipe away hatred, bigotry, and intolerance—and to make America in the image of the African Americans we honor this month: the land of the free, the proud, and the brave. I urge the United States Senate to contemplate that challenge on this special day, in this important month for the United States of America.•

RULES OF PROCEDURE OF THE SELECT COMMITTEE ON ETHICS

• Mr. SMITH of New Hampshire. Mr. President, in accordance with Rule XXVI(2) of the Standing Rules of the Senate, I ask that the Rules of Procedure of the Select Committee on Ethics, which were adopted February 23, 1978, and revised April 1997, be printed in the CONGRESSIONAL RECORD for the 106th Congress.

The rules follow:

RULES OF PROCEDURE

(Select Committee on Ethics, Adopted February 23, 1978, Revised April 1997, S. Prt. 105–19)

RULES OF THE SELECT COMMITTEE ON ETHICS

PART I: ORGANIC AUTHORITY

SUBPART A—S. RES. 338 AS AMENDED

(S. Res. 338, 88th Cong., 2d Sess. (1964)[1])

Resolved, That (a) there is hereby established a permanent select committee of the Senate to be known as the Select Committee on Ethics (referred to hereinafter as the ''Select Committee'') consisting of six Members of the Senate, of whom three shall be selected from members of the majority party and three shall be selected from members of the minority party. Members thereof shall be appointed by the Senate in accordance with the provisions of Paragraph 1 of Rule XXIV of the standing rules for the Senate at the beginning of each Congress. For purposes of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member or chairman of the Select Committee shall not be taken into account.

Footnotes at end of article.

(b) Vacancies in the membership of the Select Committee shall not affect the authority of the remaining members to execute the functions of the committee, and shall be filled in the same manner as original appointments thereto are made.

(c)(1) A majority of the Members of the Select Committee shall constitute a quorum for the transaction of business involving complaints and allegations of misconduct, including the consideration of matters involving sworn complaints, unsworn allegations or information, resultant preliminary inquiries, initial reviews, investigations, hearings, recommendations or reports and matters relating to Senate Resolution 400, agreed to May 19, 1976.

(2) Three Members shall constitute a quorum for the transaction of routine business of the Select Committee not covered by the first paragraph of this subparagraph, including requests for opinions and interpretations concerning the Code of Official Conduct or any other statute or regulation under the jurisdiction of the Select Committee, if one Member of the quorum is a Member of the Majority Party and one Member of the quorum is a Member of the Minority Party. During the transaction of routine business any Member of the Select Committee constituting the quorum shall have the right to postpone further discussion of a pending matter until such time as a majority of the Members of the Select Committee are present.

(3) The Select Committee may fix a lesser number as a quorum for the purpose of taking sworn testimony.[2]

[3]''(d)(1) A member of the Select Committee shall be ineligible to participate in any initial review or investigation relating to his own conduct, the conduct of any officer or employee he supervises, or the conduct of any employee of any officer he supervises, or relating to any complaint filed by him, and the determinations and recommendations of

the Select Committee with respect thereto. For purposes of this subparagraph, a Member of the Select Committee and an officer of the Senate shall be deemed to supervise any officer or employee consistent with the provision of paragraph 12 of rule XXXVII of the standing Rules of the Senate.

''(2) A member of the Select Committee may, at his discretion, disqualify himself from participating in any initial review or investigation pending before the Select Committee and the determinations and recommendations of the Select Committee with respect thereto. Notice of such disqualification shall be given in writing to the President of the Senate.

''(3) Whenever any member of the Select Committee is ineligible under paragraph (1) to participate in any initial review or investigation or disqualifies himself under paragraph (2) from participating in any initial review or investigation, another Member of the Senate shall, subject to the provisions of subsection (d), be appointed to serve as a member of the Select Committee solely for purposes of such initial review or investigation and the determinations and recommendations of the Select Committee with respect thereto. Any Member of the Senate appointed for such purposes shall be of the same party as the Member who is ineligible or disqualifies himself.''

SEC. 2. (a) It shall be the duty of the Select Committee to—

(1) receive complaints and investigate allegations of improper conduct which may reflect upon the Senate, violations of law, violations of the Senate Code of Official Conduct,[4] and violations of rules and regulations of the Senate, relating to the conduct of individuals in the performance of their duties as Members of the Senate, or as officers or employees of the Senate, and to make appropriate findings of fact and conclusions with respect thereto;

(2) recommend to the Senate by report or resolution by a majority vote of the full committee disciplinary action (including, but not limited to, in the case of a Member: censure, expulsion, or recommendation to the appropriate party conference regarding such Member's seniority or positions of responsibility; and in the case of an officer or employee: suspension or dismissal)[5] to be taken with respect to such violations which the Select Committee shall determine, after according to the individuals concerned due notice and opportunity for hearing, to have occurred;

(3) recommend to the Senate, by report or resolution, such additional rules or regulations as the Select Committee shall determine to be necessary or desirable to insure proper standards of conduct by Members of the Senate, and by officers or employees of the Senate, in the performance of their duties and the discharge of their responsibilities; and

(4) report violations by a majority vote of the full committee of any law to the proper Federal and State authorities.

''(b)(1) Each sworn complaint filed with the Select Committee shall be in writing, shall be in such form as the Select Committee may prescribe by regulation, and shall be under oath.

''(2) For purposes of this section, 'sworn complaint' means a statement of facts within the personal knowledge of the complainant alleging a violation of law, the Senate Code of Official Conduct, or any other rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as Members, officers, or employees of the Senate.

''(3) Any person who knowingly and willfully swears falsely to a sworn complaint does so under penalty of perjury, and the Select Committee may refer any such case to the Attorney General for prosecution.

''(4) For the purposes of this section, 'investigation' is a proceeding undertaken by the Select Committee after a finding, on the basis of an initial review, that there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred.

''(c)(1) No investigation of conduct of a Member or officer of the Senate, and no report, resolution, or recommendation relating thereto, may be made unless approved by the affirmative recorded vote of not less than four members of the Select Committee.

''(2) No other resolution, report, recommendation, interpretative ruling, or advisory opinion may be made without an affirmative vote of a majority of the members of the Select Committee voting.

''(d)(1) When the Select Committee receives a sworn complaint against a Member or officer of the Senate, it shall promptly conduct an initial review of that complaint. The initial review shall be of duration and scope necessary to determine whether there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred.

''(2) If as a result of an initial review under paragraph (1), the Select Committee determines by a recorded vote that there is not such substantial credible evidence, the Select Committee shall report such determination to the complainant and to the party charged together with an explanation of the basis of such determination.

''(3) If as a result of an initial review under paragraph (1), the Select Committee determines that a violation is inadvertent, technical or otherwise of a de minimus nature, the Select Committee may attempt to correct or prevent such a violation by informal methods.

''(4) If as a result of an initial review under paragraph (1), the Select Committee determines that there is such substantial credible evidence but that the violation, if proven, is neither of a de minimus nature nor sufficiently serious to justify any of the penalties expressly referred to in subsection (a)(2), the Select Committee may propose a remedy it deems appropriate. If the matter is thereby resolved, a summary of the Select Committee's conclusions and the remedy proposed shall be filed as a public record with the Secretary of the Senate and a notice of such filing shall be printed in the Congressional Record.

''(5) If as the result of an initial review under paragraph (1), the Select Committee determines that there is such substantial credible evidence, the Select Committee shall promptly conduct an investigation if (A) the violation, if proven, would be sufficiently serious, in the judgment of the Select Committee, to warrant imposition of one or more of the penalties expressly referred to in subsection (a)(2), or (B) the violation, if proven, is less serious, but was not resolved pursuant to paragraph (4) above. Upon the conclusion of such investigation, the Select Committee shall report to the Senate, as soon as practicable, the results of such investigation together with its recommendations (if any) pursuant to subsection (a)(2).

''(6) Upon the conclusion of any other investigation respecting the conduct of a Member or officer undertaken by the Select Committee, the Select Committee shall report to the Senate, as soon as practicable, the results of such investigation together with its recommendations (if any) pursuant to subsection (a)(2).

''(e) When the Select Committee receives a sworn complaint against an employee of the Senate, it shall consider the complaint according to procedures it deems appropriate. If the Select Committee determines that the complaint is without substantial merit, it shall notify the complainant and the accused of its determination, together with an explanation of the basis of such determination.

''(f) The Select Committee may, in its discretion, employ hearing examiners to hear testimony and make findings of fact and/or recommendations to the Select Committee concerning the disposition of complaints.

''(g) Notwithstanding any other provision of this section, no initial review or investigation shall be made of any alleged violation of any law, the Senate Code of Official Conduct, rule, or regulation which was not in effect at the time the alleged violation occurred. No provisions of the Senate Code of Official Conduct shall apply to or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code. The Select Committee may conduct an initial review or investigation of any alleged violation of a rule or law which was in effect prior to the enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Select Committee.

''(h) The Select Committee shall adopt written rules setting forth procedures to be used in conducting investigations of complaints.[6]

(i)[7] The Select Committee from time to time shall transmit to the Senate its recommendation as to any legislative measures which it may consider to be necessary for the effective discharge of its duties.

SEC. 3. (a) The Select Committee is authorized to (1) make such expenditures; (2) hold such hearings; (3) sit and act at such times and places during the sessions, recesses, and adjournment periods of the Senate; (4) require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents; (5) administer such oaths; (6) take such testimony orally or by deposition; (7) employ and fix the compensation of a staff director, a counsel, an assistant counsel, one or more investigators, one or more hearing examiners, (8) and such technical, clerical, and other assistants and consultants as it deems advisable; and (8) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, by contract as independent contractors or, in the case of individuals, by employment at daily rates of compensation not in excess of the per diem equivalent of the highest rate of compensation which may be paid to a regular employee of the Select Committee.[9]

[10](b)(1) The Select Committee is authorized to retain and compensate counsel not employed by the Senate (or by any department or agency of the executive branch of the Government) whenever the Select Committee determines that the retention of outside counsel is necessary or appropriate for any action regarding any complaint or allegation, which, in the determination of the Select Committee is more appropriately conducted by counsel not employed by the Government of the United States as a regular employee.

''(2) Any investigation conducted under section 2 shall be conducted by outside counsel as authorized in paragraph (1), unless the Select Committee determines not to use outside counsel.

[11]''(c) With the prior consent of the department or agency concerned, the Select Committee may (1) utilize the services, information and facilities of any such department or

agency of the Government, and (2) employ on a reimbursable basis or otherwise the services of such personnel of any such department or agency as it deems advisable. With the consent of any other committee of the Senate, or any subcommittee thereof, the Select Committee may utilize the facilities and the services of the staff of such other committee or subcommittee whenever the chairman of the Select Committee determines that such action is necessary and appropriate.

''(d) Subpoenas may be issued (1) by the Select Committee or (2) by the chairman and vice chairman, acting jointly. Any such subpoena shall be signed by the chairman or the vice chairman and may be served by any person designated by such chairman or vice chairman. The chairman of the Select Committee or any member thereof may administer oaths to witnesses.[12]

[13]''(e)(1) The Select Committee shall prescribe and publish such regulations as it feels are necessary to implement the Senate Code of Official Conduct.

''(2) The Select Committee is authorized to issue interpretative rulings explaining and clarifying the application of any law, the Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction.

''(3) The Select Committee shall render an advisory opinion, in writing within a reasonable time, in response to a written request by a Member or officer of the Senate or a candidate for nomination for election, or election to the Senate, concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

''(4) The Select Committee may in its discretion render an advisory opinion in writing within a reasonable time in response to a written request by any employee of the Senate concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

''(5) Notwithstanding any provision of the Senate Code of Official Conduct or any rule or regulation of the Senate, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraphs (3) and (4) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction by the Senate.

''(6) Any advisory opinion rendered by the Select Committee under paragraphs (3) and (4) may be relied upon by (A) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered: Provided, however, that the request for such advisory opinion included a complete and accurate statement of the specific factual situation; and, (B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

''(7) Any advisory opinion issued in response to a request under paragraph (3) or (4) shall be printed in the Congressional Record with appropriate deletions to assure the privacy of the individual concerned. The Select Committee shall, to the extent practicable, before rendering an advisory opinion, provide any interested party with an opportunity to transmit written comments to the Select Committee with respect to the request for such advisory opinion. The advisory opinions issued by the Select Committee shall be compiled, indexed, reproduced, and made available on a periodic basis.

''(8) A brief description of a waiver granted under paragraph 2(c) of rule XXXIV or paragraph 1 of rule XXXV of the Standing Rules of the Senate shall be made available upon request in the Select Committee office with appropriate deletions to assure the privacy of the individual concerned.

SEC. 4. The expenses of the Select Committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the Select Committee.

SEC. 5. As used in this resolution, the term ''officer or employee of the Senate'' means—

(1) an elected officer of the Senate who is not a Member of the Senate;

(2) an employee of the Senate, any committee or subcommittee of the Senate, or any Member of the Senate;

(3) the Legislative Counsel of the Senate or any employee of his office;

(4) an Official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties;

(5) a member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate;

(6) an employee of the Vice President if such employee's compensation is disbursed by the Secretary of the Senate; and

(7) an employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate.

SUBPART B—PUBLIC LAW 93–191—FRANKED MAIL, PROVISIONS RELATING TO THE SELECT COMMITTEE

SEC. 6. (a) The Select Committee on Standards and Conduct of the Senate shall provide guidance, assistance, advice and counsel, through advisory opinions or consultations, in connection with the mailing or contemplated mailing of franked mail under section 3210, 3211, 3212, 3218(2) or 3218, and in connection with the operation of section 3215, of title 39, United States Code, upon the request of any Member of the Senate or Member-elect, surviving spouse of any of the foregoing, or other Senate official, entitled to send mail as franked mail under any of those sections. The select committee shall prescribe regulations governing the proper use of the franking privilege under those sections by such persons.

(b) Any complaint filed by any person with the select committee that a violation of any section of title 39, United States Code, referred to in subsection (a) of this section is about to occur or has occurred within the immediately preceding period of 1 year, by any person referred to in such subsection (a), shall contain pertinent factual material and shall conform to regulations prescribed by the select committee. The select committee, if it determines there is reasonable justification for the complaint, shall conduct an investigation of the matter, including an investigation of reports and statements filed by that complainant with respect to the matter which is the subject of the complaint. The committee shall afford to the person who is the subject of the complaint due notice and, if it determines that there is substantial reason to believe that such violation has occurred or is about to occur, opportunity for all parties to participate in a hearing before the select committee. The select committee shall issue a written decision on each complaint under this subsection not later than thirty days after such a complaint has been filed or, if a hearing is held, not later than thirty days after the conclusion of such hearing. Such decision shall be based on written findings of fact in the case by the select committee. If the select committee finds, in its written decision, that a violation has occurred or is about to occur, the committee may take such action and enforcement as it considers appropriate in accordance with applicable rules, precedents, and standing orders of the Senate, and such other standards as may be prescribed by such committee.

(c) Notwithstanding any other provision of law, no court or administrative body in the United States or in any territory thereof shall have jurisdiction to entertain any civil action of any character concerning or related to a violation of the franking laws or an abuse of the franking privilege by any person listed under subsection (a) of this section as entitled to send mail as franked mail, until a complaint has been filed with the select committee and the committee has rendered a decision under subsection (b) of this section.

(d) The select committee shall prescribe regulations for the holding of investigations and hearings, the conduct of proceedings, and the rendering of decisions under this subsection providing for equitable procedures and the protection of individual, public, and Government interests. The regulations shall, insofar as practicable, contain the substance of the administrative procedure provisions of sections 551–559 and 701–706, of title 5, United States Code. These regulations shall govern matters under this subsection subject to judicial review thereof.

(e) The select committee shall keep a complete record of all its actions, including a record of the votes on any question on which a record vote is demanded. All records, data, and files of the select committee shall be the property of the Senate and shall be kept in the offices of the select committee or such other places as the committee may direct.

SUBPART C—STANDING ORDERS OF THE SENATE REGARDING UNAUTHORIZED DISCLOSURE OF INTELLIGENCE INFORMATION, S. RES. 400, 94TH CONGRESS, PROVISIONS RELATING TO THE SELECT COMMITTEE

SEC. 8. * * *

(c)(1) No information in the possession of the select committee relating to the lawful intelligence activities of any department or agency of the United States which has been classified under established security procedures and which the select committee, pursuant to subsection (a) or (b) of this section, has determined should not be disclosed, shall be made available to any person by a Member, officer, or employee of the Senate except in a closed session of the Senate or as provided in paragraph (2).

(2) The select committee may, under such regulations as the committee shall prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other Member of the Senate. Whenever the select committee makes such information available, the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the Senate received such information. No Member of the Senate who, and no committee which, receives any information under this subsection, shall disclose such information except in a closed session of the Senate.

(d) It shall be the duty of the Select Committee on Standards and Conduct to investigate any unauthorized disclosure of intelligence information by a Member, officer or employee of the Senate in violation of subsection (c) and to report to the Senate concerning any allegation which it finds to be substantiated.

(e) Upon the request of any person who is subject to any such investigation, the Select

Committee on Standards and Conduct shall release to such individual at the conclusion of its investigation a summary of its investigation together with its findings. If, at the conclusion of its investigation, the Select Committee on Standards and Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the Senate, it shall report its findings to the Senate and recommend appropriate action such as censure, removal from committee membership, or expulsion from the Senate, in the case of a Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.

SUBPART D—RELATING TO RECEIPT AND DISPOSITION OF FOREIGN GIFTS AND DECORATIONS RECEIVED BY MEMBERS, OFFICERS AND EMPLOYEES OF THE SENATE OR THEIR SPOUSES OR DEPENDENTS, PROVISIONS RELATING TO THE SELECT COMMITTEE ON ETHICS

Section 7342 of title 5, United States Code, states as follows:

SEC. 7342. Receipt and disposition of foreign gifts and decorations.

''(a) For the purpose of this section-

(1) ''employee'' means—

(A) an employee as defined by section 2105 of this title and an officer or employee of the United States Postal Service or of the Postal Rate Commission;

(B) an expert or consultant who is under contract under section 3109 of this title with the United States or any agency, department, or establishment thereof, including, in the case of an organization performing services under such section, any individual involved in the performance of such services;

(C) an individual employed by, or occupying an office or position in, the government of a territory or possession of the United States or the government of the District of Columbia;

(D) a member of a uniformed service;

(E) the President and the Vice President;

(F) a Member of Congress as defined by section 2106 of this title (except the Vice President) and any Delegate to the Congress; and

(G) the spouse of an individual described in subparagraphs (A) through (F) (unless such individual and his or her spouse are separated) or a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of such an individual, other than a spouse or dependent who is an employee under subparagraphs (A) through (F);

(2) ''foreign government'' means—

(A) any unit of foreign governmental authority, including any foreign national, State, local, and municipal government;

(B) any international or multinational organization whose membership is composed of any unit of foreign government described in subparagraph (A); and

(C) any agent or representative of any such unit or such organization, while acting as such;

(3) ''gift'' means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government;

(4) ''decoration'' means an order, device, medal, badge, insignia, emblem, or award tendered by, or received from, a foreign government;

(5) ''minimal value'' means a retail value in the United States at the time of acceptance of $100 or less, except that—

(A) on January 1, 1981, and at 3 year intervals thereafter, ''minimal value'' shall be redefined in regulations prescribed by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period; and

(B) regulations of an employing agency may define ''minimal value'' for its employees to be less than the value established under this paragraph; and

(6) ''employing agency'' means—

(A) the Committee on Standards of Official Conduct of the House of Representatives, for Members and employees of the House of Representatives, except that those responsibilities specified in subsections (c)(2)(A), (e)(1), and (g)(2)(B) shall be carried out by the Clerk of the House;

(B) the Select Committee on Ethics of the Senate, for Senators and employees of the Senate, except that those responsibilities (other than responsibilities involving approval of the employing agency) specified in subsections (c)(2), (d), and (g)(2)(B) shall be carried out by the Secretary of the Senate;

(C) the Administrative Office of the United States Courts, for judges and judicial branch employees; and

(D) the department, agency, office, or other entity in which an employee is employed, for other legislative branch employees and for all executive branch employees.

(b) An employee may not—

(l) request or otherwise encourage the tender of a gift or decoration; or

(2) accept a gift or decoration, other than in accordance with, the provisions of subsections (c) and (d).

(c)(1) The Congress consents to—

(A) the accepting and retaining by an employee of a gift of minimal value tendered and received as a souvenir or mark of courtesy; and

(B) the accepting by an employee of a gift of more than minimal value when such gift is in the nature of an educational scholarship or medical treatment or when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States, except that

(i) a tangible gift of more than minimal value is deemed to have been accepted on behalf of the United States and, upon acceptance, shall become the property of the United States; and

(ii) an employee may accept gifts of travel or expenses for travel taking place entirely outside the United States (such as transportation, food, and lodging) of more than minimal value if such acceptance is appropriate, consistent with the interests of the United States, and permitted by the employing agency and any regulations which may be prescribed by the employing agency.

(2) Within 60 days after accepting a tangible gift of more than minimal value (other than a gift described in paragraph(1)(B)(ii)), an employee shall—

(A) deposit the gift for disposal with his or her employing agency; or

(B) subject to the approval of the employing agency, deposit the gift with that agency for official use.

Within 30 days after terminating the official use of a gift under subparagraph (B), the employing agency shall forward the gift to the Administrator of General Services in accordance with subsection (e)(1) or provide for its disposal in accordance with subsection (e)(2).

(3) When an employee deposits a gift of more than minimal value for disposal or for official use pursuant to paragraph (2), or within 30 days after accepting travel or travel expenses as provided in paragraph (1)(B)(ii) unless such travel or travel expenses are accepted in accordance with specific instructions of his or her employing agency, the employee shall file a statement with his or her employing agency or its delegate containing the information prescribed in subsection (f) for that gift.

(d) The Congress consents to the accepting, retaining, and wearing by an employee of a decoration tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the employing agency of such employee. Without this approval, the decoration is deemed to have been accepted on behalf of the United States, shall become the property of the United States, and shall be deposited by the employee, within sixty days of acceptance, with the employing agency for official use, for forwarding to the Administrator of General Services for disposal in accordance with subsection (e)(1), or for disposal in accordance with subsection (e)(2).

(e)(1) Except as provided in paragraph (2), gifts and decorations that have been deposited with an employing agency for disposal shall be (A) returned to the donor, or (B) forwarded to the Administrator of General Services for transfer, donation, or other disposal in accordance with the provisions of the Federal Property and Administrative Services Act of 1949. However, no gift or decoration that has been deposited for disposal may be sold without the approval of the Secretary of State, upon a determination that the sale will not adversely affect the foreign relations of the United States. Gifts and decorations may be sold by negotiated sale.

(2) Gifts and decorations received by a Senator or an employee of the Senate that are deposited with the Secretary of the Senate for disposal, or are deposited for an official use which has terminated, shall be disposed of by the Commission on Arts and Antiquities of the United States Senate. Any such gift or decoration may be returned by the Commission to the donor or may be transferred or donated by the Commission, subject to such terms and conditions as it may prescribe, (A) to an agency or instrumentality of (i) the United States, (ii) a State, territory, or possession of the United States, or a political subdivision of the foregoing, or (iii) the District of Columbia, or (B) to an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of such Code. Any such gift or decoration not disposed of as provided in the preceding sentence shall be forwarded to the Administrator of General Services for disposal in accordance with paragraph (1). If the Administrator does not dispose of such gift or decoration within one year, he shall, at the request of the Commission, return it to the Commission and the Commission may dispose of such gift or decoration in such manner as it considers proper, except that such gift or decoration may be sold only with the approval of the Secretary of State upon a determination that the sale will not adversely affect the foreign relations of the United States.

(f)(1) Not later than January 31 of each year, each employing agency or its delegate shall compile a listing of all statements filed during the preceding year by the employees of that agency pursuant to subsection (c)(3) and shall transmit such listing to the Secretary of State who shall publish a comprehensive listing of all such statements in the Federal Register.

(2) Such listings shall include for each tangible gift reported (A) the name and position of the employee;

(B) a brief description of the gift and the circumstances justifying acceptance;

(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift;

(D) the date of acceptance of the gift;

(E) the estimated value in the United States of the gift at the time of acceptance; and

(F) disposition or current location of the gift.

(3) Such listings shall include for each gift of travel or travel expenses—

(A) the name and position of the employee;

(B) a brief description of the gift and the circumstances justifying acceptance; and

(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift.

(4) In transmitting such listings for the Central Intelligence Agency, the Director of Central Intelligence may delete the information described in subparagraphs (A) and (C) of paragraphs (2) and (3) if the Director certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources.

(g)(1) Each employing agency shall prescribe such regulations as may be necessary to carry out the purpose of this section. For all employing agencies in the executive branch, such regulations shall be prescribed pursuant to guidance provided by the Secretary of State. These regulations shall be implemented by each employing agency for its employees.

(2) Each employing agency shall

(A) report to the Attorney General cases in which there is reason to believe that an employee has violated this section;

(B) establish a procedure for obtaining an appraisal, when necessary, of the value of gifts; and

(C) take any other actions necessary to carry out the purpose of this section.

(h) The Attorney General may bring a civil action in any district court of the United States against any employee who knowingly solicits or accepts a gift from a foreign government not consented to by this section or who fails to deposit or report such gift as required by this section. The court in which such action is brought may assess a penalty against such employee in any amount not to exceed the retail value of the gift improperly solicited or received plus $5,000.

(i) The President shall direct all Chiefs of a United States Diplomatic Mission to inform their host governments that it is a general policy of the United States Government to prohibit United States Government employees from receiving gifts or decorations of more than minimal value.

(j) Nothing in this section shall be construed to derogate any regulation prescribed by any employing agency which provides for more stringent limitations on the receipt of gifts and decorations by its employees.

(k) The provisions of this section do not apply to grants and other forms of assistance to which section 108A of the Mutual Educational and Cultural Exchange Act of 1961 applies.

PART II: SUPPLEMENTARY PROCEDURAL RULES

RULE 1. GENERAL PROCEDURES

(a) Officers: The Committee shall select a Chairman and Vice Chairman from among its members. In the absence of the Chairman, the duties of the Chair shall be filled by the Vice Chairman or, in the Vice Chairman's absence, a Committee member designated by the Chairman.

(b) Procedural Rules: The basic procedural rules of the Committee are stated as a part of the Standing Orders of the Senate in Senate Resolution 338, 88th Congress, as amended, as well as other resolutions and laws. Supplementary Procedural Rules are stated herein and are hereinafter referred to as the Rules. The Rules shall be published in the Congressional Record not later than thirty days after adoption, and copies shall be made available by the Committee office upon request.

(c) Meetings:

(1) The regular meeting of the Committee shall be the first Thursday of each month while the Congress is in session.

(2) Special meetings may be held at the call of the Chairman or Vice Chairman if at least forty-eight hours notice is furnished to all members. If all members agree, a special meeting may be held on less than forty-eight hours notice.

(3)(A) If any member of the Committee desires that a special meeting of the Committee be called, the member may file in the office of the Committee a written request to the Chairman or Vice Chairman for that special meeting.

(B) Immediately upon the filing of the request the Clerk of the Committee shall notify the Chairman and Vice Chairman of the filing of the request. If, within three calendar days after the filing of the request, the Chairman or the Vice Chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, any three of the members of the Committee may file their written notice in the office of the Committee that a special meeting of the Committee will be held at a specified date and hour; such special meeting may not occur until forty-eight hours after the notice is filed. The Clerk shall immediately notify all members of the Committee of the date and hour of the special meeting. The Committee shall meet at the specified date and hour.

(d) Quorum:

(1) A majority of the members of the Select Committee shall constitute a quorum for the transaction of business involving complaints and allegations of misconduct, including the consideration of matters involving sworn complaints, unsworn allegations or information, resultant preliminary inquiries, initial reviews, investigations, hearings, recommendations or reports and matters relating to Senate Resolution 400, agreed to May 19, 1976.

(2) Three members shall constitute a quorum for the transaction of the routine business of the Select Committee not covered by the first subparagraph of this paragraph, including requests for opinions and interpretations concerning the Code of Official Conduct or any other statute or regulation under the jurisdiction of the Select Committee, if one member of the quorum is a Member of the Majority Party and one member of the quorum is a Member of the Minority Party. During the transaction of routine business any member of the Select Committee constituting the quorum shall have the right to postpone further discussion of a pending matter until such time as a majority of the members of the Select Committee are present.

(3) Except for an adjudicatory hearing under Rule 6 and any deposition taken outside the presence of a Member under Rule 7, one Member shall constitute a quorum for hearing testimony, provided that all Members have been given notice of the hearing and the Chairman has designated a Member of the Majority Party and the Vice Chairman has designated a Member of the Minority Party to be in attendance, either of whom in the absence of the other may constitute the quorum.

(e) Order of Business: Questions as to the order of business and the procedure of the Committee shall in the first instance be decided by the Chairman and Vice Chairman, subject to reversal by a vote by a majority of the Committee. (f) Hearings Announcements: The Committee shall make public announcement of the date, place and subject matter of any hearing to be conducted by it at least one week before the commencement of that hearing, and shall publish such announcement in the Congressional Record. If the Committee determines that there is good cause to commence a hearing at an earlier date, such notice will be given at the earliest possible time.

(g) Open and Closed Committee Meetings: Meetings of the Committee shall be open to the public or closed to the public (executive session), as determined under the provisions of paragraphs 5 (b) to (d) of Rule XXVI of the Standing Rules of the Senate. Executive session meetings of the Committee shall be closed except to the members and the staff of the Committee. On the motion of any member, and with the approval of a majority of the Committee members present, other individuals may be admitted to an executive session meeting for a specific period or purpose.

(h) Record of Testimony and Committee Action: An accurate stenographic or transcribed electronic record shall be kept of all Committee proceedings, whether in executive or public session. Such record shall include Senators' votes on any question on which a recorded vote is held. The record of a witness' testimony, whether in public or executive session, shall be made available for inspection to the witness or his counsel under Committee supervision; a copy of any testimony given by that witness in public session, or that part of the testimony given by the witness in executive session and subsequently quoted or made part of the record in a public session shall be made available to any witness if he so requests. (See Rule 6 on Procedures for Conducting Hearings.)

(i) Secrecy of Executive Testimony and Action and of Complaint Proceedings:

(1) All testimony and action taken in executive session shall be kept secret and shall not be released outside the Committee to any individual or group, whether governmental or private, without the approval of a majority of the Committee.

(2) All testimony and action relating to a sworn complaint shall be kept secret and shall not be released by the Committee to any individual or group, whether governmental or private, except the respondent, without the approval of a majority of the Committee, until such time as a report to the Senate is required under Senate Resolution 338, 88th Congress, as amended, or unless otherwise permitted under these Rules. (See Rule 9 on Procedures for Handling Committee Sensitive and Classified Materials.)

(j) Release of Reports to Public: No information pertaining to, or copies of any Committee report, study, or other document which purports to express the view, findings, conclusions or recommendations of the Committee in connection with any of its activities or proceedings may be released to any individual or group whether governmental or private, without the authorization of the Committee. Whenever the Chairman or Vice Chairman is authorized to make any determination, then the determination may be released at his or her discretion. Each member of the Committee shall be given a reasonable opportunity to have separate views included as part of any Committee report. (See Rule 9 on Procedures for Handling Committee Sensitive and Classified Materials.)

(k) Ineligibility or Disqualification of Members and Staff:

(1) A member of the Committee shall be ineligible to participate in any Committee proceeding that relates specifically to any of the following:

(A) The member's own conduct;

(B) The conduct of any employee or officer that the member supervises, as defined in paragraph 12 of Rule XXXVII of the Standing Rules of the Senate;

(C) The conduct of any employee or any officer that the member supervises; or

(D) A complaint, sworn or unsworn, that was filed by a member, or by any employee or officer that the member supervises.

(2) If any Committee proceeding appears to relate to a member of the Committee in a manner described in subparagraph (1) of this

paragraph, the staff shall prepare a report to the Chairman and Vice Chairman. If either the Chairman or the Vice Chairman concludes from the report that it appears that the member may be ineligible, the member shall be notified in writing of the nature of the particular proceeding and the reason that it appears that the member may be ineligible to participate in it. If the member agrees that he or she is ineligible, the member shall so notify the Chairman or Vice Chairman. If the member believes that he or she is not ineligible, he or she may explain the reasons to the Chairman and Vice Chairman, and if they both agree that the member is not ineligible, the member shall continue to serve. But if either the Chairman or Vice Chairman continues to believe that the member is ineligible, while the member believes that he or she is not ineligible, the matter shall be promptly referred to the Committee. The member shall present his or her arguments to the Committee in executive session. Any contested questions concerning a member's eligibility shall be decided by a majority vote of the Committee, meeting in executive session, with the member in question not participating.

(3) A member may also disqualify himself from participating in a Committee proceeding in other circumstances not listed in subparagraph (k)(1).

(4) The President of the Senate shall be given written notice of the ineligibility or disqualification of any member from any initial review, investigation, or other proceeding requiring the appointment of another member in accordance with subparagraph (k)(5).

(5) Whenever a member of the Committee is ineligible to participate in or disqualifies himself from participating in any initial review, investigation, or other substantial Committee proceeding, another Member of the Senate who is of the same party shall be appointed by the Senate in accordance with the provisions of paragraph 1 of Rule XXIV of the Standing Rules of the Senate, to serve as a member of the Committee solely for the purposes of that proceeding.

(6) A member of the Committee staff shall be ineligible to participate in any Committee proceeding that the staff director or outside counsel determines relates specifically to any of the following:

(A) the staff member's own conduct;

(B) the conduct of any employee that the staff member supervises;

(C) the conduct of any Member, officer or employee for whom the staff member has worked for any substantial period; or

(D) a complaint, sworn or unsworn, that was filed by the staff member. At the direction or with the consent of the staff director or outside counsel, a staff member may also be disqualified from participating in a Committee proceeding in other circumstances not listed above.

(l) Recorded Votes: Any member may require a recorded vote on any matter.

(m) Proxies; Recording Votes of Absent Members:

(1) Proxy voting shall not be allowed when the question before the Committee is the initiation or continuation of an initial review or an investigation, or the issuance of a report or recommendation related thereto concerning a Member or officer of the Senate. In any such case an absent member's vote may be announced solely for the purpose of recording the member's position and such announced votes shall not be counted for or against the motion.

(2) On matters other than matters listed in paragraph (m)(1) above, the Committee may order that the record be held open for the vote of absentees or recorded proxy votes if the absent Committee member has been informed of the matter on which the vote occurs and has affirmatively requested the Chairman or Vice Chairman in writing that he be so recorded.

(3) All proxies shall be in writing, and shall be delivered to the Chairman or Vice Chairman to be recorded.

(4) Proxies shall not be considered for the purpose of establishing a quorum.

(n) Approval of Blind Trusts and Foreign Travel Requests Between Sessions and During Extended Recesses: During any period in which the Senate stands in adjournment between sessions of the Congress or stands in a recess scheduled to extend beyond fourteen days, the Chairman and Vice Chairman, or their designees, acting jointly, are authorized to approve or disapprove blind trusts under the provision of Rule XXXIV, and to approve or disapprove foreign travel requests which require immediate resolution.

(o) Committee Use of Services or Employees of Other Agencies and Departments: With the prior consent of the department or agency involved, the Committee may (1) utilize the services, information, or facilities of any such department or agency of the Government, and (2) employ on a reimbursable basis or otherwise the services of such personnel of any such department or agency as it deems advisable. With the consent of any other committee of the Senate, or any subcommittee, the Committee may utilize the facilities and the services of the staff of such other committee or subcommittee whenever the Chairman and Vice Chairman of the Committee, acting jointly, determine that such action is necessary and appropriate.

RULE 2: PROCEDURES FOR SWORN COMPLAINTS

(a) Sworn Complaints: Any person may file a sworn complaint with the Committee, alleging that any Senator, or officer, or employee of the Senate has violated a law, the Senate Code of Official Conduct, or any rule or regulation of the Senate relating to the conduct of any individual in the performance of his or her duty as a Member, officer, or employee of the Senate, or has engaged in improper conduct which may reflect upon the Senate.

(b) Form and Content of Complaints: A complaint filed under paragraph (a) shall be in writing and under oath, and shall set forth in simple, concise and direct statements:

(1) The name and legal address of the party filing the complaint (hereinafter, the complainant);

(2) The name and position or title of each Member, officer, or employee of the Senate who is specifically alleged to have engaged in the improper conduct or committed the violation (hereinafter, the respondent);

(3) The nature of the alleged improper conduct or violation, including if possible, the specific provision of the Senate Code of Official Conduct or other law, rule, or regulation alleged to have been violated.

(4)(A) A Statement of the facts within the personal knowledge of the complainant that are alleged to constitute the improper conduct or violation.

(B) The term ''personal knowledge'' is not intended to and does not limit the complainant's statement to situations that he or she personally witnessed or to activities in which the complainant was a participant.

(C) Where allegations in the sworn complaint are made upon the information and belief of the complainant, the complaint shall so state, and shall set forth the basis for such information and belief.

(5) The complainant must swear that all of the information contained in the complaint either (a) is true, or (b) was obtained under circumstances such that the complainant has sufficient personal knowledge of the source of the information reasonably to believe that it is true. The complainant may so swear either by oath or by solemn affirmation before a notary public or other authorized official.

(6) All documents in the possession of the complainant relevant to or in support of his or her allegations may be appended to the complaint.

(c) Processing of Sworn Complaints:

(1) When the Committee receives a sworn complaint against a Member, officer or employee of the Senate, it shall determine by majority vote whether the complaint is in substantial compliance with paragraph (b) of this rule.

(2) If it is determined by the Committee that a sworn complaint does not substantially comply with the requirements of paragraph (b), the complaint shall be returned promptly to the complainant, with a statement explaining how the complaint fails to comply and a copy of the rules for filing sworn complaints. The complainant may resubmit the complaint in the proper form. If the complaint is not revised so that it substantially complies with the stated requirements, the Committee may in its discretion process the complaint in accordance with Rule 3.

(3) A sworn complaint against any Member, officer, or employee of the Senate that is determined by the Committee to be in substantial compliance shall be transmitted to the respondent within five days of that determination. The transmittal notice shall include the date upon which the complaint was received, a statement that the complaint conforms to the applicable rules, a statement that the Committee will immediately begin an initial review of the complaint, and a statement inviting the respondent to provide any information relevant to the complaint to the Committee. A copy of the Rules of the Committee shall be supplied with the notice.

RULE 3: PROCEDURES ON RECEIPT OF ALLEGATIONS OTHER THAN A SWORN COMPLAINT; PRELIMINARY INQUIRY

(a) Unsworn Allegations or Information: Any Member or staff member of the Committee shall report to the Committee, and any other person may report to the Committee, any credible information available to him or her that indicates that any named or unnamed Member, officer or employee of the Senate may have—

(1) violated the Senate Code of Office Conduct;

(2) violated a law;

(3) violated any rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as Members, officers, or employees of the Senate; or

(4) engaged in improper conduct which may reflect upon the Senate. Such allegations or information may be reported to the Chairman, the Vice Chairman, a Committee member, or a Committee staff member.

(b) Sources of Unsworn Allegations or Information: The information to be reported to the Committee under paragraph (a), may be obtained from a variety of sources, including but not limited to the following:

(1) sworn complaints that do not satisfy all of the requirements of Rule 2;

(2) anonymous or informal complaints, whether or not satisfying the requirements of Rule 2;

(3) information developed during a study or inquiry by the Committee or other committees or subcommittees of the Senate, including information obtained in connection with legislative or general oversight hearings;

(4) information reported by the news media; or

(5) information obtained from any individual, agency or department of the executive branch of the Federal Government.

(c) Preliminary Inquiry:

(1) When information is presented to the Committee pursuant to paragraph (a), it shall immediately be transmitted to the Chairman and the Vice Chairman, for one of the following actions:

(A) The Chairman and Vice Chairman, acting jointly, may conduct or may direct the Committee staff to conduct, a preliminary inquiry.

(B) The Chairman and Vice Chairman, acting jointly, may present the allegations or information received directly to the Committee for it to determine whether an initial review should be undertaken. (See paragraph (d).)

(2) A preliminary inquiry may include any inquiries, interviews, sworn statements, depositions, and subpoenas that the Chairman and the Vice Chairman deem appropriate to obtain information upon which to make any determination provided for by this Rule.

(3) At the conclusion of a preliminary inquiry, the Chairman and Vice Chairman shall receive a full report of its findings. The Chairman and Vice Chairman, acting jointly, shall then determine what further action, if any, is appropriate in the particular case, including any of the following:

(A) No further action is appropriate, because the alleged improper conduct or violation is clearly not within the jurisdiction of the Committee;

(B) No further action is appropriate, because there is no reason to believe that the alleged improper conduct or violation may have occurred; or

(C) The unsworn allegations or information, and a report on the preliminary inquiry, should be referred to the Committee, to determine whether an initial review should be undertaken. (See paragraph (d).)

(4) If the Chairman and the Vice Chairman are unable to agree on a determination at the conclusion of a preliminary inquiry, then they shall refer the allegations or information to the Committee, with a report on the preliminary inquiry, for the Committee to determine whether an initial review should be undertaken. (See paragraph (d).)

(5) A preliminary inquiry shall be completed within sixty days after the unsworn allegations or information were received by the Chairman and Vice Chairman. The sixty day period may be extended for a specified period by the Chairman and Vice Chairman, acting jointly. A preliminary inquiry is completed when the Chairman and the Vice Chairman have made the determination required by subparagraphs (3) and (4) of this paragraph.

(d) Determination Whether To Conduct an Initial Review: When information or allegations are presented to the Committee by the Chairman and the Vice Chairman, the Committee shall determine whether an initial review should be undertaken.

(1) An initial review shall be undertaken when—

(A) there is reason to believe on the basis of the information before the Committee that the possible improper conduct or violation may be within the jurisdiction of the Committee; and

(B) there is a reason to believe on the basis of the information before the Committee that the improper conduct or violation may have occurred.

(2) The determination whether to undertake an initial review shall be made by recorded vote within thirty days following the Committee's receipt of the unsworn allegations or information from the Chairman or Vice Chairman, or at the first meeting of the Committee thereafter if none occurs within thirty days, unless this time is extended for a specified period by the Committee.

(3) The Committee may determine that an initial review is not warranted because (a) there is no reason to believe on the basis of the information before the Committee that the improper conduct or violation may have occurred, or (b) the improper conduct or violation, even if proven, is not within the jurisdiction of the Committee.

(A) If the Committee determines that an initial review is not warranted, it shall promptly notify the complainant, if any, and any known respondent.

(B) If there is a complainant, he or she may also be invited to submit additional information, and notified of the procedures for filing a sworn complaint. If the complainant later provides additional information, not in the form of a sworn complaint, it shall be handled as a new allegation in accordance with the procedures of Rule 3. If he or she submits a sworn complaint, it shall be handled in accordance with Rule 2.

(4)(A) The Committee may determine that there is reason to believe on the basis of the information before it that the improper conduct or violation may have occurred and may be within the jurisdiction of the Committee, and that an initial review must therefore be conducted.

(B) If the Committee determines that an initial review will be conducted, it shall promptly notify the complainant, if any, and the respondent, if any.

(C) The notice required under subparagraph (B) shall include a general statement of the information or allegations before the Committee, and a statement that the Committee will immediately begin an initial review of the complaint. A copy of the Rules of the Committee shall be supplied with the notice.

(5) If a member of the Committee believes that the preliminary inquiry has provided sufficient information for the Committee to determine whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred, the member may move that the Committee dispense with the initial review and move directly to the determinations described in Rule 4(f). The Committee may adopt such a motion by majority vote of the full Committee.

RULE 4: PROCEDURES FOR CONDUCTING AN INITIAL REVIEW

(a) Basis for Initial Review: The Committee shall promptly commence an initial review whenever it has received either (1) a sworn complaint that the Committee has determined is in substantial compliance with the requirements of Rule 2, or (2) unsworn allegations or information that have caused the Committee to determine in accordance with Rule 3 that an initial review must be conducted.

(b) Scope of Initial Review:

(1) The initial review shall be of such duration and scope as may be necessary to determine whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred.

(2) An initial review may include any inquiries, interviews, sworn statements, depositions, and subpoenas that the Committee deems appropriate to obtain information upon which to make any determination provided for by this Rule.

(c) Opportunity for Response: An initial review may include an opportunity for any known respondent or his designated representative to present either a written or oral statement, or to respond orally to questions from the Committee. Such an oral statement or answers shall be transcribed and signed by the person providing the statement or answers.

(d) Status Reports: The Committee staff or outside counsel shall periodically report to the Committee in the form and according to the schedule prescribed by the Committee. The reports shall be confidential.

(e) Final Report: When the initial review is completed, the staff or outside counsel shall make a confidential report to the Committee on findings and recommendations.

(f) Committee Action: As soon as practicable following submission of the report on the initial review, the Committee shall determine by a recorded vote whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred. The Committee may make any of the following determinations:

(1) The Committee may determine that there is not such substantial credible evidence. In this case, the Committee shall report its determination to the complainant, if any, and to the respondent, together with an explanation of the basis for the determination. The explanation may be as detailed as the Committee desires, but it is not required to include a complete discussion of the evidence collected in the initial review.

(2) The Committee may determine that there is such substantial credible evidence, but that the alleged violation is inadvertent, technical, or otherwise of a de minimis nature. In this case, the Committee may attempt to correct or to prevent such violation by informal methods. The Committee's final determination in this matter shall be reported to the complainant, if any, and to the respondent, if any.

(3) The Committee may determine that there is such substantial credible evidence, but that the alleged violation, if proven, although not of a de minimis nature, would not be sufficiently serious to justify the severe disciplinary actions specified in Senate Resolution 338, 88th Congress, as amended (i.e., for a Member, censure, expulsion, or recommendation to the appropriate party conference regarding the Member's seniority or positions of responsibility; or for an officer or employee, suspension or dismissal). In this case, the Committee, by the recorded affirmative vote of at least four members, may propose a remedy that it deems appropriate. If the respondent agrees to the proposed remedy, a summary of the Committee's conclusions and the remedy proposed and agreed to shall be filed as a public record with the Secretary of the Senate and a notice of the filing shall be printed in the Congressional Record.

(4) The Committee may determine, by recorded affirmative vote of at least four members, that there is such substantial credible evidence, and also either:

(A) that the violation, if proved, would be sufficiently serious to warrant imposition of one of the severe disciplinary actions listed in paragraph (3); or

(B) that the violation, if proven, is less serious, but was not resolved pursuant to the procedure in paragraph (3). In either case, the Committee shall order that an investigation promptly be conducted in accordance with Rule 5.

RULE 5: PROCEDURES FOR CONDUCTING AN INVESTIGATION

(a) Definition of Investigation: An ''investigation'' is a proceeding undertaken by the Committee, by recorded affirmative vote of at least four members, after a finding on the basis of an initial review that there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within its jurisdiction has occurred.

(b) Scope of Investigation: When the Committee decides to conduct an investigation, it shall be of such duration and scope as is necessary for the Committee to determine whether a violation within its jurisdiction has occurred. In the course of the investigation, designated outside counsel, or if the Committee determines not to use outside counsel, the Committee or its staff, may conduct inquiries or interviews, take sworn statements, use compulsory process as described in Rule 7, or take any other actions that the Committee deems appropriate to secure the evidence necessary to make this determination.

(c) Notice to Respondent: The Committee shall give written notice to any known respondent who is the subject of an investigation. The notice shall be sent to the respondent no later than five working days after the Committee has voted to conduct an investigation. The notice shall include a statement of the nature of the possible violation, and description of the evidence indicating that a possible violation occurred. The Committee shall offer the respondent an opportunity to present a statement or to respond to questions from members of the Committee, the Committee staff, or outside counsel.

(d) Right to a Hearing: The Committee shall accord a respondent an opportunity for a hearing before it recommends disciplinary action against that respondent to the Senate.

(e) Progress Reports to Committee: The Committee staff or outside counsel shall periodically report to the Committee concerning the progress of the investigation. Such reports shall be delivered to the Committee in the form and according to the schedule prescribed by the Committee, and shall be confidential.

(f) Report of Investigation:

(1) Upon completion of an investigation, including any hearings held pursuant to Rule 6, the outside counsel or the staff shall submit a confidential written report to the Committee, which shall detail the factual findings of the investigation and which may recommend disciplinary action, if appropriate. Findings of fact of the investigation shall be detailed in this report whether or not disciplinary action is recommended.

(2) The Committee shall consider the report of the staff or outside counsel promptly following its submission. The Committee shall prepare and submit a report to the Senate, including a recommendation to the Senate concerning disciplinary action, if appropriate. A report shall be issued, stating in detail the Committee's findings of fact, whether or not disciplinary action is recommended. The report shall also explain fully the reasons underlying the Committee's recommendation concerning disciplinary action, if any. No recommendation or resolution of the Committee concerning the investigation of a Member, officer or employee of the Senate may be approved except by the affirmative recorded vote of not less than four members of the Committee.

(3) Promptly, after the conclusion of the investigation, the Committee's report and recommendation shall be forwarded to the Secretary of the Senate, and a copy shall be provided to the complainant and the respondent. The full report and recommendation shall be printed and made public, unless the Committee determines by majority vote that it should remain confidential.

RULE 6: PROCEDURES FOR HEARINGS

(a) Right to Hearing: The Committee may hold a public or executive hearing in any inquiry, initial review, investigation, or other proceeding. The Committee shall accord a respondent an opportunity for a hearing before it recommends disciplinary action against that respondent to the Senate. (See Rule 5(e).)

(b) Non-Public Hearings: The Committee may at any time during a hearing determine in accordance with paragraph 5(b) of Rule XXVI of the Standing Rules of the Senate whether to receive the testimony of specific witnesses in executive session. If a witness desires to express a preference for testifying in public or in executive session, he or she shall so notify the Committee at least five days before he or she is scheduled to testify.

(c) Adjudicatory Hearings: The Committee may, by majority vote, designate any public or executive hearing as an adjudicatory hearing; and, any hearing which is concerned with possible disciplinary action against a respondent or respondents designated by the Committee shall be an adjudicatory hearing. In any adjudicatory hearing, the procedures described in paragraph (i) shall apply.

(d) Subpoena Power: The Committee may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such correspondence, books, papers, documents or other articles as it deems advisable. (See Rule 7.)

(e) Notice of Hearings: The Committee shall make public an announcement of the date, place, and subject matter of any hearing to be conducted by it, in accordance with Rule 1(f).

(f) Presiding Officer: The Chairman shall preside over the hearings, or in his absence the Vice Chairman. If the Vice Chairman is also absent, a Committee member designated by the Chairman shall preside. If an oath or affirmation is required, it shall be administered to a witness by the Presiding Officer, or in his absence, by any Committee member.

(g) Witnesses:

(1) A subpoena or other request to testify shall be served on a witness sufficiently in advance of his or her scheduled appearance to allow the witness a reasonable period of time, as determined by the Committee, to prepare for the hearing and to employ counsel if desired.

(2) The Committee may, by majority vote, rule that no member of the Committee or staff or outside counsel shall make public the name of any witness subpoenaed by the Committee before the date of that witness' scheduled appearance, except as specifically authorized by the Chairman and Vice Chairman, acting jointly.

(3) Any witness desiring to read a prepared or written statement in executive or public hearings shall file a copy of such statement with the Committee at least two working days in advance of the hearing at which the statement is to be presented. The Chairman and Vice Chairman shall determine whether such statements may be read or placed in the record of the hearing.

(4) Insofar as practicable, each witness shall be permitted to present a brief oral opening statement, if he or she desires to do so.

(h) Right To Testify: Any person whose name is mentioned or who is specifically identified or otherwise referred to in testimony or in statements made by a Committee member, staff member or outside counsel, or any witness, and who reasonably believes that the statement tends to adversely affect his or her reputation may—

(1) Request to appear personally before the Committee to testify in his or her own behalf; or

(2) File a sworn statement of facts relevant to the testimony or other evidence or statement of which he or she complained. Such request and such statement shall be submitted to the Committee for its consideration and action.

(i) Conduct of Witnesses and Other Attendees: The Presiding Officer may punish any breaches of order and decorum by censure and exclusion from the hearings. The Committee, by majority vote, may recommend to the Senate that the offender be cited for contempt of Congress.

(j) Adjudicatory Hearing Procedures:

(1) Notice of hearings: A copy of the public announcement of an adjudicatory hearing, required by paragraph (e), shall be furnished together with a copy of these Rules to all witnesses at the time that they are subpoenaed or otherwise summoned to testify.

(2) Preparation for adjudicatory hearings:

(A) At least five working days prior to the commencement of an adjudicatory hearing, the Committee shall provide the following information and documents to the respondent, if any:

(i) a list of proposed witnesses to be called at the hearing;

(ii) copies of all documents expected to be introduced as exhibits at the hearing; and

(iii) a brief statement as to the nature of the testimony expected to be given by each witness to be called at the hearing.

(B) At least two working days prior to the commencement of an adjudicatory hearing, the respondent, if any, shall provide the information and documents described in divisions, (i), (ii) and (iii) of subparagraph (A) to the Committee.

(C) At the discretion of the Committee, the information and documents to be exchanged under this paragraph shall be subject to an appropriate agreement limiting access and disclosure.

(D) If a respondent refuses to provide the information and documents to the Committee (see (A) and (B) of this subparagraph), or if a respondent or other individual violates an agreement limiting access and disclosure, the Committee, by majority vote, may recommend to the Senate that the offender be cited for contempt of Congress.

(3) Swearing of witnesses: All witnesses who testify at adjudicatory hearings shall be sworn unless the Presiding Officer, for good cause, decides that a witness does not have to be sworn.

(4) Right to counsel: Any witness at an adjudicatory hearing may be accompanied by counsel of his or her own choosing, who shall be permitted to advise the witness of his or her legal rights during the testimony.

(5) Right to cross-examine and call witnesses:

(A) In adjudicatory hearings, any respondent who is the subject of an investigation, and any other person who obtains the permission of the Committee, may personally or through counsel cross-examine witnesses called by the Committee and may call witnesses in his or her own behalf.

(B) A respondent may apply to the Committee for the issuance of subpoenas for the appearance of witnesses or the production of documents on his or her behalf. An application shall be approved upon a concise showing by the respondent that the proposed testimony or evidence is relevant and appropriate, as determined by the Chairman and Vice Chairman.

(C) With respect to witnesses called by a respondent, or other individual given permission by the Committee, each such witness shall first be examined by the party who called the witness or by that party's counsel.

(D) At least one working day before a witness' scheduled appearance, a witness or a witness' counsel may submit to the Committee written questions proposed to be asked of that witness. If the Committee determines that it is necessary, such questions may be asked by any member of the Committee, or by any Committee staff member if directed by a Committee member. The witness or witness' counsel may also submit additional sworn testimony for the record

within twenty-four hours after the last day that the witness has testified. The insertion of such testimony in that day's record is subject to the approval of the Chairman and Vice Chairman acting jointly within five days after the testimony is received.

(6) Admissibility of evidence:

(A) The object of the hearing shall be to ascertain the truth. Any evidence that may be relevant and probative shall be admissible, unless privileged under the Federal Rules of Evidence. Rules of evidence shall not be applied strictly but the Presiding Officer shall exclude irrelevant or unduly repetitious testimony. Objections going only to the weight that should be given evidence will not justify its exclusion.

(B) The Presiding Officer shall rule upon any question of the admissibility of testimony or other evidence presented to the Committee. Such rulings shall be final unless reversed or modified by a majority vote of the Committee before the recess of that day's hearings.

(C) Notwithstanding paragraphs (A) and (B), in any matter before the Committee involving allegations of sexual discrimination, including sexual harassment, or sexual misconduct, by a Member, officer, or employee, within the jurisdiction of the Committee, the Committee shall be guided by the standards and procedures of Rule 412 of the Federal Rules of Evidence, except that the Committee may admit evidence subject to the provisions of this paragraph only upon a determination of a majority of the members of the full Committee that the interests of justice require that such evidence be admitted.

(7) Supplementary hearing procedures: The Committee may adopt any additional special hearing procedures that it deems necessary or appropriate to a particular adjudicatory hearing. Copies of such supplementary procedures shall be furnished to witnesses and respondents, and shall be made available upon request to any member of the public.

(k) Transcripts:

(1) An accurate stenographic or recorded transcript shall be made of all public and executive hearings. Any member of the Committee, Committee staff member, outside counsel retained by the Committee, or witness may examine a copy of the transcript retained by the Committee of his or her own remarks and may suggest to the official reporter any typographical or transcription errors. If the reporter declines to make the requested corrections, the member, staff member, outside counsel or witness may request a ruling by the Chairman and Vice Chairman acting jointly. Any member or witness shall return the transcript with suggested corrections to the Committee offices within five working days after receipt of the transcript, or as soon thereafter as is practicable. If the testimony was given in executive session, the member or witness may only inspect the transcript at a location determined by the Chairman and Vice Chairman, acting jointly. Any questions arising with respect to the processing and correction of transcripts shall be decided by the Chairman and Vice Chairman, acting jointly.

(2) Except for the record of a hearing which is closed to the public, each transcript shall be printed as soon as is practicable after receipt of the corrected version. The Chairman and Vice Chairman, acting jointly, may order the transcript of a hearing to be printed without the corrections of a member or witness if they determine that such member or witness has been afforded a reasonable time to correct such transcript and such transcript has not been returned within such time.

(3) The Committee shall furnish each witness, at no cost, one transcript copy of that witness' testimony given at a public hearing. If the testimony was given in executive session, then a transcript copy shall be provided upon request, subject to appropriate conditions and restrictions prescribed by the Chairman and Vice Chairman. If any individual violates such conditions and restrictions, the Committee may recommend by majority vote that he or she be cited for contempt of Congress.

RULE 7: SUBPOENAS AND DEPOSITIONS

(a) Subpoenas:

(1) Authorization for issuance: Subpoenas for the attendance and testimony of witnesses at depositions or hearings, and subpoenas for the production of documents and tangible things at depositions, hearings, or other times and places designated therein, may be authorized for issuance by either (A) a majority vote of the Committee, or (B) the Chairman and Vice Chairman, acting jointly, at any time before a preliminary inquiry, for the purpose of obtaining information to evaluate unsworn allegations or information, or at any time during a preliminary inquiry, initial review, investigation, or other proceeding.

(2) Signature and service: All subpoenas shall be signed by the Chairman or the Vice Chairman and may be served by any person eighteen years of age or older, who is designated by the Chairman or Vice Chairman. Each subpoena shall be served with a copy of the Rules of the Committee and a brief statement of the purpose of the Committee's proceeding.

(3) Withdrawal of subpoena: The Committee, by majority vote, may withdraw any subpoena authorized for issuance by it or authorized for issuance by the Chairman and Vice Chairman, acting jointly. The Chairman and Vice Chairman, acting jointly, may withdraw any subpoena authorized for issuance by them.

(b) Depositions:

(1) Persons authorized to take depositions: Depositions may be taken by any Member of the Committee designated by the Chairman and Vice Chairman, acting jointly, or by any other person designated by the Chairman and Vice Chairman, acting jointly, including outside counsel, Committee staff, other employees of the Senate, or government employees detailed to the Committee.

(2) Deposition notices: Notices for the taking of depositions shall be authorized by the Committee, or the Chairman and Vice Chairman, acting jointly, and issued by the Chairman, Vice Chairman, or a Committee staff member or outside counsel designated by the Chairman and Vice Chairman, acting jointly. Depositions may be taken at any time before a preliminary inquiry, for the purpose of obtaining information to evaluate unsworn allegations or information, or at any time during a preliminary inquiry, initial review, investigation, or other proceeding. Deposition notices shall specify a time and place for examination. Unless otherwise specified, the deposition shall be in private, and the testimony taken and documents produced shall be deemed for the purpose of these rules to have been received in a closed or executive session of the Committee. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness' failure to appear, or to testify, or to produce documents, unless the deposition notice was accompanied by a subpoena authorized for issuance by the Committee, or the Chairman and Vice Chairman, acting jointly.

(3) Counsel at depositions: Witnesses may be accompanied at a deposition by counsel to advise them of their rights.

(4) Deposition procedure: Witnesses at depositions shall be examined upon oath administered by an individual authorized by law to administer oaths, or administered by any Member of the Committee if one is present. Questions may be propounded by any person or persons who are authorized to take depositions for the Committee. If a witness objects to a question and refuses to testify, or refuses to produce a document, any Member of the Committee who is present may rule on the objection and, if the objection is overruled, direct the witness to answer the question or produce the document. If no Member of the Committee is present, the individual who has been designated by the Chairman and Vice Chairman, acting jointly, to take the deposition may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from the Chairman or Vice Chairman of the Committee, who may refer the matter to the Committee or rule on the objection. If the Chairman or Vice Chairman, or the Committee upon referral, overrules the objection, the Chairman, Vice Chairman, or the Committee as the case may be, may direct the witness to answer the question or produce the document. The Committee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to testify or produce documents after having been directed to do so.

(5) Filing of depositions: Deposition testimony shall be transcribed or electronically recorded. If the deposition is transcribed, the individual administering the oath shall certify on the transcript that the witness was duly sworn in his or her presence and the transcriber shall certify that the transcript is a true record of the testimony. The transcript with these certifications shall be filed with the chief clerk of the Committee, and the witness shall be furnished with access to a copy at the Committee's offices for review. Upon inspecting the transcript, within a time limit set by the Chairman and Vice Chairman, acting jointly, a witness may request in writing changes in the transcript to correct errors in transcription. The witness may also bring to the attention of the Committee errors of fact in the witness' testimony by submitting a sworn statement about those facts with a request that it be attached to the transcript. The Chairman and Vice Chairman, acting jointly, may rule on the witness' request, and the changes or attachments allowed shall be certified by the Committee's chief clerk. If the witness fails to make any request under this paragraph within the time limit set, this fact shall be noted by the Committee's chief clerk. Any person authorized by the Committee may stipulate with the witness to changes in this procedure.

RULE 8: VIOLATIONS OF LAW; PERJURY; LEGISLATIVE RECOMMENDATIONS; AND APPLICABLE RULES AND STANDARDS OF CONDUCT

(a) Violations of Law: Whenever the Committee determines by majority vote that there is reason to believe that a violation of law may have occurred, it shall report such possible violation to the proper state and federal authorities.

(b) Perjury: Any person who knowingly and willfully swears falsely to a sworn complaint or any other sworn statement to the Committee does so under penalty of perjury. The Committee may refer any such case to the Attorney General for prosecution.

(c) Legislative Recommendations: The Committee shall recommend to the Senate by report or resolution such additional rules, regulations, or other legislative measures as it determines to be necessary or desirable to ensure proper standards of conduct by Members, officers, or employees of the Senate. The Committee may conduct such inquiries as it deems necessary to prepare such a report or resolution, including the holding of

hearings in public or executive session and the use of subpoenas to compel the attendance of witnesses or the production of materials. The Committee may make legislative recommendations as a result of its findings in an initial review, investigation, or other proceeding.

(d) Applicable Rules and Standards of Conduct:

(1) No initial review or investigation shall be made of an alleged violation of any law, rule, regulation, or provision of the Senate Code of Official Conduct which was not in effect at the time the alleged violation occurred. No provision of the Senate Code of Official Conduct shall apply to, or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code.

(2) The Committee may conduct an initial review or investigation of an alleged violation of a rule or law which was in effect prior to the enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Committee.

RULE 9: PROCEDURES FOR HANDLING COMMITTEE SENSITIVE AND CLASSIFIED MATERIALS

(a) Procedures for Handling Committee Sensitive Materials:

(1) Committee Sensitive information or material is information or material in the possession of the Select Committee on Ethics which pertains to illegal or improper conduct by a present or former Member, officer, or employee of the Senate; to allegations or accusations of such conduct; to any resulting preliminary inquiry, initial review, or investigation by the Select Committee on Ethics into such allegations or conduct; to the investigative techniques and procedures of the Select Committee on Ethics; or to the information or material designated by the staff director, or outside counsel designated by the Chairman and Vice Chairman.

(2) The Chairman and Vice Chairman of the Committee shall establish such procedures as may be necessary to prevent the unauthorized disclosure of Committee Sensitive information in the possession of the Committee or its staff. Procedures for protecting Committee Sensitive materials shall be in writing and shall be given to each Committee staff member.

(b) Procedures for Handling Classified Materials:

(1) Classified information or material is information or material which is specifically designated as classified under the authority of Executive Order 11652 requiring protection of such information or material from unauthorized disclosure in order to prevent damage to the United States.

(2) The Chairman and Vice Chairman of the Committee shall establish such procedures as may be necessary to prevent the unauthorized disclosure of classified information in the possession of the Committee or its staff. Procedure for handling such information shall be in writing and a copy of the procedures shall be given to each staff member cleared for access to classified information.

(3) Each member of the Committee shall have access to classified material in the Committee's possession. Only Committee staff members with appropriate security clearances and a need-to-know, as approved by the Chairman and Vice Chairman, acting jointly, shall have access to classified information in the Committee's possession.

(c) Procedures for Handling Committee Sensitive and Classified Documents:

(1) Committee Sensitive documents and materials shall be stored in the Committee's offices, with appropriate safeguards for maintaining the security of such documents or materials. Classified documents and materials shall be further segregated in the Committee's offices in secure filing safes. Removal from the Committee offices of such documents or materials is prohibited except as necessary for use in, or preparation for, interviews or Committee meetings, including the taking of testimony, or as otherwise specifically approved by the staff director or by outside counsel designated by the Chairman and Vice Chairman.

(2) Each Member of the Committee shall have access to all materials in the Committee's possession. The staffs of Members shall not have access to Committee Sensitive or classified documents and materials without the specific approval in each instance of the Chairman, and Vice Chairman, acting jointly. Members may examine such materials in the Committee's offices. If necessary, requested materials may be hand delivered by a member of the Committee staff to the Member of the Committee, or to a staff person(s) specifically designated by the Member, for the Member's or designated staffer's examination. A Member of the Committee who has possession of Committee Sensitive documents or materials shall take appropriate safeguards for maintaining the security of such documents or materials in the possession of the Member or his or her designated staffer.

(3) Committee Sensitive documents that are provided to a Member of the Senate in connection with a complaint that has been filed against the Member shall be hand delivered to the Member or to the Member's Chief of Staff or Administrative Assistant. Committee Sensitive documents that are provided to a Member of the Senate who is the subject of a preliminary inquiry, an initial review, or an investigation, shall be hand delivered to the Member or to his or her specifically designated representative.

(4) Any Member of the Senate who is not a member of the Committee and who seeks access to any Committee Sensitive or classified documents or materials, other than documents or materials which are matters of public record, shall request access in writing. The Committee shall decide by majority vote whether to make documents or materials available. If access is granted, the Member shall not disclose the information except as authorized by the Committee.

(5) Whenever the Committee makes Committee Sensitive or classified documents or materials available to any Member of the Senate who is not a member of the Committee, or to a staff person of a Committee member in response to a specific request to the Chairman and Vice Chairman, a written record shall be made identifying the Member of the Senate requesting such documents or materials and describing what was made available and to whom.

(d) Non-Disclosure Policy and Agreement:

(1) Except as provided in the last sentence of this paragraph, no member of the Select Committee on Ethics, its staff or any person engaged by contract or otherwise to perform services for the Select Committee on Ethics shall release, divulge, publish, reveal by writing, word, conduct, or disclose in any way, in whole, or in part, or by way of summary, during tenure with the Select Committee on Ethics or anytime thereafter, any testimony given before the Select Committee on Ethics in executive session (including the name of any witness who appeared or was called to appear in executive session), any classified or Committee Sensitive information, document or material, received or generated by the Select Committee on Ethics or any classified or Committee Sensitive information which may come into the possession of such person during tenure with the Select Committee on Ethics or its staff. Such information, documents, or material may be released to an official of the executive branch properly cleared for access with a need-to-know, for any purpose or in connection with any proceeding, judicial or otherwise, as authorized by the Select Committee on Ethics, or in the event of termination of the Select Committee on Ethics, in such a manner as may be determined by its successor or by the Senate.

(2) No member of the Select Committee on Ethics staff or any person engaged by contract or otherwise to perform services for the Select Committee on Ethics, shall be granted access to classified or Committee Sensitive information or material in the possession of the Select Committee on Ethics unless and until such person agrees in writing, as a condition of employment, to the nondisclosure policy. The agreement shall become effective when signed by the Chairman and Vice Chairman on behalf of the Committee.

RULE 10: BROADCASTING AND NEWS COVERAGE OF COMMITTEE PROCEEDINGS

(a) Whenever any hearing or meeting of the Committee is open to the public, the Committee shall permit that hearing or meeting to be covered in whole or in part, by television broadcast, radio broadcast, still photography, or by any other methods of coverage, unless the Committee decides by majority vote that such coverage is not appropriate at a particular hearing or meeting.

(b) Any witness served with a subpoena by the Committee may request not to be photographed at any hearing or to give evidence or testimony while the broadcasting, reproduction, or coverage of that hearing, by radio, television, still photography, or other methods is occurring. At the request of any such witness who does not wish to be subjected to radio, television, still photography, or other methods of coverage, and subject to the approval of the Committee, all lenses shall be covered and all microphones used for coverage turned off.

(c) If coverage is permitted, it shall be in accordance with the following requirements:

(1) Photographers and reporters using mechanical recording, filming, or broadcasting apparatus shall position their equipment so as not to interfere with the seating, vision, and hearing of the Committee members and staff, or with the orderly process of the meeting or hearing.

(2) If the television or radio coverage of the hearing or meeting is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.

(3) Personnel providing coverage by the television and radio media shall be currently accredited to the Radio and Television Correspondents' Galleries.

(4) Personnel providing coverage by still photography shall be currently accredited to the Press Photographers' Gallery Committee of Press Photographers.

(5) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and the coverage activities in an orderly and unobtrusive manner.

RULE 11: PROCEDURES FOR ADVISORY OPINIONS

(a) When Advisory Opinions Are Rendered:

(1) The Committee shall render an advisory opinion, in writing within a reasonable time, in response to a written request by a Member or officer of the Senate or a candidate for nomination for election, or election to the Senate, concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within the Committee's jurisdiction, to a specific

factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(2) The Committee may issue an advisory opinion in writing within a reasonable time in response to a written request by any employee of the Senate concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within the Committee's jurisdiction, to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(b) Form of Request: A request for an advisory opinion shall be directed in writing to the Chairman of the Committee and shall include a complete and accurate statement of the specific factual situation with respect to which the request is made as well as the specific question or questions which the requestor wishes the Committee to address.

(c) Opportunity for Comment:

(1) The Committee will provide an opportunity for any interested party to comment on a request for an advisory opinion—

(A) which requires an interpretation on a significant question of first impression that will affect more than a few individuals; or

(B) when the Committee determines that comments from interested parties would be of assistance.

(2) Notice of any such request for an advisory opinion shall be published in the Congressional Record, with appropriate deletions to insure confidentiality, and interested parties will be asked to submit their comments in writing to the Committee within ten days.

(3) All relevant comments received on a timely basis will be considered.

(d) Issuance of an Advisory Opinion:

(1) The Committee staff shall prepare a proposed advisory opinion in draft form which will first be reviewed and approved by the Chairman and Vice Chairman, acting jointly, and will be presented to the Committee for final action. If (A) the Chairman and Vice Chairman cannot agree, or (B) either the Chairman or Vice Chairman requests that it be taken directly to the Committee, then the proposed advisory opinion shall be referred to the Committee for its decision.

(2) An advisory opinion shall be issued only by the affirmative recorded vote of a majority of the members voting.

(3) Each advisory opinion issued by the Committee shall be promptly transmitted for publication in the Congressional Record after appropriate deletions are made to insure confidentiality. The Committee may at any time revise, withdraw, or elaborate on any advisory opinion.

(e) Reliance on Advisory Opinions:

(1) Any advisory opinion issued by the Committee under Senate Resolution 338, 88th Congress, as amended, and the rules may be relied upon by—

(A) Any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered if the request for such advisory opinion included a complete and accurate statement of the specific factual situation; and

(B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(2) Any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of Senate Resolution 338, 88th Congress, as amended, and of the rules, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction by the Senate.

RULE 12: PROCEDURES FOR INTERPRETATIVE RULINGS

(a) Basis for Interpretative Rulings: Senate Resolution 338, 88th Congress, as amended, authorizes the Committee to issue interpretative rulings explaining and clarifying the application of any law, the Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction. The Committee also may issue such rulings clarifying or explaining any rule or regulation of the Select Committee on Ethics.

(b) Request for Ruling: A request for such a ruling must be directed in writing to the Chairman or Vice Chairman of the Committee.

(c) Adoption of Ruling:

(1) The Chairman and Vice Chairman, acting jointly, shall issue a written interpretive ruling in response to any such request, unless-

(A) they cannot agree,

(B) it requires an interpretation of a significant question of first impression, or

(C) either requests that it be taken to the Committee, in which event the request shall be directed to the Committee for a ruling.

(2) A ruling on any request taken to the Committee under subparagraph (1) shall be adopted by a majority of the members voting and the ruling shall then be issued by the Chairman and Vice Chairman.

(d) Publication of Ruling: The Committee will publish in the Congressional Record, after making appropriate deletions to ensure confidentiality, any interpretative rulings issued under this Rule which the Committee determines may be of assistance or guidance to other Members, officers or employees. The Committee may at any time revise, withdraw, or elaborate on interpretative rulings.

(e) Reliance on Rulings: Whenever an individual can demonstrate to the Committee's satisfaction that his or her conduct was in good faith reliance on an interpretative ruling issued in accordance with this Rule, the Committee will not recommend sanctions to the Senate as a result of such conduct.

(f) Rulings by Committee Staff: The Committee staff is not authorized to make rulings or give advice, orally or in writing, which binds the Committee in any way.

RULE 13: PROCEDURES FOR COMPLAINTS INVOLVING IMPROPER USE OF THE MAILING FRANK

(a) Authority To Receive Complaints: The Committee is directed by section 6(b) of Public Law 93-191 to receive and dispose of complaints that a violation of the use of the mailing frank has occurred or is about to occur by a Member or officer of the Senate or by a surviving spouse of a Member. All such complaints will be processed in accordance with the provisions of these Rules, except as provided in paragraph (b).

(b) Disposition of Complaints:

(1) The Committee may dispose of any such complaint by requiring restitution of the cost of the mailing if it finds that the franking violation was the result of a mistake.

(2) Any complaint disposed of by restitution that is made after the Committee has formally commenced an initial review or investigation, must be summarized, together with the disposition, in a notice promptly transmitted for publication in the Congressional Record.

(3) If a complaint is disposed of by restitution, the complainant, if any, shall be notified of the disposition in writing.

(c) Advisory Opinions and Interpretative Rulings: Requests for advisory opinions or interpretative rulings involving franking questions shall be processed in accordance with Rules 11 and 12.

RULE 14: PROCEDURES FOR WAIVERS

(a) Authority for Waivers: The Committee is authorized to grant a waiver under the following provisions of the Standing Rules of the Senate:

(1) Section 101(i) of the Ethics in Government Act of 1978, as amended (Rule XXXIV), relating to the filing of financial disclosure reports by individuals who are expected to perform or who have performed the duties of their offices or positions for less than one hundred and thirty days in a calendar year;

(2) Section 102(a)(2)(C) of the Ethics in Government Act, as amended (Rule XXXIV), relating to the reporting of gifts;

(3) Paragraph 1 of Rule XXXV relating to acceptance of gifts; or

(4) Paragraph 5 of Rule XLI relating to applicability of any of the provisions of the Code of Official Conduct to an employee of the Senate hired on a per diem basis.

(b) Requests for Waivers: A request for a waiver under paragraph (a) must be directed to the Chairman or Vice Chairman in writing and must specify the nature of the waiver being sought and explain in detail the facts alleged to justify a waiver. In the case of a request submitted by an employee, the views of his or her supervisor (as determined under paragraph 12 of Rule XXXVII of the Standing Rules of the Senate) should be included with the waiver request.

(c) Ruling: The Committee shall rule on a waiver request by recorded vote, with a majority of those voting affirming the decision. With respect to an individual's request for a waiver in connection with the acceptance or reporting the value of gifts on the occasion of the individual's marriage, the Chairman and the Vice Chairman, acting jointly, may rule on the waiver.

(d) Availability of Waiver Determinations: A brief description of any waiver granted by the Committee, with appropriate deletions to ensure confidentiality, shall be made available for review upon request in the Committee office. Waivers granted by the Committee pursuant to the Ethics in Government Act of 1978, as amended, may only be granted pursuant to a publicly available request as required by the Act.

RULE 15: DEFINITION OF ''OFFICER OR EMPLOYEE''

(a) As used in the applicable resolutions and in these rules and procedures, the term ''officer or employee of the Senate'' means:

(1) An elected officer of the Senate who is not a Member of the Senate;

(2) An employee of the Senate, any committee or subcommittee of the Senate, or any Member of the Senate;

(3) The Legislative Counsel of the Senate or any employee of his office;

(4) An Official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties;

(5) A member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate;

(6) An employee of the Vice President, if such employee's compensation is disbursed by the Secretary of the Senate;

(7) An employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate;

(8) An officer or employee of any department or agency of the Federal Government whose services are being utilized on a full-time and continuing basis by a Member, officer, employee, or committee of the Senate in accordance with Rule XLI(3) of the Standing Rules of the Senate; and

(9) Any other individual whose full-time services are utilized for more than ninety days in a calendar year by a Member, officer, employee, or committee of the Senate in the conduct of official duties in accordance with Rule XLI(4) of the Standing Rules of the Senate.

RULE 16: COMMITTEE STAFF

(a) Committee Policy:

(1) The staff is to be assembled and retained as a permanent, professional, nonpartisan staff.

(2) Each member of the staff shall be professional and demonstrably qualified for the position for which he or she is hired.

(3) The staff as a whole and each member of the staff shall perform all official duties in a nonpartisan manner.

(4) No member of the staff shall engage in any partisan political activity directly affecting any congressional or presidential election.

(5) No member of the staff or outside counsel may accept public speaking engagements or write for publication on any subject that is in any way related to his or her employment or duties with the Committee without specific advance permission from the Chairman and Vice Chairman.

(6) No member of the staff may make public, without Committee approval, any Committee Sensitive or classified information, documents, or other material obtained during the course of his or her employment with the Committee.

(b) Appointment of Staff:

(1) The appointment of all staff members shall be approved by the Chairman and Vice Chairman, acting jointly.

(2) The Committee may determine by majority vote that it is necessary to retain staff members, including a staff recommended by a special counsel, for the purpose of a particular initial review, investigation, or other proceeding. Such staff shall be retained only for the duration of that particular undertaking.

(3) The Committee is authorized to retain and compensate counsel not employed by the Senate (or by any department or agency of the Executive Branch of the Government) whenever the Committee determines that the retention of outside counsel is necessary or appropriate for any action regarding any complaint or allegation, initial review, investigation, or other proceeding, which in the determination of the Committee, is more appropriately conducted by counsel not employed by the Government of the United States as a regular employee. The Committee shall retain and compensate outside counsel to conduct any investigation undertaken after an initial review of a sworn complaint, unless the Committee determines that the use of outside counsel is not appropriate in the particular case.

(c) Dismissal of Staff: A staff member may not be removed for partisan, political reasons, or merely as a consequence of the rotation of the Committee membership. The Chairman and Vice Chairman, acting jointly, shall approve the dismissal of any staff member.

(d) Staff Works for Committee as a Whole: All staff employed by the Committee or housed in Committee offices shall work for the Committee as a whole, under the general direction of the Chairman and Vice Chairman, and the immediate direction of the staff director or outside counsel.

(e) Notice of Summons To Testify: Each member of the Committee staff shall immediately notify the Committee in the event that he or she is called upon by a properly constituted authority to testify or provide confidential information obtained as a result of and during his or her employment with the Committee.

RULE 17: CHANGES IN SUPPLEMENTARY PROCEDURAL RULES

(a) Adoption of Changes in Supplementary Rules: The Rules of the Committee, other than rules established by statute, or by the Standing Rules and Standing Orders of the Senate, may be modified, amended, or suspended at any time, pursuant to a majority vote of the entire membership taken at a meeting called with due notice when prior written notice of the proposed change has been provided each member of the Committee.

(b) Publication: Any amendments adopted to the Rules of this Committee shall be published in the Congressional Record in accordance with Rule XXVI(2) of the Standing Rules of the Senate.

SELECT COMMITTEE ON ETHICS

PART III—SUBJECT MATTER JURISDICTION

Following are sources of the subject matter jurisdiction of the Select Committee:

(a) The Senate Code of Official Conduct approved by the Senate in Title I of S. Res. 110, 95th Congress, April 1, 1977, and stated in Rules 34 through 43 of the Standing Rules of the Senate;

(b) Senate Resolution 338, 88th Congress, as amended, which states, among others, the duties to receive complaints and investigate allegations of improper conduct which may reflect on the Senate, violations of law, violations of the Senate Code of Official Conduct and violations of rules and regulations of the Senate; recommend disciplinary action; and recommended additional Senate Rules or regulations to insure proper standards of conduct;

(c) Residual portions of Standing Rules 41, 42, 43 and 44 of the Senate as they existed on the day prior to the amendments made by Title I of S. Res. 110;

(d) Public Law 93–191 relating to the use of the mail franking privilege by Senators, officers of the Senate; and surviving spouses of Senators;

(e) Senate Resolution 400, 94th Congress, Section 8, relating to unauthorized disclosure of classified intelligence information in the possession of the Select Committee on Intelligence;

(f) Public Law 95–105, Section 515, relating to the receipt and disposition of foreign gifts and decorations received by Senate members, officers and employees and their spouses or dependents;

(g) Preamble to Senate Resolution 266, 90th Congress, 2d Session, March 22, 1968; and

(h) The Code of Ethics for Government Service, H. Con. Res. 175, 85th Congress, 2d Session, July 11, 1958 (72 Stat. B12). Except that S. Res. 338, as amended by Section 202 of S. Res. 110 (April 2, 1977), provides:

''(g) Notwithstanding any other provision of this section, no initial review or investigation shall be made of any alleged violation of any law, the Senate Code of Official Conduct, rule, or regulation which was not in effect at the time the alleged violation occurred. No provision of the Senate Code of Official Conduct shall apply to or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code. The Select Committee may conduct an initial review or investigation of any alleged violation of a rule or law which was in effect prior to the enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Select Committee.

APPENDIX A—OPEN AND CLOSED MEETINGS

Paragraphs 5 (b) to (d) of Rule XXVI of the Standing Rules of the Senate read as follows:

(b) Each meeting of a standing, select, or special committee of the Senate, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by a committee or a subcommittee thereof on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in classes (1) through (6) would require the meeting to be closed followed immediately by a record vote in open session by a majority of the members of the committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identify of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

(c) Whenever any hearing conducted by any such committee or subcommittee is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee or subcommittee may adopt.

(d) Whenever disorder arises during a committee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance at any such meeting, it shall be the duty of the Chair to enforce order on his own initiative and without any point of order being made by a Senator. When the Chair finds it necessary to maintain order, he shall have the power to clear the room, and the committee may act in closed session for so long as there is doubt of the assurance of order.

APPENDIX B—''SUPERVISORS'' DEFINED

Paragraph 12 of Rule XXXVII of the Standing Rules of the Senate reads as follows:

For purposes of this rule—

(a) a Senator or the Vice President is the supervisor of his administrative, clerical, or other assistants;

(b) a Senator who is the chairman of a committee is the supervisor of the professional, clerical, or other assistants to the committee except that minority staff members shall be under the supervision of the ranking minority Senator on the committee;

(c) a Senator who is a chairman of a subcommittee which has its own staff and financial authorization is the supervisor of the professional, clerical, or other assistants to the subcommittee except that minority staff members shall be under the supervision of the ranking minority Senator on the subcommittee;

(d) the President pro tempore is the supervisor of the Secretary of the Senate, Sergeant at Arms and Doorkeeper, the Chaplain, the Legislative Counsel, and the employees of the Office of the Legislative Counsel;

(e) the Secretary of the Senate is the supervisor of the employees of his office;

(f) the Sergeant at Arms and Doorkeeper is the supervisor of the employees of his office;

(g) the Majority and Minority Leaders and the Majority and Minority Whips are the supervisors of the research, clerical, and other assistants assigned to their respective offices;

(h) the Majority Leader is the supervisor of the Secretary for the Majority and the Secretary for the Majority is the supervisor of the employees of his office; and

(i) the Minority Leader is the supervisor of the Secretary for the Minority and the Secretary for the Minority is the supervisor of the employees of his office.●

FOOTNOTES

[1] As amended by S. Res. 4, 95th Cong., 1st Sess. (1970), S. Res. 110, 95th Cong., 1st Sess. (1977), S. Res. 204, 95th Cong., 1st Sess. (1977), S. Res. 230, 95th Cong., 1st Sess. (1977), S. Res. 312, 95th Cong., 1st Sess. (1977), S. Res. 78, 97th Cong., 1st Sess. (1981).

[2] Changed by S. Res. 78 (February 24, 1981).

[3] Added by S. Res. 110 (April 2, 1977).

[4] Added by Section 201 of S. Res. 110 (April 2, 1977).

[5] Added by Section 205 of S. Res. 110 (April 2, 1977).

[6] Added by Section 202 of S. Res. 110 (April 2, 1977).

[7] Changed by Section 202 of S. Res. 110 (April 2, 1977).

[8] Added by Section 204 of S. Res. 110 (April 2, 1977).

[9] Added by S. Res. 230 (July 25, 1977).

[10] Added by Section 204 of S. Res. 110 (April 2, 1977).

[11] Changed by Section 204 of S. Res. 110 (April 2, 1977).

[12] Section added by S. Res. 312 (Nov. 1, 1977).

[13] Section added by Section 206 of S. Res. 110 (April 2, 1977).

TRIBUTE TO CHARLES MANDEL

● Mr. TORRICELLI. Mr. President, I rise today to recognize the remarkable accomplishments of Charles Mandel as he prepares to receive the Chaver Award from the Highland Park Conservative Temple and Center. Charlie was born in Jersey City, where he graduated from William L. Dickson High School in 1935. He then went on to graduate from Rutgers University with a degree in ceramic engineering in 1939. For the next 42 years, Charlie worked as a plant manager and ceramic engineer with the Willett Company. Following his retirement, Charlie has continued to serve as a consulting engineer for New Jersey Porcelain Company and Lenape Products Company in Trenton, New Jersey.

Charlie has been affiliated with the temple since 1953. After officially joining the temple in January 1955, he was appointed Gabbai and continues as Senior Gabbai to this day. Charlie has also served on the Bimah with every temple President from Harry Kroll to the current President, Ed Guttenplan. In addition to these duties, Charlie has played an integral role in the temple's daily management. He was elected to the Temple Board of Trustees in 1955 and has remained there continuously, as a Trustee, Recording Secretary and Financial Secretary. In recognition of his loyalty and commitment, he was granted Honorary Life Membership to the Board of Trustees, a position held by only four other people.

Charlie has been active on the Religious Committee, House Committee, Bazaar Committee, and has had the unique experiences of serving on the Rabbinical Search Committees for both Rabbi Yakov Hilsenrath and Rabbi Eliot Malomet. In addition, he was chairman of the Special Fund Raising Committee for forty years. The Special Fund Raising Committee has long been a euphemism for Bingo, which balanced the budget for forty years. Charlie's dedication to managing Bingo resulted in his giving up a myriad of social and family functions on Tuesday evenings.

There probably is not an inch of the temple building that has not benefitted from Charlie's commitment and dedication. He has always been willing to give himself to the temple in any capacity whenever and wherever called upon. The entire temple community has been enriched by Charlie's presence, and they are grateful for his support through the years.●

APPOINTMENT BY THE DEMOCRATIC LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Democratic Leader, pursuant to Public Law 105–277, announces the appointment of the following individuals to serve as members of the Parents Advisory Council on Youth Drug Abuse: Darcy L. Jensen, of South Dakota (Representative of Non-Profit Organization), and Dr. Lynn McDonald, of Wisconsin.

MEASURE READ THE FIRST TIME—S.J. Res. 11

Mr. JEFFORDS. I understand that S.J. Res. 11, which was introduced earlier today by Senator SMITH of New Hampshire, is at the desk, and I ask that it be read for the first time.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows.

A joint resolution (S.J. Res. 11) prohibiting the use of funds for military operations in the Federal Republic of Yugoslavia (Serbia and Montenegro) unless Congress enacts specific authorization in law for the conduct of those operations.

Mr. JEFFORDS. I now ask for its second reading, and I would object to my own request.

The PRESIDING OFFICER. Objection is heard.

RESTORATION OF MANAGEMENT AND PERSONNEL AUTHORITY OF THE MAYOR OF THE DISTRICT OF COLUMBIA

Mr. JEFFORDS. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 433, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 433) to restore the management and personnel authority of the Mayor of the District of Columbia.

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

Mr. JEFFORDS. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid on 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. 433) was read the third time and passed.

ORDERS FOR WEDNESDAY, FEBRUARY 24, 1999

Mr. JEFFORDS. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, February 24. I further ask consent that on Wednesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved, and the Senate then resume consideration of S. 4, the military bill of rights act.

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

Mr. JEFFORDS. I further ask unanimous consent that the time until 9:45 a.m. be equally divided between the chairman and ranking member, and following that debate the Senate proceed to vote on or in relation to the Sarbanes-Warner amendment regarding civilian pay, to be followed immediately by a vote on or in relation to the Cleland amendment regarding Thrift Savings. Finally, I ask unanimous consent that no second-degree amendments be in order to the Warner and Cleland amendments prior to the votes.

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

PROGRAM

Mr. JEFFORDS. For the information of all Senators, the Senate will reconvene tomorrow morning at 9:30 and, following a short period of debate, will proceed to the two back-to-back rollcall votes. The first vote on or in relation to the Sarbanes-Warner amendment will occur at 9:45 a.m., to be immediately followed by a rollcall vote on or in relation to the Cleland amendment. Following those votes, the Senate will continue consideration of S. 4. Rollcall votes are expected throughout Wednesday's session and into the evening as the Senate attempts to complete action on the bill.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. JEFFORDS. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:26 p.m., adjourned until Wednesday, February 24, 1999, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate February 23, 1999:

UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

PAULA J. DOBRIANSKY, OF VIRGINIA, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 2001. (REAPPOINTMENT)

EXECUTIVE OFFICE OF THE PRESIDENT

GEORGE T. FRAMPTON, JR., OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE COUNCIL ON ENVIRONMENTAL QUALITY, VICE KATHLEEN A. MCGINTY, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. WILLIAM C. JONES, JR., 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. MICHAEL V. HAYDEN, 0000.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. ALAN D. JOHNSON, 0000.

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. REGINALD A. CENTRACCHIO, 0000.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. EDWARD J. FAHY, JR., 0000.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) DANIEL R. BOWLER, 0000.
REAR ADM. (LH) JOHN E. BOYINGTON, JR., 0000.
REAR ADM. (LH) JOHN V. CHENEVEY, 0000.
REAR ADM. (LH) ALBERT T. CHURCH, III, 0000.
REAR ADM. (LH) JOHN P. DAVIS, 0000.
REAR ADM. (LH) JOHN B. FOLEY, III, 0000.
REAR ADM. (LH) VERONICA A. FROMAN, 0000.
REAR ADM. (LH) KEVIN P. GREEN, 0000.
REAR ADM. (LH) ALFRED G. HARMS, JR., 0000.
REAR ADM. (LH) JOHN M. JOHNSON, 0000.
REAR ADM. (LH) TIMOTHY J. KEATING, 0000.
REAR ADM. (LH) ROLAND B. KNAPP, 0000.
REAR ADM. (LH) TIMOTHY W. LAFLEUR, 0000.
REAR ADM. (LH) JAMES W. METZGER, 0000.
REAR ADM. (LH) RICHARD J. NAUGHTON, 0000.
REAR ADM. (LH) JOHN B. PADGETT, 0000.
REAR ADM. (LH) KATHLEEN K. PAIGE, 0000.
REAR ADM. (LH) DAVID P. POLATTY, III, 0000.
REAR ADM. (LH) RONALD A. ROUTE, 0000.
REAR ADM. (LH) STEVEN G. SMITH, 0000.
REAR ADM. (LH) RALPH E. SUGGS, 0000.
REAR ADM. (LH) PAUL F. SULLIVAN, 0000.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

CAPTAIN NICHOLAS A. PRAHL, NOAA FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL (0–7), WHILE SERVING IN A POSITION OF IMPORTANCE AND RESPONSIBILITY AS DIRECTOR, ATLANTIC AND PACIFIC MARINE CENTERS, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, UNDER THE PROVISIONS OF TITLE 33, UNITED STATES CODE, SECTION 853U.

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS ONE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

CONSTANCE A. CARRINO, OF THE DISTRICT OF COLUMBIA
MICHAEL E. HASE, OF OREGON
CAROL PAYNE, OF WASHINGTON
JOHN KENT SCALES, OF VIRGINIA

DEPARTMENT OF STATE

HARRY ARTHUR BLANCHETTE, OF FLORIDA
SAMUEL ANTHONY RUBINO, OF NEW HAMPSHIRE

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

TIMOTHY THOMAS BEANS, OF VIRGINIA
ROSS EDGAR BIGELOW, OF TEXAS
REBECCA RANDOLF WALLACE BLACK, OF CALIFORNIA
LARRY HALL BRADY, OF WYOMING
SCOT J. CONVERT, OF MICHIGAN
WOLFGANG HOPPE, OF FLORIDA
THOMAS EDWARDS JOHNSON, JR., OF CALIFORNIA
KRISTIN K. LOKEN, OF FLORIDA
ANGELA FRANKLIN LORD, OF MARYLAND
LLOYD JENS MILLER, OF VIRGINIA
JOHN RUSSELL POWER, OF VIRGINIA
DENNIS SHARMA, OF FLORIDA

DEPARTMENT OF STATE

CATHERINE I. EBERT-GRAY, OF COLORADO
ALBERTA G.J. MAYBERRY, OF OKLAHOMA
CHRISTOPHER LEE STILLMAN, OF CONNECTICUT

UNITED STATES INFORMATION AGENCY

MARSHALL R. LOUIS, JR., OF MAINE
MICHAEL G. STEVENS, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

TIMOTHY GRAHAM ALEXANDER, OF CALIFORNIA
JAMES C. ATHANAS, OF MARYLAND
DOUGLAS H. BALL, OF OREGON
CHRISTIAN BARRATT, OF WASHINGTON
COURTNEY BROOKE BLAIR, OF GEORGIA
DON J. BRADY, OF FLORIDA
CYNTHIA S. CHASSY, OF NEW YORK
DOUGLAS HOWARD CONDON, OF CALIFORNIA
STEVEN T. COWPER, OF CALIFORNIA
KATHERINE A. CRAWFORD, OF MARYLAND
ALEXANDRE DEPREZ, OF MISSOURI
SCOTT GORDON DOBBERSTEIN, OF MINNESOTA
RAYMOND L. ELDER, OF WASHINGTON
CHRISTOPHER WHEATLEY EDWARDS, OF MARYLAND
WILLIAM STEWART FOERDERER, OF FLORIDA
SUSAN FRENCH FINE, OF CONNECTICUT
ALONZO L. FULGHAM, OF ILLINOIS
STEPHANIE A. FUNK, OF PENNSYLVANIA
MEREDITH A. GIORDANO, OF WASHINGTON
DEBORAH LYNN GRIESER, OF ILLINOIS
THOMAS EDWARD HAND, OF TENNESSEE
ROBERT RICHARD HANSEN, OF VIRGINIA
MARK S. HUNTER, OF TENNESSEE
BROOKE ANDREA ISHAM, OF WASHINGTON
CHERYL GAZELLE JENNINGS, OF WASHINGTON
MATTHEW W. JOHNSTON, OF WASHINGTON
KAMRAN M. KHAN, OF VIRGINIA
MELISSA KNIGHT, OF FLORIDA
MARIA RENDON LABADAN, OF FLORIDA
CHARLES LERMAN, OF ARIZONA
GARY BATES LINDEN, OF TEXAS
DANA ROGSTAD MANSURI, OF WASHINGTON
T. CHRISTOPHER MILLIGAN, OF THE DISTRICT OF COLUMBIA
PETER R. NATIELLO, OF NEW JERSEY
ANNE ELIZABETH PATTERSON, OF SOUTH CAROLINA
MICHAEL W. RADMANN, OF TEXAS
SUSAN GAIL REICHLE, OF FLORIDA
OSVALDO M. DE LA ROSA, OF FLORIDA
DONELLA J. RUSSELL, OF OREGON
MICHELE SCHIMPP, OF VIRGINIA
JOHN H. SEONG, OF CONNECTICUT
MERI LOUISE SINNITT, OF WASHINGTON
DANIEL M. SMOLKA, OF WEST VIRGINIA
PHILLIP TRESCH, OF COLORADO
DEAN JEFFREY WALTER, OF NEW JERSEY
GAIL H. WARSHAW, OF VIRGINIA
JAMES E. WATSON, II, OF VIRGINIA
JOHN MARK WINFIELD, OF MARYLAND

UNITED STATES INFORMATION AGENCY

JANE S. ROSS, OF THE DISTRICT OF COLUMBIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

JORGAN KENDAL ANDREWS, OF COLORADO
ERIC BARBORIAK, OF WISCONSIN
AMBER MICHELE BASKETTE, OF FLORIDA
STEVEN F. BRAULT, OF WASHINGTON
IAN P. CAMPBELL, OF CALIFORNIA
ERIC JOHN CARLSON, OF TEXAS
THEODORE R. COLEY, OF PENNSYLVANIA
THOMAS EDWARD DALEY, OF ILLINOIS
LORI PETERSON DANDO, OF MINNESOTA
DARI LEIGH DARNELL, OF VIRGINIA
J.A. DIFFILY, OF CALIFORNIA
PETER THOMAS ECKSTROM, OF MINNESOTA
MATTHEW ARNOLD FINSTON, OF ILLINOIS
DAVID WILLIAM FRANZ, OF ILLINOIS
CALLI FULLER, OF TEXAS
CLEMENT R. GAGNE, III, OF VERMONT
J. MARINDA HARPOLE, OF THE DISTRICT OF COLUMBIA
MARGARET R. HORAN, OF THE DISTRICT OF COLUMBIA
M. ALLISON INSLEY, OF FLORIDA
RICHARD M. JOHANNSEN, OF ALASKA
REBECCA J. KING, OF NEW JERSEY
JAN LEVIN, OF NEW YORK
JAMES DAVID LOVELAND, OF UTAH
ERVIN JOSE MASSINGA, OF WASHINGTON
IAN J. MCCARY, OF VIRGINIA
BRETT GEORGE POMAINVILLE, OF COLORADO
STEVEN C. RICE, OF WYOMING
ROBERT JOHN RILEY, OF WASHINGTON
JULES DAMIAN SILBERBERG, OF TEXAS
LAUREL ELAINE STEELE, OF CALIFORNIA
PETER THORIN, OF WASHINGTON
ALAN CURTIS WONG, OF CALIFORNIA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF 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:

DANIEL J. ACOSTA, JR., OF CALIFORNIA
ANGELA PRICE AGGELER, OF THE DISTRICT OF COLUMBIA
ERIC C. ANDERSON, OF ILLINOIS
MITCHEL I. AUERBACH, OF FLORIDA
VALERIA AUSTIN, OF MARYLAND
LORI ELLEN BALBI, OF OREGON
KATIA JANE BENNETT, OF IOWA
CAITLIN DOROTHY BERGIN, OF NEW HAMPSHIRE
CHRISTOPHER A. BOWERS, OF VIRGINIA
JOHN DANIEL BOYLL, OF TEXAS
SUSAN E. BRATT-PFOTENHAUER, OF MARYLAND
CARLETON MYLES BULKIN, OF CALIFORNIA
KAREN BURKETT, OF VIRGINIA
DEANGELA JENISE BURNS, OF MISSOURI
TIMOTHY E. BURTON, OF VIRGINIA
JIMMY E. BYARS, OF VIRGINIA
MARK JOSEPH CASSAYRE, OF CALIFORNIA
ALLISON S. CHEMERYS, OF VIRGINIA
SUZY K. CLAIR, OF VIRGINIA
STEPHEN B. CLAY, OF VIRGINIA
JOANNE D. COLLINS, OF MARYLAND
JAMES M. COMSTOCK, OF VIRGINIA
JOHN D. COVINGTON, OF VIRGINIA
WILLIAM F. CRIMMINS, OF VIRGINIA
WILLIAM B. CSAJKOWSKI, OF ILLINOIS
CANDIS L. CUNNINGHAM, OF FLORIDA
MICHELE J. DASTIN-VAN RIJN, OF MARYLAND
SABRINA DESOUSA, OF VIRGINIA
MARC D. DILLARD, OF CALIFORNIA
PETER O. DOTSON, OF VIRGINIA
JOSEPH J. DUGGAN, OF VIRGINIA
ROBERT DUNN, OF THE DISTRICT OF COLUMBIA
VERONICA H. EASTABROOKS, OF VIRGINIA
JAMES EDWARD ELLIS, OF VIRGINIA
MAYRA A. FELIU, OF PUERTO RICO
DAVID FISHER, OF CALIFORNIA
ERIC KEKOA FISHER, OF VIRGINIA
KATHLEEN ANN FITZGIBBON, OF VIRGINIA
KEVIN O. FLINT, OF VIRGINIA
GINA FOGARTY-HOLSTAD, OF NORTH CAROLINA
KATHARINE P. FORBES, OF VIRGINIA
ENID GARCIA, OF VIRGINIA
DEANNA LYNN GENTRY, OF GEORGIA
JOHN R. GERHARDT, OF VIRGINIA
PHILIP E. GODWIN, OF FLORIDA
BLAIR M. GRAY, OF VIRGINIA
SUMONA GUHA, OF THE DISTRICT OF COLUMBIA
DAVID GUSSACK, OF WASHINGTON
KRISTIN R. GUSTAVSON, OF VIRGINIA
PATTI E. HANNAHAM, OF THE DISTRICT OF COLUMBIA
TODD A. HANSEN, OF WASHINGTON
BRENDA LUCAS HAZZARD, OF THE DISTRICT OF COLUMBIA
LAURA J. HEARD, OF VIRGINIA
JAMES ROBERT HELLER, OF VIRGINIA
PAUL E. HICKERNELL, OF VIRGINIA
CAROLYN HEPLER, OF WASHINGTON
JOHN D. HICKEY, OF VIRGINIA
KEVIN L. HIGGINS, OF VIRGINIA
KRISTI DIANNE HOGAN, OF CALIFORNIA
DONNA LEIGH HOPKINS, OF TEXAS
MARY BETH JACOBY, OF VIRGINIA
NICHOLAS JAY JANSZEN, OF FLORIDA
WENDY JENNESS-WIMER, OF VIRGINIA
ZUBIN KAPADIA, OF VIRGINIA
RIZWAN KHALIG, OF CALIFORNIA
ANTHONY JOHN KLEIBER, OF CALIFORNIA
ERIC WILLIAM KNEEDLER, OF PENNSYLVANIA
RICHARD C. KNIFFEN, OF VIRGINIA
DAVID E. KNUTI, OF VIRGINIA
ROBERT S. LADY, OF LOUISIANA
JOANN MARIE LAMBERT, OF VIRGINIA
ROBERT DAVID LEE, OF MARYLAND

WILLIAM G. LEHMBERG, OF CALIFORNIA
RYAN COURTNEY LEONG, OF CALIFORNIA
BERNADETTE EUDORA LEVINE, OF MARYLAND
KIM MCLEROY LEWIS, OF FLORIDA
CHRISTOPHER S. MACHIN, OF MARYLAND
MELISSA C. MASSINGILL, OF VIRGINIA
KENT MAY, OF WASHINGTON
ELIZABETH P. MAZE, OF VIRGINIA
MATTHEW MICHAEL MCCANDLESS, OF VIRGINIA
DEBRA JEAN MEDERRICK, OF THE DISTRICT OF COLUMBIA
ELIZABETH H. MEHLER, OF VIRGINIA
MARIA KATRINA MEYLER, OF VIRGINIA
ZORAN MARK MIHAILOVICH, OF VIRGINIA
LISA DANIELLE MILLER, OF CALIFORNIA
BONNIE EILEEN MITCHELL, OF VIRGINIA
SCOTT H. MODER, OF VIRGINIA
DENISE M. MOORES, OF VIRGINIA
MORGAN MUIR, OF MARYLAND
RAMON A. NEGRON, OF PUERTO RICO
JENNIFER S. O'NEIL, OF VIRGINIA
DAVID W. PARRY, OF VIRGINIA
MATHIAS PEREZ, OF VIRGINIA
CLARISA PEREZ-ARMENDARIZ, OF COLORADO
JONATHAN MICHAEL PEREZOUS, OF PENNSYLVANIA
MARY M. PFANNENSTEIN, OF VIRGINIA
JEFFREY NEAL POWELL, OF VIRGINIA
ALFREDO QUEZADA, OF VIRGINIA
BRUCE QUINN, OF VIRGINIA
AMY SUE RADETSKY, OF KANSAS
GARY K. REDDING, OF VIRGINIA
IVAN RIOS, OF MARYLAND
BROKS B. ROBINSON, OF VIRGINIA
MARY BRETT ROGERS, OF CALIFORNIA
BRIAN LEONARD ROSS, OF VIRGINIA
STEPHEN I. RUKEN, OF TEXAS
ELIZABETH R. SANDERS, OF MARYLAND
ANTHONY MING SCHINELLA, OF VIRGINIA
RACHEL SCHOFER, OF PENNSYLVANIA
JEANETTE M. SCHWEITZER, OF VIRGINIA
CATHERINE D. SCOTT, OF MARYLAND
DEMETRIA CANDACE SCOTT, OF VIRGINIA
THOMAS J. SELINGER, OF MINNESOTA
ANNETTE MARIE SIGILLITO, OF VIRGINIA
JAMES M. SINGER, OF VIRGINIA
JOHN WALTER SKOGLUN, OF VIRGINIA
DON JON SMITH, OF VIRGINIA
WENDY ROBIN SNEFF, OF VIRGINIA
JAMES LAURENCE SOLLINGER, OF VIRGINIA
MAUREEN M. SULLIVAN, OF VIRGINIA
CLAYTON M. STANGER, OF CALIFORNIA
GREGORY C. TARBELL, OF VIRGINIA
JAY P. TETREAULT, OF VIRGINIA
JOSE A. TOBIAS, OF VIRGINIA
MARC E. TURNER, OF VIRGINIA
JEFFREY CRAWFORD VICK, OF TEXAS
MARK ALAN WELLS, OF OKLAHOMA
AMY MARIE WILSON, OF MASSACHUSETTS
CINTHIA H.F. WILSON, OF VIRGINIA
JERRY M. WOOLSEY, OF VIRGINIA
JANINE P. YOUNG, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE AS INDICATED, EFFECTIVE OCTOBER 16, 1994:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

SHARON P. WILKINSON, OF NEW YORK

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE AS INDICATED, EFFECTIVE FEBRUARY 16, 1997:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

AMELIA ELLEN SHIPPY, OF WASHINGTON
RUTH H. VANHEUVEN, OF CONNECTICUT