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## Senate

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

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Dr. Thomas A. Erickson, Valley Presbyterian Church, Scottsdale, AZ.

We are pleased to have you with us.

### PRAYER

The guest Chaplain, Dr. Thomas A. Erickson, Valley Presbyterian Church, Scottsdale, AZ, offered the following prayer:

Let us pray.

Gracious and ever-living God, You promised through the Psalmist, "I will instruct you and teach you the way you should go, I will counsel you with my eye upon you."—Psalm 32:8. In response, we open our minds to You, asking that in all the business before us we may clearly see Your will and courageously do Your work.

O God, when world events threaten to crush our hope, reassure us that peace is possible, for Your will shall yet be done in all the Earth. Then help us to do what we can, individually and together, to achieve that peace for all people everywhere.

At the end of this day, let every Senator know, let every staff member and aide know, that they have done their duty to You, to their Nation, and to one another. Give them satisfaction in knowing that they have moved our Nation a step further in its unrelenting quest to be "one Nation under God, with liberty and justice for all." Amen.

### RECOGNITION OF THE ACTING MAJORITY LEADER

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

Mr. GRAMS. I thank the Chair.

### SCHEDULE

Mr. GRAMS. Mr. President, today the Senate will immediately begin 1 hour of debate relating to the cloture motion to the McCain amendment to the Y2K legislation. At approximately 10:30 a.m., following that debate, the Senate will proceed to a cloture vote on the pending McCain amendment.

As a reminder, by a previous agreement, second-degree amendments to the McCain amendment must be filed by 10 a.m. today.

Following the cloture vote, the Senate may continue debate on the Y2K bill, the lockbox issue, or any other legislative or executive items cleared for action.

Also, as a further reminder, a cloture motion was filed on Wednesday to the pending amendment to S. 557 regarding the Social Security lockbox legislation. That vote will take place on Friday at a time to be determined by the two leaders.

For the remainder of the week, it is possible that the Senate may begin debate on the situation in Kosovo.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The able Senator from Arizona is recognized.

Mr. KYL. I thank the Chair.

### GUEST CHAPLAIN THOMAS ERICKSON

Mr. KYL. Mr. President, it is an honor for me this morning to have in the Senate Chamber both of my ministers—of course, the Chaplain of the Senate, Lloyd Ogilvie, and the individual who gave our prayer this morning, who is Thomas Erickson, minister of the Valley Presbyterian Church in Scottsdale, AZ. This is the church in which I am a member in my home State of Arizona. His wife Carol joins him today in the Nation's Capital, and as I said, it is my honor to be with them today and certainly an honor for my church to have its minister deliver the opening of the Senate.

Valley Presbyterian Church is a dynamic congregation of some 2,400 members and growing. Reverend Erickson has been with the church now for almost 13 years.

Mr. President, you perhaps noticed that as he was delivering the morning prayer, if you closed your eyes just a little bit, it almost sounded like our Chaplain, Lloyd Ogilvie. I frequently do that when I am in church here or I am in the Senate Chamber. I close my eyes and I can almost hear the other speaking, because they have the same resonant voice, especially when delivering a prayer.

So I am honored, as I said, to be able to present Dr. Erickson to my fellow Senators this morning and all of those who observed the morning prayer on television.

I thank you, Mr. President. I yield the floor.

### Y2K ACT—CLOTURE MOTION

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Oregon.

Mr. WYDEN. I thank the Chair.

To begin the hour of debate that we have on the Y2K measure, I would like to discuss the agreement entered into late yesterday, the special effort that was led by Senator DODD of Connecticut. Senator DODD has been the leader on our side on the Y2K issue. The agreement that was entered into last night involved Senator MCCAIN, myself, Chairman HATCH, Senator FEINSTEIN, Chairman BENNETT; a number of colleagues were involved. It seems to me that this effort, which was led by Senator DODD, has directly responded to a number of the concerns outlined by the White House in the statement that was delivered yesterday to the Senate. I would like to briefly outline the proposals which are going to be offered by the Senator from Connecticut in conjunction with the group of us that has been working on a bipartisan basis for this legislation.

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



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Under the changes made yesterday, there would be punitive damage caps for small businesses. We ensure that there is fairness to both sides. We would eliminate punitive damage caps for the large businesses, those over 50 employees. We would protect municipalities and governmental entities from punitive damages. And we would also ensure that State evidentiary standards for claims involving fraud were kept in place.

The legislation would continue to do the following. There would have to be a 30-day notice. The plaintiff would have to submit a 30-day notice to the defendant on the plaintiff's intentions to sue, with a description of the Y2K problem. If the defendant responded with a plan to remediate, then an additional 60 days would be allowed to resolve the problem. If the defendant didn't agree to fix the problem, the plaintiff would be in a position to sue on the 31st day. We would establish—and this was of great concern to a number of Members of the Senate—liability proportionality. We would ensure that defendants don't pay more than the damage they are responsible for but exceptions would include plaintiffs with a modest net worth who were not able to collect from one or more defendants and defendants who had intentionally injured plaintiffs.

I think this is especially important because, clearly, if you have a defendant who has engaged in intentionally abusive conduct, you want to send the strongest possible message, and we do establish liability proportionality under the agreement led by Senator DODD.

We would also preserve contract rights so as to not interfere with parties who have already agreed on Y2K terms and conditions. We would also confirm the duty to mitigate. This is an effort to essentially confirm existing law that plaintiffs have to limit damages and can't collect damages that could have been avoided. This is an opportunity for potential defendants to provide widespread information on Y2K solutions to assist potential plaintiffs.

Finally, our proposal would encourage alternative dispute resolution, and it also keeps, as a number of Democrats have discussed with us, all personal injury and wrongful death claims with every opportunity to use existing law to ensure protection for the consumer and for injured parties.

I commend my colleague from Connecticut, Senator DODD. He is the Democratic leader on the Y2K issue. Let me also say that what Senator DODD has done, in conjunction with myself and Senator MCCAIN, is he has essentially taken a lot of what we have done in the securities litigation area, a lot of what we have done in the earlier Y2K legislation, and used that as a model. So Senator DODD's proposal, in my view, is very constructive. We now have an agreement that has been entered into by Senator DODD, Chairman

MCCAIN, myself, Chairman HATCH, who has been exceptionally helpful on this effort, our colleague from California, Senator FEINSTEIN, and Senator BENNETT, who chairs the Y2K committee.

So I am very pleased about this effort that was entered into late yesterday. I say to my colleagues—especially Democrats who were concerned about the statement issued earlier by the White House—this compromise effort that I have outlined—and we also issued a statement on it—responds directly to a number of the concerns that were outlined by the White House, especially the two perhaps most important, which are protection for injured parties as it relates to the opportunity to seek punitive damages where appropriate, and also to ensure that with respect to evidentiary standards, no one could say that this was now raising somehow for all time a change through Federal law. We specifically preserve State evidentiary standards for important claims involving fraud.

But I would say, Mr. President and colleagues, this legislation is not going to be a change for all time in our laws. It is essentially a bill, and it has a strong sunset provision that is going to last for 3 years or so. We are trying to make sure, through that sunset provision, that we deal just with those concerns raised by Y2K. Y2K is not a partisan issue. It affects every computer system that uses date information. It was essentially an engineering tradeoff which brought us to this predicament; to get more space on a disk and in memory, the idea of century indicators was abandoned. It is hard for us to believe today that disk and memory space at a premium, but it was at one time. So in an effort to try to make sure during those earlier days there were standards by which programs and systems could exchange information, there was this engineering tradeoff.

Now, some say you could just solve the Y2K problem by dumping all the old layers of computer code accumulated over the last few decades. That is not realistic. So what we ought to be trying to do is to make sure that information technology systems are brought into Y2K compliance as soon as possible. That is what the substitute that Senator MCCAIN and I have offered seeks to do, and I believe that substitute has been vastly improved now by the leadership of the Senator from Connecticut, Mr. DODD.

I think as this discussion goes forward in the next hour, it is also important to recognize just how dramatic the implications are for this issue. I would like to cite one example which I know a number of my colleagues on the Democratic side can identify with very easily. A lot of my colleagues, led by Senator KENNEDY, have been very concerned about making sure that there is a good prescription drug benefit for seniors under Medicare. It is the view of a lot of us that billions of dollars are wasted. Billions of dollars are wasted every single year as a result of seniors

not taking prescriptions in a way so as to limit some adverse interaction. We waste billions of dollars and millions of seniors suffer as a result of not taking these prescriptions properly. And the best single antidotes that we have today are some of the new online computer systems which keep track of seniors' prescriptions and are in a position to help limit these adverse drug interactions.

Well, the fact of the matter is, if we have, next January, chaos in the marketplace with our pharmacies and our health care systems and programs that help us limit these problems involving drug interactions, we are going to waste billions of dollars which could be used to get senior citizens decent prescription drug benefits, and we are going to hurt older people needlessly.

Now, that has been a problem documented by the General Accounting Office. I raise it primarily because there has been a discussion in the Senate about how this legislation is just sort of a high-tech bill, and maybe some folks care about it in the State of Oregon where we care passionately about technology, or Silicon Valley, or another part of the country. I think we all know that technology is important in every State in our Nation. But I think it is very clear that these issues dramatically affect our entire Nation. It doesn't just involve a handful of high-tech companies; it involves millions and millions of Americans. The reason I have taken the Senate's time to discuss particularly how this would affect older people with their prescription drugs is that I think this is just a microcosm of this debate. I think this is just one small example of what this discussion is all about.

Now, the Congressional Budget Office and other experts have estimated that Y2K-related litigation could cost consumers and businesses twice as much as fixing the Y2K problem itself. Now, I think those predictions may, in fact, be exaggerated; maybe they are wildly exaggerated. But I would much prefer to see the Senate craft responsible legislation now rather than to delay. And should the Senate not act on this legislation in an expeditious way, I believe there is a very real possibility that the Senate could be back here in January having a special session to deal with this issue.

So I am very hopeful that we can go forward on it. I know that the minority leader, Senator DASCHLE, has worked very hard to be fair and to ensure that there is opportunity for colleagues to raise amendments. He has been working closely with the majority leader, Senator LOTT. Those procedural issues are still to be resolved.

I happen to agree with Senator KENNEDY on this matter of raising the minimum wage. I think he is absolutely correct that we ought to raise the minimum wage. But I am very hopeful that we will not see these issues pitted against each other. It is extremely important to raise the minimum wage. I

also think it is extremely important to deal with this Y2K issue in a responsible fashion.

I know there are other Members of the Senate who wish to speak on this issue. They haven't arrived on the floor quite yet. I think I will just take an additional couple of minutes, as we await them, to outline some of the changes that have been made since the legislation left the Commerce Committee. At that time, regrettably, it was a partisan bill and did not yet have the constructive changes made by the Senator from Connecticut, Mr. DODD, and did not at that point include the eight major changes that Chairman MCCAIN and I negotiated. I would like to wrap up my initial comments by taking a minute or two to talk about those changes that have been made in the legislation. For example, Mr. President and colleagues, early on none of the bills had a sunset provision in the legislation. There was a great concern that somehow some change in tort law and contract law would be for all time, establishing new Federal standards in this area. It was a feeling on my part and upon the part of other colleagues that it was absolutely critical to have a sunset provision to ensure that we were talking just about problems relating to the Y2K and not creating massive changes in Federal tort law or contract law that would last for all time.

None of the original bills contained a sunset date. We now have a 3-year sunset date making it very clear that any Y2K failure must occur before January 1, 2003, in order to be eligible to be covered by the legislation. Most industry analysts agree that Y2K failures are likely to follow a bell curve, a peaking on approximately January 1, 2000, and trailing off in 1 to 3 years. The sunset date that has been added tracks the very best professional analysis we have about the problem.

I thank Chairman MCCAIN for adding that in our initial negotiations. It is extremely important to me. I felt a lot of the Members of the Senate on the Democratic side felt that it was critical that this be a set of changes that was limited to a short period of time. That 3-year sunset addition, I think, sends a very powerful message that this is not changing tort and contract law for all time. I am very pleased that it has been added.

Second, in the committee there were some vague, essentially new Federal defenses that I and others felt unfairly biased this process in favor of the defendant. Those were removed. Essentially what those original provisions said was that if defendants engaged in what was called a "reasonable effort" that they would be protected advocates. Consumers felt strongly that this language was mushy and vague.

I agree completely with them on it. In fact, we originally had it in committee, and I opposed it at that time. But at the request of the consumer groups, this mushy, vague language that protects defendants who engaged

in something called a "reasonable effort" was dropped.

We also made changes to keep the principle of joint liability. After the legislation left the committee, we thought it was important to make sure that for cases involving fraud and egregious conduct we kept the traditional principle of joint and several liability. It was also extended to involve insolvent defendants.

Senator DODD has continued to help us in this area to ensure there is fairness for injured parties while at the same time making it clear that the defendants don't pay more than the damage for which they are responsible.

The legislation continues to have in place what we negotiated after the legislation left the committee. This is incorporated into the announcements we made last night about the important efforts made by Senator DODD.

Finally, we thought it was important to make sure contract rights were paramount in this area. This legislation does not involve any changes whatever in personal injury rights. If, for example, an individual is in an elevator and that elevator falls 10 floors to the bottom of a building, and that individual is tragically injured, or dies, all of the personal injury remedies are kept in place. That is not something that would be affected by this legislation. This legislation involves contractual rights between private business parties. I and others felt that it was not adequately laid out in the committee legislation, that the contract rights were paramount in this area. As a result of the negotiations we had after the legislation left the committee, those rights were kept in place. I and others felt that was essential.

I see my good friend from the State of Connecticut on the floor. I am going to yield in just one second. But first I want to take a minute and tell him how much I appreciate what he has done. He is, of course, the Democratic leader on the Y2K issue.

I am essentially still a rookie in the Senate, and the Senator from Connecticut has been so helpful as we have tried to take this legislation that passed the committee unfortunately on a partisan vote and tried to make it responsive to the many legitimate issues that have been raised by our colleagues on this side of the aisle. The colleagues on this side of the aisle have been absolutely right about saying that the original bill was not adequate with respect to punitive damages. It wasn't adequate with respect to evidentiary standards. It didn't do enough to address the issues that we heard about from the White House late yesterday.

As a result of an agreement led by the Senator from Connecticut, we have been responsive to those issues. We have essentially had nine major changes made after the bill came out of committee. The Senator from Connecticut has led the bipartisan effort. I discussed that bipartisan effort earlier involving Senator FEINSTEIN, Senator HATCH, and Senator BENNETT.

I want to yield the floor now to the Senator from Connecticut, and thank him for all he has done to make this a bill that I believe can get the support of a significant number of Democrats, because it responds to what we heard from the White House. I thank him as well personally for all of the good counsel and help that he has given me. He is the leader on this issue. He is the one who navigated the securities litigation legislation. I pointed out how he took much of what the Senate learned on the securities litigation in the earlier Y2K bill and made that part of his compromise. I thank the Senator from Connecticut.

Mr. President, I yield the floor. I look forward to hearing from the Senator from Connecticut.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I will be very brief.

Let me begin by thanking our colleague from Oregon. He is very effusive and gracious in his compliments. He describes himself as a rookie. But he is anything but a rookie when it comes to the legislative process. He served with great distinction in the other body, and has been here now several years proving the value of his experience as a seasoned legislator in the Senate.

Let me just say I am very hopeful. I was very pleased yesterday that we were able to reach an agreement on three proposals that I felt, and many others felt, were essential if this Y2K litigation legislation was going to succeed. One of these proposals was to deal with the punitive damages cap issue with the exception of municipalities, government entities, and smaller businesses, which are described as businesses that employ 50 people or less. This number is more than the 25 employees which usually defines a small business. I realize that one might make a very strong case that even more than 50 employees would still constitute a small business. But with a country that is growing all the time, I think most of us would agree that a small business today would still be one that employed 50 people or less.

We also eliminated the caps on the director and officer liability because under the disclosure bill passed last year we crafted a safe harbor for forward-looking statements by directors and officers and managers. We felt that this safe harbor would suffice, along with the normal business judgment rule which protects managers to some degree. As a result, we didn't think a cap on director and officer liability was necessary.

I am pleased that Senator MCCAIN and Senator HATCH, as well as my good colleague and friend, Senator BENNETT—who really has been the leader on the Y2K issue for so many years—agreed with both of those provisions, as well as with the state of mind provisions. It gets rather arcane when you

start talking about some of these legal terms, but they are important matters.

What we are doing with the claims involving state of mind is leaving the status quo with respect to the evidentiary standard. That is, each State determines what that standard is, instead of having a national standard. There was some effort to have clear and convincing evidence be used as the evidentiary standard you would have to reach, but 34 States already have that standard. Many other States do not have that standard, so we thought the best result on a compromise was to leave it to the States to decide what that standard ought to be, rather than incorporating it in this bill.

Again, I thank Senator MCCAIN, Senator HATCH, Senator BENNETT, and others who have agreed to and supported these changes.

As I understand it, there are other outstanding issues. The Senator from Oregon is absolutely correct. There are colleagues who have other amendments. They would not support this bill even with these additions. I know Senator KERRY of Massachusetts has a strong interest in proportional liability issues. I am confident that Senator HOLLINGS and Senator EDWARDS have some suggestions they might want to make to this bill.

My hope is that our leaders can work this out. I know Senator DASCHLE is more than prepared to sit down and work with our distinguished majority leader to allow for a series of amendments to be considered, as we normally do here, on this bill and to allow them to come up, to debate them, to vote on them, and to try and get this bill completed. I think we could complete it by this weekend, by tomorrow, if we began to work.

I do not know what the schedule is. There may be other matters that are more pressing in the minds of the leadership. But it seems to me now that agreeing on a package of amendments that can be offered is the way to go. We are going to have a cloture vote here shortly. I am going to oppose invoking cloture because we have not yet agreed on a process and I do not want to deny an opportunity to any of my colleagues. I know there may be some on the majority side who do not yet agree with this bill. There are several who have strong reservations about this bill even with the additions we have made to it by this agreement, and they may have some amendments they may want to offer. That is how we do business in the Senate. The Presiding Officer knows of what I speak. We both served in the other body, the House of Representatives, where you have strict rules and whoever is in the majority controls this exactly, determining if any amendments are to be considered.

In the Senate we are a different institution. Here we allow the free flow of debate and we do not deny Members the opportunity to bring up issues that they believe are critically important, even issues that are not germane to the

matter before us. Although we do not encourage that in every instance, that can be done here. That is what makes the Senate of the United States different from the Chamber down the hall. We are, in a sense, counterweights to each other. In the House of Representatives the rule of the majority prevails, as it should. In a sense, in the Senate we protect the rights of a minority to be heard.

That is what we are hoping the leaders will allow to happen today. We hope an agreement is reached on a series of amendments that will allow them to be debated and discussed and voted on. If that is the case, I am very confident that we will be able to pass this important piece of legislation and send it to the House, where they are considering similar legislation. I am also very confident that we can secure a signature from the President, who I know cares very much about this issue, as does the Vice President, and we can accomplish what many have sought here—to protect against the dangers of massive litigation over this year 2000 computer bug which is looming on the horizon.

Two hundred and forty days from now, when the millenium clock turns, I do not think that any of us here wants to be looking back and saying we lost an opportunity here in April to try to at least limit the kind of financial hardship and economic disruption that could occur if we do not address the threat of a Y2K litigation explosion. So I am very hopeful that we can come together, as we have already come so far.

Again, I express my thanks to the chairman of the committee who has the thankless job of trying to move a complicated bill along. Senator HATCH has also been tremendously helpful and supportive on this. Again, Senator BENNETT of Utah, with whom I work on the Y2K committee, has done just an astounding job, I think, of bringing to the attention of all of us here, as well as to the people across this country, the importance of this issue. And, of course, the efforts of the distinguished Senator from Oregon and Senator FEINSTEIN of California. My colleague from Connecticut, Senator LIEBERMAN, who cares very much about litigation reform issues generally, has also been very helpful on this. I fear I am leaving some people out here. I hope I am not. But at this juncture I know these are people who have been involved in this issue and care about it. Again, my plea to the majority leader, and I know Senator DASCHLE cares about this, too, is to see if we can now come to some agreement.

The PRESIDING OFFICER (Mr. CRAPO). The time of the proponents has expired.

Mr. DODD. I ask unanimous consent for an additional minute.

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

Mr. WYDEN. Will the Senator yield?

Mr. DODD. I do.

Mr. WYDEN. I will be brief. I concur completely with what the Senator from

Connecticut has said. I want to ask him one question about the very helpful punitive damages agreement he negotiated with us last night.

My understanding is, this agreement tracks very closely with what the Clinton administration has agreed to in the past with respect to product liability. In fact, our agreement seems to be more generous to plaintiffs than what the administration has agreed to in the past.

In the past, they seemed to have said we ought to look at something that would have two times compensatory damages. This legislation has three times the damages, to make sure there is a fair shake for the consumer. Is that the understanding of the Senator from Connecticut? I ask because he has been involved in this issue involving punitive damage questions for quite some time. I think he has been very fair to plaintiffs in this area. It seems to me, actually, the Senator has gone beyond what has been talked about in various other discussions that we had.

In just this minute I would like to take one more moment to hear the Senator's opinion on that issue which is a key issue for Democrats.

Mr. DODD. I think I ought to ask unanimous consent for an additional minute.

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

Mr. DODD. In response to my colleague—and I thank him for raising the issue—I do not claim great expertise in the product liability area. We have done some work, and I appreciate his comments, on the securities bill, the standards reform bill, and here on the Y2K area. So going back and revisiting this, while I do not recall the point the Senator raises, I do not question what he has said. I presume, in fact, that he is correct. I simply do not bring any personal recollection of how we crafted that.

I know the administration cares about the Y2K issue. I negotiated with the White House on securities litigation, and there were some difficult issues to resolve. The Senator may recall that in that case the President vetoed the bill and the Congress overrode the veto. That is how that piece of legislation became law.

On uniform standards, President Clinton and Vice President GORE were tremendously helpful and supportive, and I suspect they will be here as well. I want to be careful. I think it is fine to go back and use previous examples on punitive damages and on director and officer liability and on state of mind issues. However, there are differences in the application of law when you are dealing with bodily injury and other questions where product liability issues can come in, and even more differences when contract law comes into play. Contract law is basically what we are talking about here.

Let me just say this, because the Senator has raised a very important point. I know there are going to be

Members—there always are—who think that we are going too far in the punitive damage area and with director and officer liability, and who think we are giving away too much. I think there are people who care about the trial bar and think we have not done enough in this area and that there is too much here against the trial bar.

This bill really does provide a balance at this point. We have not adopted this amendment, but on the assumption it is adopted, we have removed the caps on punitive damages in most instances, removed the caps on director and officer liability, and kept the status quo on state of mind issues. Those are issues the trial bar said were very important to them.

Is it everything they want? No. Does it give away more than some who care about these issues want? It does. But traditionally, when you are trying to craft a piece of legislation with as many different points of view as 100 Senators can bring to the debate, clearly no side is going to prevail with everything it would like. What we have done here, I think, is struck a sound, good balance that is a good bill and one I hope will attract the broad support of Republicans and Democrats, and to move on.

I see the chairman of the committee has arrived on the floor here. In his absence I was praising him. I would do so in his presence as well, but I realize he may want to go on to other matters here. I have already been taking advantage of the Presiding Officer's presence here by extending the time by unanimous consent, and I do not want to abuse the graciousness he has already demonstrated to me any more than that, so I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent to speak for an additional 7 minutes.

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

Mr. MCCAIN. Mr. President, before the Senator from Connecticut leaves the floor, I thank him for all of his efforts. We have engaged in intensive and sometimes emotional negotiation, and we have had a long relationship for many years. His contribution, no matter how this cloture vote comes out today, has been critical in moving this process forward. It has given me optimism that we will be able to resolve this issue. Without his involvement, we would not have the opportunities that I believe we will have in the future.

In my prepared statement, which I will make in just a minute, this issue is too important to just go away. I think the Senator from Connecticut knows that and the Senator from Oregon, who has played such a critical role, along with Senator FEINSTEIN, Senator HATCH, and others on this issue, know that. It is not going to go away.

What the Senator from Connecticut has done and the Senator from Oregon

has done is move this process forward to where I believe we will be able to get it done, because it is too important for us to just say we cannot agree on it. I thank both my colleagues for all their efforts.

Mr. President, we are now at a critical time if we are to pass this bill. We have been attempting to debate and act on this matter for a week. We are about to have our second cloture vote as we crawl through the morass of Senate procedure. We have endured hours of quorum calls waiting for substantive discussion. We have heard at length the views of the ranking member, Senator HOLLINGS, in opposition to this bill. We have detoured from the bill to hear the minority's complaints about scheduling unrelated matters of interest to them. But now, Mr. President, we are about to have a critical vote.

This is a vote to allow us to complete action on this critical bill. This is a vote to cast aside the partisan procedural games and get on with the business of the nation. Important business, as the thousands of CEO's and business people from all segments of industry: high tech, accounting, insurance, retail, wholesale, large and small, who are actively supporting this bill will attest. The Y2K problem is not going away, nor is it going to be postponed by petty, partisan procedural wrangling.

The cost of solving the Y2K problem is staggering. Experts have estimated that the businesses in the United States alone will spend \$50 billion in fixing affected computers, products and systems. But experts have also predicted that the potential litigation costs could reach \$1 trillion—more than the legal costs associated with asbestos, breast implants, tobacco, and Superfund litigation combined—more than three times the total annual estimated cost of all civil litigation in the United States. This is not just my opinion, but are facts supported by a panel of experts on an American Bar Association panel last August. These costs represent resources and energy that will not be directed toward innovation, new technology, or new productivity for our nation's economy. This litigation could overwhelm and paralyze the industries driving the best economy in our history.

The Y2K phenomenon, while anticipated for years, presents nevertheless, a one-time, unique problem. Our legal system is neither designed, nor adequately equipped, to handle the flood of litigation which we can expect when law firms across the country are laying in wait, in eager anticipation of a golden opportunity. More to the point, the vast majority of our Nation's citizens do not want to sue. They want their computers, their equipment, their systems to work. They want solutions to problems, and a healthy economy, not a trial lawyers' full employment act.

S. 96 presents a solution, a reasonable practical, balanced, and most important, bi-partisan solution. Since it

passed out of committee, with the help of my colleagues especially Senator WYDEN, Senator DODD, Senator FEINSTEIN, and others it has been improved, narrowed, and more carefully crafted to ensure a fair and practical result to the Y2K situation.

The Public Policy Institute of the Democratic Leadership Council published a Y2K background paper in March which has been widely circulated and quoted on the Senate floor in the past several days. The authors state:

In order to diminish the threat of burdensome and unwarranted litigation, it is essential that any legislation addressing Y2K liability:

Encourage remediation over litigation and the assignment of blame;

Enact fair rules that reassure businesses that honest efforts at remediation will be rewarded by limiting liability, while enforcing contracts and punishing negligence;

Promote Alternative Dispute Resolution; and

Discourage frivolous lawsuits while protecting avenues of redress for parties that suffer real injuries.

S. 96 does all of those things.

It provides time for plaintiffs and defendants to resolve Y2K problems without litigation;

It reiterates the plaintiff's duty to mitigate damages, and highlights the defendant's opportunity to assist plaintiffs in doing that by providing information and resources;

It provides for proportional liability in most cases, with exceptions for fraudulent or intentional conduct, or where the plaintiff has limited assets;

It protects governmental entities including municipalities, school, fire, water and sanitation districts from punitive damages;

It eliminates punitive damage limits for egregious conduct, while providing some protection against runaway punitive damage awards; and

It provides protection for those not directly involved in a Y2K failure;

It is a temporary measure. It sunsets January 1, 2003;

And it does not deny the right of anyone to redress their legitimate grievances in court.

I have spent hours working with several of my colleagues, including the distinguished Senator from Connecticut, Mr. DODD, to resolve specific concerns. We have arrived at an agreement to further modify the substitute amendment my friend Mr. WYDEN and I earlier agreed upon. There may still be others, such as Mr. KERRY of Massachusetts, with ideas, suggestions, or a different perspective on solving the problem.

I welcome hearing other ideas. My colleagues may want to offer amendments. I am willing to enter into consent agreements to allow the opportunity for debate on other ideas. We can then vote and the best idea will win. That is the way of the Senate. But, that cannot take place unless we vote yes now on cloture.

The clock is ticking. Mr. President, 246 days plus a few hours remain until

January 1. This bill cannot wait. Its purpose is to provide incentives for proaction—to encourage remediation and solution and to prevent Y2K problems from occurring. It will not serve its purpose unless it passes now.

This vote is a simple vote. It is a critical vote. This is a vote as to whether we want to solve and prevent the Y2K litigation problem, which has already begun, or whether we will let partisan "politics as usual" be an obstacle to our nation's well-being. It is a vote to either help the American economy or to show your willingness to do the bidding of the Trial Lawyers Association. Make no mistake, I hope companies across America are paying attention. Senators will vote to help protect small and large business, the high tech industry, and others, or they will choose to protect the trial lawyers' stream of income. That is the choice. I ask my colleagues to consider carefully the message they send with their vote today. Are you part of the solution? Or part of the problem?

Mr. President, I believe it is time for the vote. I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina has 22 minutes remaining.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, we have a cloture vote set at a specific time; is that correct?

The PRESIDING OFFICER. The cloture motion vote was scheduled to occur at the end of 1 hour of debate. We have had unanimous consent agreements extending the time. There are 22 minutes remaining in the debate. This time is under the control of the Senator from South Carolina.

Mr. HOLLINGS. I yield whatever time the Senator needs.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I will address the question of the Y2K for just a moment, if I may, and then I was going to ask unanimous consent just to make a couple comments as in morning business for the purpose of introducing a bill.

Prior to doing that—do I understand the Senator from Arizona would object to that taking place at this point?

Mr. MCCAIN. I would object to going to morning business at this time. The Senator from South Carolina has 22 minutes left, and I am glad to listen on that time, but it is getting time for us to vote on cloture.

Mr. KERRY. All right.

Mr. President, let me just say a few words on the issue of the Y2K. I have been working quietly with a number of colleagues in order to try to see if we cannot come to some sort of compromise.

I heard the Senator from Arizona assert that the principal reason that we are where we are right now is because the revenue stream for lawyers, for trial counsel, might be somehow im-

pacted, and that is the sort of overbearing consideration that has brought us to this point of impasse. Let me just say as directly and as forcefully as I possibly can that there really are public policy considerations that extend beyond that.

I have tried cases previously as a trial attorney. I understand the motivations and needs to certainly have a client base which allows you to survive. I have seen some ugly practices out there, and I have joined in condemning them as a Member of the Senate and also as a member of the bar.

I do not think any of us who are members of the bar take pride in the practices of some attorneys who have obviously given the profession a bad name at times and have abused what ought to be a more respected and sacrosanct relationship in the country.

But at the same time, just as with any business—whether it is Wall Street and brokers or businesspeople who are manufacturers who somehow put a product on the marketplace that cost lives—there are always exceptions to fundamental rules. There are also a lot of lawyers out there who work for nothing, who do pro bono work, who give their energies to fighting for the environment or for civil rights or a whole lot of other things. I think it is a mistake to sweep everybody into one basket and suggest that that is all this issue is about.

We have some time-honored traditions in this country about access to our court system. We have some deep-rooted principles which allow victims of certain kinds of abuses, and sometimes even arrogance, to be able to get redress for that. That is one of the beauties of the American judicial system. And I could show—and I do not have time now—countless examples of life being made better for millions of Americans because some lawyer took a case to court and was willing to fight for a particular principle.

I happened to bump into Ralph Nader a little while ago going into a Banking hearing related to an issue on privacy on the House side. I recall, obviously, his landmark efforts with respect to automobiles and safety, and millions of American lives have been saved because of those kinds of challenges.

Sometimes the pendulum sweeps too far, and I well recognize that. In fact, there is a great tendency within the Congress for us to react to a particular problem, and, kaboom, we wind up with unintended consequences, and then we sort of have to pull the pendulum back. I have done that.

I have joined with colleagues here to change the law on liability with respect to aircraft manufacturing because we found that there was a particular problem for small, light plane manufacturing in the country. We also changed the law with respect to securities reform, and I joined in that effort. And I joined in overriding the veto of a President with respect to those things because I thought the reform was im-

portant and legitimate. No one here ought to condone the capacity of individual lawyers to simply trigger a lawsuit with the hopes of walking into a company and then holding them up for settlement because it is too expensive to litigate.

I believe that in the compromise we have on the table, as well as in other efforts that have been offered, there are legitimate restraints on the capacity of lawyers to abuse the system. There are increased specificity requirements with respect to the pleadings so that you cannot just go in on a fishing expedition. There is a 90-day period for cure; i.e., once a company is noticed that they are in fact in a particular possible breach with respect to the contract that extends for the sale of a particular computer or software program, they are given 90 days within which time they can cure the problem and there is no lawsuit. In addition to that, there are a series of other restraints which I think are entirely appropriate, and I would vote for those.

Let's say somebody's mother or father is at home and you have a bank account and a bank loses your entire bank account, for whatever reason, or there is some doctor's appointment that is lost by somebody that was critical to the provision of some serum or antibiotic. Who knows what might be occurring that has been computerized and expected on a particular schedule that might be affected. There is a requirement in their legislation, the legislation currently about to be voted on, which would deny any consumer access to remedy for 90 days.

You get a 90-day stay period. What is the rationale for that? That was supposed to apply to the companies, not to individuals. But we don't have a legitimate carve-out for consumers, for the average consumer, for Joe "Six-Pack" who might be affected by this. They are somehow going to be plunked into a basket with all of the other companies.

In addition to that, there is a legitimate problem with respect to access to the system. If you have a company that does business abroad, does not have a home base here, you have no capacity to reach them with respect to service of process. We are going to say that we are going to deny somebody the capacity to have full redress or remedy, and they are going to have to go chase that other person somehow, no matter what the level of that person's responsibility is. To do that is effectively to say to people, Sorry, folks. No lawyer in the country is going to take that case. We're effectively stripping you of the rights to be able to have access to the court system.

I am for a fair balance here. I have a lot of companies in Massachusetts that are high-tech companies, a lot of companies that are impacted by this. I know a lot of people in the industry whom I respect enormously who deserve to be protected against greedy, voracious sorts of wrongful, totally



predatory efforts to try to hold them up in the system. I am for stopping that.

I would, in our effort, put restraints on the capacity to bring class actions wrongly. And I think we have an increased standard with respect to materiality that would make it much tougher for people to put a class together without a showing of injury.

So the real issue here before us in the Senate is, What is really trying to be achieved here? If we are trying to simply achieve a balanced, fair approach to protecting companies from unfair lawsuits and being balanced about the average citizen's approach to the court system there is a way to do that. But if what we are doing is a larger tort reform agenda, because of the bad name that lawyers in general have, and some lawyers in particular have earned for them, if that is the effort, in order to seek some broader change in the legal system that denies people access to the courts, then I think we have a different kind of problem.

There are many people in this Chamber who have practiced law before, some on the other side of the fence, on the Republican side, who do not believe any legislation is necessary, that this is a one-time problem, that the greatest incentive you can have to avoid a problem is for people to fix it ahead of time, and the greatest way in which you will get the best and biggest and fastest fix ahead of time is to have people required to be open to the possibilities of redress if they did not do that.

But if we limit people's potential liability, there is a great likelihood that a lot of people will say, Well, I'm not going to fix this. I'm not liable. I don't need to do anything about it. They can't bring suit against me. And you may, in fact, have taken away the very incentive you are trying to create.

Mr. President, there are very real and legitimate substantive arguments: Access to our court system. What is the best incentive? How do you approach this fairly? How are you going to wind up with a system that is balanced? All of those issues are really at stake in this. I hope colleagues will remember that as they approach the question of what is the best compromise here which would give us the kind of balance that we need.

Mr. President, I yield the remainder of my time to the Senator from South Carolina.

**THE PRESIDING OFFICER.** The Senator from South Carolina has 11 minutes remaining.

**Mr. HOLLINGS.** Mr. President, I thank my distinguished friend from Massachusetts. He has summed it up.

I will only point out again this morning's news, the Wall Street Journal. I quote from page B4:

[By now] the year 2000 bug was supposed to have played havoc with corporate computer spending, with companies supposedly too worried about their mainframes to think of anything else. A cautious attitude about the issue was the theme in comments by big

technology companies that released first-quarter results in the past few weeks.

But with one notable exception, the technology industry has so far escaped any broad year 2000 slowdown.

Mr. President, I ask unanimous consent to print in the RECORD an editorial from this morning's Washington Post about Y2K liability.

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

[From the Washington Post, Apr. 29, 1999]

#### Y2K LIABILITY

The Senate is considering a bill to limit litigation stemming from the Year 2000 computer problem. The current version, a compromise reached by Sens. John McCain (R-Ariz.) and Ron Wyden (D-Ore.), would cap punitive damages for Y2K-related lawsuits and require that they be preceded by a period during which defendants could fix the problems that otherwise would give rise to the litigation. Cutting down on frivolous lawsuits is certainly a worthy goal, and we are sympathetic to litigation reform proposals. But this bill, though better than earlier versions, still has fundamental flaws. Specifically, it removes a key incentive for companies to fix problems before the turn of the year, and it also responds to a problem whose scope is at this stage unknown.

Nobody knows just how bad the Y2K problem is going to be or how many suits it will provoke. Also unclear is to what extent these suits will be merely high-tech ambulance chasing or, conversely, how many will respond to serious failures by businesses to ensure their own readiness. In light of all this uncertainty, it seems premature to give relief to potential defendants.

The bill is partly intended to prevent resources that should be used to cure Y2K problems from being diverted to litigation. But giving companies prospective relief could end up discouraging them from fixing those problems. The fear of significant liability is a powerful incentive for companies to make sure that their products are Y2K compliant and that they can meet the terms of the contracts they have entered. To cap damages in this one area would encourage risk-taking, rather than costly remedial work, buy companies that might or might not be vulnerable to suits. The better approach would be to wait until the implications of the problem for the legal system are better understood. Liability legislation for the Y2K problem can await the Y2K.

**Mr. HOLLINGS.** I thank the distinguished Chair.

"Liability legislation for the Y2K problem can await the Y2K." What we are talking about is an instrument, a computer. The average cost for a small business and otherwise is \$2,000. They are not going to buy a \$2,000 instrument in 1999 that is not going to last past January 1.

It is quite obvious that it is not the poor, but it is the economically advantaged, the small businesses, and the doctors in America that use this instrument now. And all they have to do is go into Circuit City and say: Now, put it up, let me see that it works, that it is Y2K compliant.

Why do away with the entire law system, the 10th amendment to the Constitution, the habitual and constitutional control of torts at the State level under article 10 over the 200 years of history? Do you know why? Because

they put in this amendment to amendment to amendment. When they put in the first one, even chambers of commerce objected to it. What you had in the McCain bill was still a bad bill. The McCain-Wyden bill is still a bad bill. The McCain-Wyden amendment to the McCain-Wyden amendment is still bad, as evidenced by this editorial here this morning.

Again, Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Kaiser Permanente Executive Offices, dated April 27.

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

KAISER PERMANENTE,  
Oakland, CA, April 27, 1999.

Hon. Barbara Boxer,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR BOXER: On behalf of Kaiser Permanente, we would like to address a number of serious concerns regarding S. 96, a bill introduced by Senator John McCain, which addresses disputes arising out of year 2000 computer based problems (Y2K).

In brief, S. 96 as currently drafted:

Threatens the ability of the health care industry to maintain rates;

Severely limits the rights of small businesses, consumers and non-profit organizations like ours to recover the often excessive costs of Y2K fixes, purchases and upgrades;

Unfairly prejudices (or completely bars) the ability of the health care community to recover the costs associated with any potential personal injury or wrongful death award from the entity primarily at fault for the defect that caused the injury. S. 96 permits the manufacturers, vendors and sellers of non-compliant Y2K equipment and products to profit at the expense of their customers and leaves the health care industry (and ultimately our employer groups and patients) responsible to bear the costs of their negligence.

The four provisions in S. 96 that cause us the most concern are as follows:

The Act would not prohibit a patient injured in a hospital by a Y2K defective product from suing the hospital or health plan providing the medical service in which the defect arose. The Act would, however, limit or bar a claim brought by the hospital or health plan against the manufacturer or vendor of the defective product, leaving the health care providers solely responsible for the damages.

The 90 day waiting period requirement will impair the ability of the health care industry to complete its Y2K compliance efforts. The health care providers must remedy their Y2K problems quickly to be compliant with internal and external (including state and federal regulatory) timeliness. For a considerable length of time, Kaiser Permanente has been diligently identifying, mediating, validating, and testing equipment and software with respect to Y2K issues. A key component of this process has been demanding information, assistance, and corrective action from manufacturers and vendors, who often have control of the source codes and other information that is necessary to achieve compliance. Vendors who at this late date have still not adequately addressed their Y2K defects in their products, despite repeated requests by us, should not be afforded a 90 day period in which to respond to such requests. Such a delay in pursuing legal remedies could prejudice our ability to complete our Y2K efforts by the year 2000.

While the Act limits the liability of manufacturers and sellers of defective equipment and software, it does not require that they fix the problems that they created for a reasonable price. Some manufacturers and vendors sold Y2K defective products in recent years knowing that their products would not be usable past the year 2000. Yet S.96 would allow such tortfeasors to charge exorbitant rates for fixes which should be provided at a discounted or nominal fee. In other words, the Act allows tortfeasors to increase their ill-gained profits at the health care purchaser's expense.

The Act does not carefully limit the use of the powerful defenses it creates. Rather, it permits a defendant to assert defenses in any action related "directly or indirectly to an actual or potential Y2K failure". Manufacturers and vendors will find it useful to assert that there are Y2K issues in cases where a Y2K problem is not alleged, lengthening and confusing litigation and potentially barring claims for other defects.

The above provisions in S.96 are of the greatest concern to us. However, there are other unfair provisions in the Act which inequitably limit liability, including the abrogation of joint liability, the mandate of proportionate liability, the limitation to economic loss, the increase in the standard of proof for the plaintiff, and the addition of new defenses for the defendant. Please carefully review S.96 again in light of our concerns. We would be happy to discuss this with you further, please do not hesitate to call Wendy Weil at 510-271-2630 or Laird Burnett at 202-296-1314.

Sincerely,

MARY ANN THODE,  
Senior Vice President,  
Chief Operating Officer.

Mr. HOLLINGS. Quoting from the letter:

In brief, S. 96 [as currently drafted] threatens the ability of the health care industry to maintain rates; severely limits the rights of small businesses, consumers and non-profit organizations like ours to recover the often excessive costs of Y2K fixes, purchases and upgrades; unfairly prejudices (or completely bars) the ability of the health care community to recover the costs associated with any personal injury or wrongful death award from the entity primarily at fault for the defect that caused the injury. S. 96 permits the manufacturers, vendors and sellers of non-compliant Y2K equipment and products to profit at the expense of their customers and leaves the health care industry (and ultimately our employer groups and patients) responsible to bear the costs of their negligence.

Mr. President, I could read on and on, but when different industries—the automobile industry, the grocer industry, and otherwise—come to the attention of this 36-page document to change around the 200-year experience of the enforcement of torts, the Uniform Commercial Code nationally, and do away with it and the so-called privilege it required. To come in here and cap punitive damages, describe a small business as any 50 or less—I notice in this most recent amendment, Mr. President, on page 2, a defendant is described as an unincorporated business, a partnership, corporation, association, or organization with fewer than 50 full-time employees. It used to be smaller, 25. But they are going in the wrong direction, all with this so reasonable, so bipartisan, so studied, so compro-

missing, so interested—come on. Give me a break.

Look at the next sentence: "No cap with injury specifically intended." Paragraph 1 does not apply if the plaintiff establishes by clear and convincing evidence that the defendant acted with specific intent to injure the plaintiff. So there go the class actions. Each plaintiff has got to come in and prove by clear and convincing, not by the greater weight of the preponderance of evidence, but by clear and convincing, that it is specifically intended for that particular plaintiff to be injured.

Mr. President, what we really have is a fixed jury. We could talk sense, but I notice in the morning paper that Kenneth Starr, the independent prosecutor, is asking the judge down there in Arkansas to go and interview the jurors after the verdict. He ought to come to Washington where they interview the jurors before the verdict.

That is my problem on the floor of the Senate here this morning; I can tell you that right now. They run around this Chamber, the Chamber of Commerce is in here, the Business Roundtable, this conference board, get all those organizations going. I am tending to my business down home. And you are for tort reform. You know this Y2K liability, \$1 trillion for the trial lawyers and all that.

Yes, I am against that. I am against a trillion dollars for the trial lawyers. Everybody says that, running for office. Sure, the idea of tort reform.

So they have Kosovo, they have the balanced budget, and the lockbox charade going on, and right in the middle of this they come with all the fixed votes, the jurors, before we even get to debate and show that there is a non-problem.

I am getting there. I can see the Parliamentarian blinking his eyes, so I am running out of time here. We are going to have to vote. But here is the biggest fix I have ever seen. We had a difficult time trying to get the truth around to our colleagues about S. 96 here this morning, but I hope we can withhold and get some time to vote against this cloture motion so we will have time to really show what is going on.

We have problems in this country, but I can tell Senators, it is not the tort system. It is not how the tort system affects business. Business is going through the roof financially in New York. Everybody is making money, particularly in the computer business. Of all the people to ask for special legislation here in the Congress as well as special protections and the revision of all the tort practices, is the computer industry, the richest in the entire world.

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

Mr. LIEBERMAN. Mr. President, I would like to add my strong support to the bill we are currently considering, the Y2K Act. Although I plan to join my colleagues on this side of the aisle in voting against cloture, I don't want

anyone to construe that vote as an indication that I have any doubts about the need for, and the wisdom of, this legislation.

Congress needs to act to address the probable explosion of litigation over the Y2K problem, and it needs to act now. We are all familiar with the problem caused by the Y2K bug. Although no one can predict with certainty what will happen next year, there is little doubt that there will be computer program failures, possibly on a large scale, and that those failures could bring both minor inconveniences and significant disruptions in our lives. This could pose a serious challenge to our economy, and if there are wide spread failures, American businesses will need to focus on how they can continue providing the goods and services we all rely on in the face of disruptions.

Just as importantly, the Y2K problem will present a unique challenge to our court system—unique because of the likely massive volume of litigation that will result and because of the fact that that litigation will commence within a span of a few months, potentially flooding the courts with cases and inundating American companies with lawsuits at the precise time they need to devote their resources to fixing the problem. I think it is appropriate for Congress to act now to ensure that our legal system is prepared to deal efficiently, fairly and effectively with the Y2K problem—to make sure that those problems that can be solved short of litigation will be, to make sure that companies that should be held liable for their actions will be held liable, but to also make sure that the Y2K problem does not just become an opportunity for a few enterprising individuals to profit from frivolous litigation, unfairly wasting the resources of companies that have done nothing wrong or diverting the resources of companies that should be devoting themselves to fixing the problem.

To that end, I have worked extensively with the sponsors of this legislation—with Senators MCCAIN, GORTON, WYDEN, DODD, HATCH, FEINSTEIN and others—to try to craft targeted legislation that will address the Y2K problem. Like many others here, I was uncomfortable with the breadth of the initial draft of this legislation. I took those concerns to the bill's sponsors, and together, we worked out my concerns. I thank them for that. With the addition of the amendment just agreed to by Senators DODD, MCCAIN and others, I think we have a package of which we all can be proud, one which will help us fairly manage Y2K litigation. Provisions like the one requiring notice before filing a lawsuit will help save the resources of our court system while giving parties the opportunity to work out their problems before incurring the cost of litigation and the hardening of positions the filing of a lawsuit often brings. The requirement that defects be material for a class action to be brought will allow recovery for those



defects that are of consequence while keeping those with no real injury from using the court system to extort settlements out of companies that have done them no real harm. And the provision keeping plaintiffs with contractual relationships with defendants from seeking through tort actions damages that their contracts don't allow them to get will make sure that settled business expectations are honored and that plaintiffs get precisely—but not more than—the damages they are entitled to.

I think it is critical for everyone to recognize that the bill we have before us today is not the bill that Senator MCCAIN first introduced or that was reported out of the Commerce Committee. Because of the efforts of the many of us interested in seeing legislation move, the bill has been significantly narrowed. For example, a number of the provisions changing substantive state tort law have been dropped. Provisions offering a new "reasonable efforts" defense have been dropped. The punitive damages section has been altered. And, instead of a complete elimination of joint liability, we now have a bill that holds those who committed intentional fraud fully jointly liable, that offers full compensation to plaintiffs with small net worths and that allows partial joint liability against a defendant when its co-defendants are judgment proof—precisely what most of us voted for in the context of securities litigation reform.

I understand that there are those who still have concerns about some of the remaining provisions in the bill. To them and to the bill's supporters, I offer what has become a cliché around here, but has done so because it is truly a wise piece of advice: let us not make the perfect the enemy of the good. Y2K liability reform is necessary—in fact critical—legislation that we must enact. Those of us supporting the legislation must be open to reasonable changes necessary to make the bill move, and those with legitimate concerns about the bill need to work with us to help address them. I hope we can all work together to get this done.

#### CLOTURE MOTION

The PRESIDING OFFICER. All time for debate has expired. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending amendment to Calendar No. 34, S. 96, the Y2K legislation:

Senators Trent Lott, John McCain, Rick Santorum, Spence Abraham, Judd Gregg, Pat Roberts, Wayne Allard, Rod Grams, Jon Kyl, Larry Craig, Bob Smith, Craig Thomas, Paul Coverdell, Pete Domenici, Don Nickles, and Phil Gramm.

The PRESIDING OFFICER. The question is, Is it the sense of the Sen-

ate that debate on amendment No. 267 to S. 96, the Y2K legislation, shall be brought to a close?

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

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from New York (Mr. MOYNIHAN) is absent due to surgery.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN), would vote "no."

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

The yeas and nays resulted—yeas 52, nays 47, as follows:

[Rollcall Vote No. 95 Leg.]

#### YEAS—52

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

#### NAYS—47

Akaka	Edwards	Lieberman
Baucus	Feingold	Lincoln
Bayh	Feinstein	Mikulski
Biden	Graham	Murray
Bingaman	Harkin	Reed
Boxer	Hollings	Reid
Breaux	Inouye	Robb
Bryan	Johnson	Rockefeller
Byrd	Kennedy	Sarbanes
Cleland	Kerrey	Schumer
Cochran	Kerry	Shelby
Conrad	Kohl	Specter
Daschle	Landrieu	Torricelli
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	Wyden
Durbin	Levin	

#### NOT VOTING—1

Moynihan

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 47. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

#### UNANIMOUS-CONSENT REQUEST

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now resume consideration of S. 96, and the last amendment pending to S. 96 be modified with the changes proposed by Senators DODD, WYDEN, HATCH, FEINSTEIN, BENNETT, and Senator MCCAIN which I now send to the desk. And I send a cloture motion to the desk to the compromise amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. Most respectfully, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, for the information of all Senators, this cloture vote would have occurred, if consent had been granted, on Monday on the so-called compromise worked out among the chairman and Senator DODD, Senator FEINSTEIN, and others as mentioned above.

Let me say, I appreciate the effort of the chairman. I appreciate the effort, the work, and the willingness to try to find an adequate solution by Senator WYDEN. And Senator FEINSTEIN has been involved, and a number of others, Senator DODD, obviously.

But in light of this objection, I do not intend to bring this bill back before the Senate until consent can be granted by the Democrats. And if it is predicated on agreement that we open this up for every amendment in the kitchen, then it is over. Or until we get a commitment that we are going to get the votes for cloture and get a reasonable solution to this problem, I think it would be unreasonable for me to waste the Senate's time with any further debate or action on this amendment.

We need to do this. We can do it. But I am prepared now—if everybody is ready, we will just say it is over, the trial lawyers won, and we will move on to the next bill. But I am willing to be supportive of Members on both sides of the aisle who, acting in good faith, want to get this done.

We should do it. This is a reasonable approach. There is no reason we should use the Y2K computer glitch as an opportunity for a litigation bonanza. I am a lawyer, and everybody in this Chamber knows I have relatives who would be very interested in this. But I am interested in what is fair and what is right. We need to do this. The negotiations have happened. Concessions have been made. But, frankly, I am ready to move on to something else, unless we can get this done. So I do not intend to do anything else until we hear some solution to this problem.

I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democrat leader.

Mr. DASCHLE. Mr. President, I am disappointed with the announcement just made by the majority leader. I think, as others have already indicated, that we have made extraordinary progress in the last couple of days. That would not have happened without Senator DODD, Senator WYDEN, Senator KERRY, Senator MCCAIN, and a number of other Senators who have been very involved in bringing us to this point.

I am disappointed, as well, that there was an objection to returning to the Y2K bill, because we were making real progress toward improving the bill. I believe that negotiations have delivered progress, even though more improvements will be needed. I support proceeding back to the Y2K bill. I support keeping the negotiations going. I want a bill. I think we will get a bill. I think it is important we get a bill.

I also think, however, that there were unfortunate decisions made by the majority about how we consider legislation on the floor. We are negotiating all of this off the floor. I would much prefer to have a good debate and offer amendments. The amendment tree is filled. We are not able to offer a Democratic amendment—relevant or not relevant. So we are relegated to negotiating off the floor. And we are making progress even in that context. I only wish we would recognize in this Chamber all the rich tradition of debate in the Senate and we would have the opportunity to offer amendments and debate them, dispose of them, and move on.

Senator MCCAIN has suggested that. So I am not necessarily accusing the manager of any effort to keep us from having those amendments. But I will say this. We will not be gagged when it comes to our ability to offer amendments. It is religion. And it ought to be religion on both sides. It is a fundamental question about fairness, about rights, and about any one Senator's opportunity to participate fully in the debate and consideration of any important legislation.

So I am frustrated that the tree is full. I am frustrated that we are not able to move this process forward in the normal, open process under which we should consider any bill, especially this one. But I am also hopeful that we will come to some resolution. I am hopeful that we will find compromise. I know we will pass this legislation before long.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. Senator MCCAIN is recognized.

Mr. MCCAIN. Mr. President, could I first say, before Senator DASCHLE leaves the floor, that having been in the minority for the first 7 years or 8 years I was here, I certainly have sympathy with his frustration. The great strength of the Senate is that not only does every Senator have the right to be heard but the minority does also. But I also think Senator DASCHLE realizes that if we allow any amendment on any subject with extended debate, then the body does not move forward.

I have not seen a better relationship than the one that exists between Senator DASCHLE and Senator LOTT. It is one of friendship and it is one of co-operation. I think the legislative accomplishments which have been achieved during Senator LOTT's and Senator DASCHLE's stewardship have been incredibly impressive, really.

I think perhaps it would be best for us to recognize that there is virtue on both sides of the argument, especially in light of, for example, yes, the tree is filled, but I did state, and the majority leader stated, we would be glad to vitiate one of those parts of the tree so that we could take up relevant amendments. I think that was made clear. So with the tree filled, there was the opportunity to debate relevant amendments.

I also comment that, as Senator DASCHLE pointed out, it is not really best to have all of this progress done off the floor in negotiations. I can't express a deep enough appreciation to Senator DODD, Senator WYDEN, Senator FEINSTEIN, Senator HATCH, and Senator BENNETT for their efforts, and others, and those of Senator KERRY of Massachusetts. From a personal standpoint, I express my sympathy for Senator DASCHLE's frustration. But at the same time, I do believe we could have moved forward with debate and votes on this issue.

I really appreciate his comments about his commitment to seeing this bill pass, because we really do have to pass this legislation. We will engage in further negotiations. But between now and early next week, what I would sincerely hope is that all of us—the majority leader and Senator DASCHLE would urge all of our colleagues to get together, come up with a set of amendments, as we usually do when this process comes to an end, come up with a set of relevant amendments, a time period associated with it, and get this thing done so we do not have to have another cloture vote and not have this very vital issue addressed.

Again, I also say that these amendments are important. I know the Senator from South Carolina feels very strongly about many of them. But it is time, really, that we started going through that process, even though we are bringing the bill down today.

Again, I express my appreciation to Senator FEINSTEIN, Senator WYDEN, and Senator DODD on this very important issue.

Mr. President, I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I just want to ask unanimous consent that a list of amendments in the 103rd Congress—the last Congress, of course, that the Democrats were in the majority was the 103rd Congress. I would be remiss if I did not submit for the RECORD right now a list of amendments that were not relevant that were offered by Republicans to legislation during the 103rd Congress. There were at least 19 nonrelevant amendments offered, and this may not be the complete list. We may update this as time goes on.

This issue of relevancy is interesting because it was never an issue in the 103rd Congress. Nonrelevant amendments were added. That list details a number of things. In fact, the manager of the bill today, Senator MCCAIN, had a nonrelevant amendment on the motor voter bill that would have allowed certain rescission authority on the part of the President. The Senator from Arizona also offered a nonrelevant amendment to the unemployment compensation bill in December, 1993. The amendment was to eliminate the Social Security earnings test.

The ability to offer nonrelevant amendments has been part of the con-

sideration and deliberation of legislation here in the Senate for every Congress, including the 103rd Congress when we were in the majority.

Mr. President, I ask unanimous consent that this list be printed in the RECORD.

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

#### GOP NON-RELEVANT AMENDMENTS—103RD CONGRESS

Vote No.	Date	
9	2/4/93	Family and Medical Leave (H.R. 1, P.L. 103-3)—Mitchell motion to table Dole, et al., perfecting amendment to Dole, et al., amendment (as amended by Mitchell amendment—Vote No. 8): Directs Congress to conduct thorough review of all executive orders, DOD directives, and regulations of military departments concerning appointment, enlistment, and retention of homosexuals in armed services before July 15, 1993; specifies that all such orders, directives or regulations in effect on January 1, 1993, shall remain in effect until review is completed, unless changed by law; requires President to submit any change to this policy to Congress as bill; and sets forth expedited procedures for Senate and House floor consideration. (62-37)
27 <sup>1</sup>	3/10/93	Motor Voter (H.R. 2)—McCain motion to waive Budget Act to permit consideration of McCain et al., amendment: Permits President to rescind all or part of appropriations bill if he determines, and notifies Congress within 20 days, that rescission would help balance Federal budget and not harm national interests; deems rescinded budget authority canceled unless Congress passes disapproval bill and overrides expected Presidential veto; and contains expedited procedures for Senate floor consideration. (45-52)
109	4/29/93	Department of Environmental Protection (S. 171)—Glenn motion to table Nickles-Reid, et al., modified amendment: Requires Comptroller General and GAO to prepare impact statement to accompany each bill, resolution, or conference report before it may be reported or considered by either House of Congress that describes legislation's impact on economic growth and employment, on State and local governments, on ability of U.S. industries to compete internationally, on Federal revenues and outlays, and on gross domestic product; requires Executive Branch agencies to prepare such impact statements to accompany their proposed and final regulations; and requires brief summary statement if aggregate effect of legislation is less than \$100 million or 10,000 jobs. (50-48)
120 <sup>1</sup>	5/13/93	RTC Funding (S. 714, 103-204)—Gramm motion to waive Budget Act to permit consideration of Gramm-Mack-Brown amendment: Extends discretionary spending caps and sequestration for Defense, International, and Domestic budgetary categories through FY 1998. (43-53)
160 <sup>1</sup>	6/22/93	Supplemental Appropriations, 1993 (H.R. 2118, P.L. 103-50)—Roth motion to waive Budget Act to permit consideration of Rom, et al., amendment: Provides capital gains tax cut indexed for inflation, 150 percent depreciation expense increase, \$2,000 tax deductible IRA for all taxpayers, jobs tax credit for new hiring, repeal of luxury taxes, and passive loss reform for real estate, and offsets cost by eliminating Federal retirement lump sum benefit, freezing domestic discretionary spending for five years, reducing Federal employment by 150,000, and imposing Medicare secondary payor reform and reducing Federal aid for mass transit. (39-59)
197	7/20/93	Hatch Act Reform (H.R. 20, P.L. 103-94)—Sasser-Glenn motion to table Domenici, et al., modified amendment: Expresses sense of Senate that President should submit supplementary budget as required by law no later than July 26, 1993. (56-43)
206	7/22/93	National Community Service (H.R. 2010, 103-82)—Moseley-Braun motion to table Helms amendment: Extends design patent for insignia of United Daughters of Confederacy for 14 years. (48-52)
207	7/22/93	National Community Service (H.R. 2010, 103-82)—Bennett motion to reconsider vote No. 206 by which Senate failed to table Helms amendment: Extends design patent for insignia of United Daughters of Confederacy for 14 years. (76-24)
208	7/22/93	National Community Service (H.R. 2010, 103-82)—Moseley-Braun motion to table Helms amendment: Extends design patent for insignia of United Daughters of Confederacy for 14 years. (75-25)
327	10/26/93	Emergency Unemployment Compensation (H.R. 3167, 103-152)—Hutchison motion to waive Budget Act to permit consideration of Hutchison-Shelby, et al., amendment: Eliminates retroactivity of Tax increase on upper income individuals; makes effective date of estate and gift tax rates August 10, 1993; cuts discretionary spending caps for agency and departments operating expenses by \$36 billion over three years; and exempts DOD expenses from these cuts in FY 1994. (50-44)

GOP NON-RELEVANT AMENDMENTS—103RD  
CONGRESS—Continued

Vote No.	Date	
337 <sup>1</sup>	10/27/93	Emergency Unemployment Compensation (H.R. 3167, 103-152)—Gramm motion to waive Budget Act to permit consideration of Gramm amendment: Reduces discretionary spending caps for FY 1994-98 by amount comparable to savings achieved from termination of superconducting super collider. (58-39)
338 <sup>1</sup>	10/27/93	Emergency Unemployment Compensation (H.R. 3167, 103-152)—McCain motion to waive Budget Act to permit consideration of McCain amendment: Eliminates Social Security earnings test for individuals age 65. (46-51)
339	10/28/93	Emergency Unemployment Compensation (H.R. 3167, 103-152)—Nickles-Shelby amendment: Creates point of order against any bill, amendment, joint resolution, motion, conference report or amendment between House and Senate which increases taxes retroactively and provides for waiver by affirmative three-fifths vote of all Senators, during time of war, or after adoption of joint resolution declaring that military conflict in which U.S. is engaged is serious threat to national security. (40-56)
28	2/8/94	Goals 2000: Educate America Act (H.R. 1804, 103-227)—Helms amendment: Prohibits use of funds by DOE or HHS to support or promote distribution or provision of, or prescription for, condoms or other contraceptive devices or drugs to unemancipated minor without prior written consent of parent or guardian. (34-59)
36	2/9/94	Emergency Earthquake Supplemental Appropriations, 1994 (H.R. 3759, P.L. 103-211)—D'Amato amendment, as amended: Extends to December 31, 1995, or date on Resolution Trust Corporation (RTC) is terminated, whichever is later, statute of limitations for RTC to file civil lawsuits for certain tort actions responsible for thrift failure. (95-50)
44	2/10/94	Emergency Earthquake Supplemental Appropriations, 1994 (H.R. 3759, P.L. 103-211)—Byrd motion to table: McConnell-Dole-Nickles amendment: Expresses sense of Senate that report and related documents pertaining to disclosure of Bush Administration files should be made available to Congressional Offices with legitimate oversight interests: confidentiality of report should be protected by Congress until Office of Inspector General (OIG) releases and OIG should report in writing to Majority and Republican Leaders why such procedures were not observed in release of OIG report entitled "Special Inquiry into the Search and Retrieval of William Clinton's Passport File" and his reason for declining to prosecute case. (55-39)
53	3/10/94	National Competitiveness (H.R. 820)—Glenn motion to table: Wallop, et al., modified amendment: Requires agencies to submit regulatory flexibility analysis of all proposed regulations. (31-67)
251	8/2/94	Improving America's Schools (H.R. 6, P.L. 103-382)—Biden motion to table Gramm-Dole amendment: Expands Federal jurisdiction to all State crimes of violence and drug trafficking where gun is used and provides for minimum penalties for illegal use of firearm; permits waiver of these penalties for drug offenses under specifically defined circumstances; establishes mandatory minimum sentence for distribution and trafficking of drugs by person under age 18; permits admission of evidence of previous assault or child molestation offense in criminal or civil cases involving these offenses; and requires attorney for government to disclose such to defendant at least 15 days before scheduled date of trial or at such later time as court may allow for good cause. (55-44)
268	8/10/94	DOJ Appropriations, 1995 (H.R. 4650, P.L. 103-335)—Inouye motion to table Helms amendment (to Committee amendment): States sense of Senate that major health care reform is too important to enact in rushed fashion, and Congress should take whatever time is necessary to do it right deferring action until next year in order to give Congress and American time to obtain, read, and consider all alternatives, unless Senate has had full opportunity to debate and amend proposal after CBO estimates have been made available. (54-46)

<sup>1</sup> 3/5ths majority.<sup>2</sup> 2/3rds majority.

Mr. DASCHLE. Mr. President, I yield the floor.

The PRESIDING OFFICER. Is the Senator from Texas seeking recognition?

The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the distinguished majority leader alluded to the fact that he had relatives that were trial lawyers. That puts me in the position of qualifying to even speak. Let me first say that I am proud to be a trial lawyer. No trial lawyer has called me or talked to me about this bill. They don't need to. They know and understand.

Now, what happens is, when you grow up in a small town, you get a varied experience. I am also known as a good business and corporate lawyer. I represented a grocery chain that had 125 Piggly Wiggly stores all over, and we were sued for antitrust. I won that going all the way to the Supreme Court.

I know about frivolous suits. I represented the local transit company, the South Carolina Electric and Gas. Every November, somehow everybody slipped down on the bus. They got their arm caught in the door. They tripped up on the floor. They were small cases, but the attorneys who preceded me handling them didn't want to try them. It is Christmastime, New Year's.

I backed them all up. We tried them all. We won them all. I saved that corporation millions of dollars. I am the first southern Governor to get a AAA credit rating from Standard & Poor's and Moody's. I know about business responsibility.

Now, we trial lawyers have had the fortune to represent people who have been dying of asbestosis, and then we have the young ladies who had the breast implants, and then moved to the tobacco. But here now for a change it is trial lawyers. We are beginning to get credibility. We are representing small businesses, with \$20,000 in their pockets or more. You don't go down and buy a computer for \$20. And small business people are buying that instrument. I wish they would read Business Week. I wish they would listen to Kaiser Permanente in California, how they are absolutely opposed to this particular bill, and that it would hurt the health industry. I wish they would read the record whereby the individual doctor came from New Jersey. He said he had—I can't remember the exact name so I don't want to refer to it incorrectly—a supplier. He bought the computer in 1996, and the salesman bragged about how it was going to be Y2K compliant. It would last for over 10 years and on and on.

And then he found out last year that it wasn't compliant. You see, you don't have to wait until January 1. This is an important point for the Senate to understand. You don't have to wait for January 1.

This is all political applesauce. You don't have to wait until January 1, when you go in and buy a computer, and everybody who reads the newspaper and anybody with \$20,000 in their pocket knows now the Y2K problem.

He asked that it be fixed, and they did not even answer when he called a couple of times. Then he wrote a letter. And after a couple of months passed, he decided that he had to get a lawyer. He was told that it would be \$25,000. Now, mind you me, he only paid \$16,000 for the computer, but it would be \$25,000 to make it Y2K compliant.

So as a result, they brought the suit, and somehow it got on the Internet. The next thing you know, this particular supplier had 17,000 doctors simi-

larly situated. And immediately the supplier said, oh, yes, we will fix it for free and even pay the lawyers' fees to get out of this thing. But that is the cost/benefit of some of these businesses.

We have been into this tort thing. We have the Uniform Commercial Code. We have the States. No State attorney general is running around saying we need a national approach and to do away with 200 years of history of the Constitution under the 10th amendment, and tort law and all the trial codes of America. The State of Colorado has a good bill, not like this incidentally, which brings me to the real point about negotiating.

The crowd that says this is nonnegotiable has been running around trying to pick up votes. That is what the negotiation has been about. I just read the amendment to the amendment to the amendment. When it first started, even chambers of commerce said, this is too violating and we are not going to get away with this. They actually opposed the bill when it was first introduced. Then they got this McCain bill. Then they got the McCain-WYDEN bill. Then they got the amendment, and now we have the amendment to the amendment. It showed how objectionable it was.

It is tricky. They are still plying downtown. Tom Donahue has been out in the hall saying what we will go with.

This is a political exercise. There is not a national need for Y2K legislation, as the Washington Post just this morning said. The communities know and understand. This is certainly not a conservative newspaper. I have introduced it. "Liability legislation for the Y2K problem can await the Y2K."

But it is a political problem, if you can identify with Silicon Valley and get their money and get their votes. They collected 14 million last night and they have to perform. The rich expect a fight, and you have to show you are fighting. You don't care about Y2K and the person buying a computer and everything else of that kind. It is taken care of; it is a nonproblem.

Read Business Week, March 1 issue. All the blue chip corporations of America have notified their suppliers to be compliant by the end of April, this year, 7, 8 months ahead of time.

So we are talking about a problem that is a nonproblem. It is certainly not a Federal problem, but it is a national political problem between the parties.

Yes, some on this side think they can get in bed with the Silicon Valley boys who want a capital gains tax cut. They want estate tax cuts. We have heard it. The bills are running all around. That is the crowd that is shoving them. If we can just give them a little bit, I can go out and get a fund-raiser. That is what is going on.

When you refer to the trial lawyers, we trial lawyers are finally getting a little credibility. We are representing good, responsible, financially solvent

clients, not an injured party who is hurt from smoking or from a breast implant or dying from asbestosis and doesn't have any money, and can hardly pay the doctor, much less the lawyer. How are they going to get into court? Like I am committing some civic offense by representing them—Mr. President, I do not get a dime unless I win. What does winning mean? Winning means drawing the pleadings and negotiating, because I know you don't make money in court. But, by gosh, you might have to go to court.

And then you have to get the jurors. Then they will think of other things to get up on appeal. And I have to go all the way and pay all the expenses—investigation, court expenses, and everything else. That is the contingent fee process, so the indigent poor in this America can get their day in court. It has worked for 200 years.

It is not the crowd where we have former Senators still indebted, having been investigated, \$450 an hour, sitting down with the mahogany walls and the blooming Oriental rugs. I want a continuance. I want a continuance. No trial lawyer is frivolous. He doesn't want a continuance. He has to move it along. Like Senator McCAIN says, "Let's move it along." The trial lawyers are a move-along crowd. But when they see a fixed jury, then they say, wait, let's stop, look, and listen.

I earlier remarked on something here. Kenneth Starr is in the morning news trying to interview the jury after the verdict. We understand, from this particular charade, that you have to interview the jury before the verdict, because we are the jury and they are running around with all of these entities. I can't do it. The Chamber of Commerce, the Business Roundtable, NFIB—they are all running around—are you for tort reform? I am for tort reform. We have had it in South Carolina. It is a good bill. It practices there. I get in all the industries, and no businessman in my backyard is complaining. I have the best of the best. Give me the blue chips. I have GE, Westinghouse, BMW, Hoffman-LaRoche. Give me the best of the best.

I went out to Bosch not long ago. They make the antilock brakes for Mercedes and Toyota, and they have a contract for all GM. I asked the gentleman who was briefing us, "What about product liability on defective antilock brakes?" He said, "No, every one of these is numbered. We would know immediately where it went wrong." That is what trial lawyers have caused. They have caused the utmost care in production. You have quality care and you ought to be proud of it. That is how you get productive—not on a State tax cut or a capital gains tax cut.

Let the trial lawyers show you the way for quality production. We get on them when they give you a bad article. That is what we argued about here when they referred to the trial lawyers as if there is something wrong with

them. I am proud that we can be able to represent people with money for a change. So I am ready to stay here and object.

If there were some negotiations, it would be better while we move on some other legislation. They need to get a reasonable bill that doesn't change all the tort law or joint and several and these other things they have in there, where you just sue them and they say, "That part was made in India, so go out to New Delhi and see if you can find them"—come on. No small businessman or doctor has the wherewithal to do that. They have no recourse. They are trying to take away individual rights on a political bum's rush. I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, there is a lot I would like to say in response to Senator DASCHLE's remarks and Senator HOLLINGS' remarks. Some of it would probably be better left unsaid, but I must comment.

Regarding amendments, I reiterate what Senator McCAIN, the manager of the legislation, said. Amendments that are relevant to this bill, germane to this bill, we ought to do that. That is why I left a window in the parliamentary procedure yesterday so we could do that. Unfortunately, the Senator from Massachusetts showed up and stuck in a totally irrelevant amendment, and I felt that that was an abuse of my good-faith effort. But we can still do that. If Senator DODD, Senator ROBB, or some other Senator has an amendment with regard to Y2K, OK, that is the way you legislate. But the idea that we are going to have a political legislative agenda dumped off on this bill, which is a very thinly veiled effort to kill the bill—that is really what is at stake here—any majority leader would be certainly unwilling to agree to that.

I offer this to Senators again: If we have relevant amendments, we will be glad to do that.

Let me talk for a moment about what this bill does. It seems to be a little bit clouded by the debate. It provides time for plaintiffs and defendants to resolve the Y2K computer problems without litigation—without litigation. That sounds like a good idea to me. Those who think the solution to the problem in America is more lawsuits, I don't think they have been talking to the real world. I am a lawyer. But the idea that we ought to just have more opportunities to file lawsuits—I understand lawyers are calling the families of the poor victims in Colorado and saying, "Can we sue somebody for you?" That makes me sick to my stomach, that in this moment of grief, members of my profession would call and say, "Let me sue somebody for you."

No, the answer is not more lawsuits in America. The answer is solutions, opportunities for resolution, sanity, for

Heaven's sake. So we would like to have a process here where we don't always have to resort to litigation. Wonderful lawsuits. Great. I don't believe the American people want that.

This bill reiterates the plaintiff's duty to mitigate damages and highlights the defendant's opportunity to assist plaintiffs in doing that by providing information and resources. Does that make sense? Why, sure. It is giving them help to solve the problem. This is a unique problem, one we have never had before. Shall we rush to the courts? No. Should we try to find a way to resolve the problem for all concerned? Yes.

The bill provides for proportional liability in most cases, with exceptions for fraudulent or intentional conduct, or where the plaintiff has limited assets.

Are there legitimate causes for court actions? Yes. I don't have the extensive practice background that the distinguished Senator from South Carolina has, but I practiced a little law and I did some corporate work and some public defender work, and I filed some lawsuits because I thought they were necessary. I can remember a medical malpractice case that I thought was justified. Yes, there are cases, but they should be only after other avenues have been pursued where there is fraud or intentional misconduct.

This bill protects governmental entities, including municipalities, schools, fire, water sanitation districts from punitive damages. Should there be some general protection for the school districts from being sued? Sure.

The bill eliminates punitive damage limits for egregious conduct while providing some protection against runaway punitive damage awards. Do we need some protection here? You see lawsuits out here in some States for \$40 million, and it is totally inexplicable and, in my opinion, indefensible.

It provides protection for those not directly involved in a Y2K failure. And it is a temporary measure. We are not trying to have product liability reform on this bill or tort reform—although we ought to have both, in my opinion, and the sooner the better. I can't wait until we can get it done. But this is a temporary measure to deal with a temporary, one-time problem. It sunsets January 1, 2002.

I want to emphasize that it does not deny the right of anyone to redress their legitimate grievances in court.

What is at stake here? What is going on here? Some people don't want this bill at all, pure and simple. To the credit of the Senator from South Carolina, I don't think he has denied that. His goal is to defeat this bill. For every name of people out here in the hall on the business side, I can assure you there is somebody on the other side. But the idea that we are going to resort to the courts to solve all of the problems in America, and the insinuation that this bill is some sinister plot to block legitimate legal action, I just find that wrong.

I think it is a good effort. I hope we get it done. But I am willing to stand on this line right here. Those who just voted against cloture can live with it, as far as I am concerned, and they can explain it to their constituents—big businesses, small businesses, farmers, people who are going to get sued if we don't do this, when it is not even necessary.

So if this bill dies on this line, it is OK with me, because I think the blame is clear. But I am not going to be a part of shenanigans here, to have an agenda dumped on this bill that would result in killing it. We are not going to keep spinning our wheels. We are going to come up with a legitimate compromise solution, and we are going to vote and move or not—either way. If anybody in this Chamber thinks the solution to the Y2K problem is more lawsuits, I don't believe they have talked to the people in America.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

(The remarks of Mr. KYL, Mrs. HUTCHISON, and Mr. HOLLINGS pertaining to the introduction of S. 912 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HOLLINGS. Mr. President, let me thank the distinguished Senator from Texas. She is right on target. We have graduated over 2,000 agents from the finest school down there for Border Patrol agents. Two who trained there have already been killed.

I have visited from time to time. The matter of pay is the issue. We advertise and we solicit in the local area over the entire State—and nationally—and it is a pay problem.

I hope we can confront it.

Mr. President, I will say a word about the majority leader's rejoinder relative to this legislation.

He points out specifically that without litigation, we have time; it gives an avenue, gives 90 days in time, to fix the problem.

Mr. President, this Senator knows, rather than fixing the problem, they are trying to fix the defendants and see if, on a cost-benefit basis, they can move the problem out to India or some other supplier that is indigent or bankrupt or otherwise; that is what they do during the 90 days.

We do not need in law a 90-day waiting period before you can file. Nobody is filing immediately. Nobody wants to get to court. These businesspeople don't run down and get a lawyer. They do as the doctor did in his testimony before the Commerce Committee: He called and called, and he wasn't called back; then he wrote the letter; he spent \$16,000 for a computer, and in a year's time he had to pay \$25,000 just to be Y2K compliant.

We live in the real world. Why is this gimmick on all legal proceedings all of a sudden given a 90-day extension for fixing the problem? For an individual running a little corner grocery store

with a computer that goes down, if they call the company and don't have the money to make it Y2K compliant, in 90 days they are out of business. They are still waiting around while they are maneuvering with their lawyers.

These manufacturers who are sued have lawyers on retainer sitting up on the 32nd floor wondering when they can get off to play another golf game or when they can get another continuance. They think about how to stay out of the courtroom and how to get the clock running. It is a bad provision.

Let me agree with the distinguished majority leader and say I agree that no bill is needed. We find out after all of the debate, here comes the Washington Post that says, wait a minute, the market is fixing it now. On January 1, if there is a real problem that the States can't handle, there are courts in all the States, and if they can't handle it, we have a national problem, fine. But don't use Y2K as an instrument to distort the tort system and get through what they haven't been able to get through for the past 20 years.

I yield the floor.

#### GUIDANCE FOR THE DESIGNATION OF EMERGENCIES AS A PART OF THE BUDGET PROCESS

The PRESIDING OFFICER (Mr. BUNNING). The Senate will now resume consideration of S. 557, which the clerk will report.

The bill clerk read as follows:

A bill (S. 557) to provide guidance for the designation of emergencies as part of the budget process.

The Senate resumed consideration of the bill.

Pending:

Lott (for Abraham) amendment No. 254, to preserve and protect the surpluses of the social security trust funds by reaffirming the exclusion of receipts and disbursement from the budget, by setting a limit on the debt held by the public, and by amending the Congressional Budget Act of 1974 to provide a process to reduce the limit on the debt held by the public.

Abraham amendment No. 255 (to Amendment No. 254), in the nature of a substitute.

Lott motion to recommit the bill to the Committee on Governmental Affairs, with instructions and report back forthwith.

Lott amendment No. 296 (to the instructions of the Lott motion to recommit), to provide for Social Security surplus preservation and debt reduction.

Lott amendment No. 297 (to amendment No. 296), in the nature of a substitute.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent I be permitted to proceed as in morning business not to exceed 15 minutes.

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

(The remarks of Ms. COLLINS pertaining to the introduction of S. 913 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

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

(The remarks of Mr. SMITH of New Hampshire, pertaining to the introduction of S. 914 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent for an additional 5 minutes.

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

#### TED GUY, AN AMERICAN HERO

Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to an American hero. We could use some heroes today, of all days, considering the last few days we have had in America. But I rise today to pay tribute to retired Col. Theodore Wilson Guy, United States Air Force, from Missouri. Ted Guy, nicknamed the "Hawk" by those who knew him best, was a genuine American hero. He was best known for having sacrificed his freedom for his country as a U.S. POW during the Vietnam war. But aside from being a hero, perhaps more importantly, Ted would say he was a husband, a father, a brother, and a friend to many, including myself. Last Friday, April 23, 1999, Ted passed away only 6 months after discovering symptoms associated with leukemia.

I will always remember Ted Guy for the encouraging faxes and e-mails he used to send to my office, especially during the investigation conducted by the Senate Select Committee on POW/MIA Affairs, which I cochaired in the early 1990s. I gained a lot of strength from those inspiring messages from this hero. Ted will never know, but I want his family to know how much those messages meant to me.

Ted felt strongly that our Government needed to do more to account for his missing comrades from the Vietnam war. He traveled at his own expense to Washington, DC, to the Halls of Congress, to make this point.

Ted was right to be concerned about our Government's handling of the issue of POWs and MIAs, and with his support, and the support of his fellow veterans and family members of POWs and MIAs, we have made significant progress in opening the books, declassifying the records, and pressing foreign governments for answers over the last decade.

However, as Ted continued to maintain up until his last days with us, there is still much work to be done with our accounting effort, and I, for one, am committed to seeing this issue through, in part because of people like Ted.

I commit to you, Ted, we will keep working. We owe it to you.

I say to the youth of America, if you want a role model to aspire to and to inspire you, they do not come any better than men like Ted Guy. When looking for a hero, oftentimes young people

look to professional athletes or others. You want to remember that a hero is not only somebody you care for, but if they are a real hero, that person will care about you, too.

Ted joined the Air Force in 1947. He served his country as an Air Force fighter pilot for the next 26 years. He served in both the Korean and Vietnam wars flying the F-84 in the Korean theater and the F-4 in the Vietnam theater. On March 22, 1968, while attacking an automatic weapons position near the Vietnamese-Laotian border during the battle of Khe Sanh, Ted's plane was shot down and he was captured by the Communist forces.

Ted Guy was subsequently marched up the Ho Chi Minh Trail and then held in several POW camps in the Hanoi area, to include the infamous Hanoi Hilton. He was brutally tortured by the North Vietnamese to the point where he would pass out from severe beatings. He also was forced to spend nearly 4 years in solitary confinement.

He was one tough guy—Ted Guy. He did not talk about it much, though. You could not get him to talk about it. He was not looking for sympathy.

When he was finally removed from solitary confinement, he was put in a prison with more than 100 other U.S. military and civilian prisoners. He became the senior officer among them and was responsible for maintaining order, the chain of command, and the code of conduct among his fellow POWs.

His leadership and guidance helped his fellow POWs survive their ordeal. Many have said just that. Many referred to themselves as "Hawks' Heroes" in honor of Ted Guy.

To the code of conduct, Ted added his own personal code that consisted of two points. The first point was to resist until unable to resist any longer before doing anything to embarrass his family or his country. The second point was to accept death before losing his honor.

Ted once said:

Honor is something that once you lose it, you become like an insect in the jungle. You prey upon others and others prey upon you until there is nothing left. Once you lose your honor, all the gold in the world is useless in your attempt to regain it.

Mr. President, Ted Guy never, never lost his honor. What an inspiration he was to all Americans. I wish more Americans could have known him personally. I wish more Americans knew more about Ted Guy. He leaves behind his wife Linda of 26 years, four sons and two stepdaughters. He touched a lot of people—so many people.

However, his unselfish and patriotic sacrifices for America and his heartfelt concerns about efforts to account for his missing comrades from the Vietnam war who never made it home were huge accomplishments. I was proud to call him a friend, and I already miss him.

As with other POWs, Ted used a tap code in Hanoi to communicate through the walls with other POWs. It was an

alphabet matrix—five lines across, five lines down. Ted used to end his messages by tapping the code "GBU," or "God bless you," and "CUL" for "See you later."

I end my tribute with the same message to Ted: "GBU CUL, Ted."

Mr. President, I ask unanimous consent that the tributes to Ted Guy from his son, his POW-MIA supporters, and his dear friend and fellow POW, "Swede" Larson, and also a copy of the tapping code, as Ted Guy used it, be printed in the RECORD.

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

A TRIBUTE TO TED GUY, SR. FROM HIS SON,  
TED GUY, JR.

On Friday, April 23rd, my dad passed away. Col. Ted Guy was a man of tremendous conviction, determination and patriotism. As his son, I would like to share with you a picture of my Dad you might not have been aware of. Please read this as a tribute from a son to his Dad.

It was a little over six months ago that Linda alerted me to the fact that Dad was not feeling well and he would be undergoing some tests. The test showed the seriousness of Dad's illness. I knew Dad would do everything he could to fight the cancer, as his five year experience in POW camp had provided a glimpse of his determination. However, my concern became that he would finish well. To finish well would be to be right with God. To be right with God would be to understand and accept God's word, the Bible. To accept God's word would be to receive Jesus Christ as one's savior.

When I visited with Dad shortly after Christmas, I gave him a copy of the book "Mere Christianity" by C.S. Lewis. On the cover of the book I had written, "Dad, I desire more than anything in life that you would spend eternity with me in heaven. I ask you to read this book with an open mind as it is written by a 'wanna be' fighter jock, C.S. Lewis."

Prior to giving this book to Dad, we had had discussions about Jesus Christ, but Dad felt he was pretty much a self made man and could make it on his own. But when your Dad is dying, you tend to again go the extra mile as my greatest concern was where would he spend eternity.

I am so pleased to report that Dad read the book. As he was fighting the cancer, his loving wife, Linda, would read from "Mere Christianity" to Dad every night before he went to bed. In addition, I gave Dad an audio cassette about the "proof of Christ." About two months ago, Dad called me and said he had listened to the tape and "it made a lot of sense." He also told me not to worry as he and God were going to be O.K.

Throughout these past four months, I have had the great privilege of seeing Dad do everything he could to beat the cancer. I believe he received outstanding care. I also believe the love and care shown Dad by Linda in helping him fight the cancer is a real example of loving and serving at its very best.

I have also seen Dad's heart towards God change. This change was reflected not only in what he said to people about the things of God, but this change was also reflected in the warmth and love he expressed to so many in his last days. He understood the love of Christ and the beauty of Christ's gift on the cross. But more than understanding, he accepted the gift of God through his Son Jesus Christ.

My wife, Rita, and my sons, David and Jeremy, will miss Dad. David and Jeremy will

miss fishing with Granddad as well as being the only two people on the planet that could humble him. (A 4 and 5 year old have that amazing ability.) We are so proud of the great American he was, the lives he touched and the causes he fought. His legacy of patriotism and determination will live on, we promise.

While we are proud, we are also very thankful. We are thankful Dad received Jesus Christ as Lord and Savior. Perhaps, the Lord has placed dad in a place of great need in having cancer. A place where dad could completely understand his need for Jesus Christ. If I could say one thing to my dad, it would be: "Dad, you served, you fought, but most of all, you finished well. I am proud to be Ted Guy, Jr."

Knowing my Dad, he would have wanted you to know he died with peace in his heart. He knew he was loved and cared for; but more than anything, he would want you to know he knew the love of God.

POW-MIA INTERNETWORK TRIBUTE TO TED  
GUY

Re Colonel Ted 'Hawk' Guy Passes.

Date: April 25, 1999.

From the flight lines of Korea and Vietnam, to a cell in the Hanoi Hilton, to the hallowed halls of Congress . . . Ted Guy never failed to speak his mind, do his job and command respect, awe and admiration from all who crossed his path.

And now he has passed on to a final freedom and peace.

After duty in Korea and stateside, he was transferred to Vietnam where he bailed out over Laos after one of his bombs prematurely exploded and was captured by the North Vietnamese. From the jungles of Laos, Ted was marched to Hanoi, repeatedly exposed along the way to Agent Orange. Upon reaching the Hanoi Hilton, he spent 3 years in solitary confinement and upon release to the general population, assumed his role as Senior POW Officer (SRO).

He was badly beaten, tortured and as a result of extreme mistreatment during captivity, he was retired shortly after his release during Operation Homecoming.

Ted rallied family members, activists and Ex-POWs the same way he rallied his men . . . With compassion, strength and passion. He openly spoke of his confinement, the politics of POWs and was a resounding voice of reason in an unreasonable issue and world.

The continued saturation of Agent Orange took its final toll . . . Ted was diagnosed with Leukemia as a result of AO exposure and within a scant 6 months, passed from this world.

There are no words to express how much he is respected and how much he will be missed. His voice may have been silenced, but his message will endure.

In closing he always signed his letters and e-mails to us with the POW tap code, GBU and CUL, and we were and we did . . . and we will, one day.

May your flight be swift and the winds carry you high Ted.

GBU-CUL

NATIONAL ALLIANCE OF POW/MIA FAMILIES  
TRIBUTE TO TED GUY

It is with deep sadness that we inform you of the passing, on April 23rd, 1999 of Korean and Vietnam War Vet and former Vietnam Prisoner of War—Col. Ted Guy. For those unaware, Col. Guy was with us, from the very beginning of the Alliance. He spoke at our first forum back in July 1990. When our website started ([www.nationalalliance.org](http://www.nationalalliance.org)), he agreed to write the foreword for our Vietnam Pages.

Col. Guy was a strong supporter of the Live POW issue. He was never afraid to speak his mind and he stood by his convictions.



All of us in the POW/MIA issue will miss him. We have lost a dear friend and our POW's have lost a strong advocate.

—  
A MESSAGE FROM COL "SWEDE" LARSON,  
FORMER POW—HANOI VIETNAM

It is with deep regret, that I inform you of the death of Col. Ted Guy. He passed away today, 23 April 1999, from complications associated with Leukemia. He only lived 6 months from the time of his first symptoms. He is survived by his wife Linda, two step daughters, four son's, and a brother.

Since most of you did not know Ted, and a few misunderstood him, I am going to ask your indulgence, and tell you a little about him, since I was his very close friend for 44 years.

We first met at Luke Air Force base in 1955 as young Captains instructing fighter gunnery. He had previously completed a combat tour in Korea, flying F-84's. He and I had three things in common. We both loved to fly, party, and fish. Over the years we stayed in close touch, and after his retirement, we fished together many times.

He was assigned to South Vietnam in F-4's while I was in Thailand flying out-country missions, in F-105's. When he showed up in Hanoi, I couldn't fathom how he had gotten there. After we were released, I learned that he was shot down during the battle at Khe Sanh, bailed out and captured in Laos by the North Vietnamese (they were never in Laos! -yah, right!). On the second day of his capture while he was starting his walk to Hanoi, he was heavily sprayed with Agent Orange. In the ensuing days, he walked through many areas that had been previously defoliated.

As he was captured in Laos, he was kept away from the rest of us and spent his first 3 years in solitary confinement. He was then put in with the 100 plus, Army and civilian prisoners and was the Senior Officer. He had his hands full with a group of very young, non-motivated and rebellious enlisted men. Unlike our group, (after the death of HO), he was badly treated by his captors, almost up to our release. He was badly beaten during this time for acting as SRO and on one occasion, suffered severe head injuries, which several years later resulted in his being medically discharged from the service. He had been on the "fast track" prior to shoot down, and had been promoted to Lt. Col. below the zone. To my knowledge, he was the only POW promoted (to 06) below the zone while a POW. Those concussions he suffered forced his early retirement.

He was not an active member of our group, primarily because he did not know or serve with any of us in Hanoi. He also felt that even though our group elected to be non-political, we should have made an exception and taken a prominent stand as a potential powerful lobby group, to demand a full accounting of the MIA's. He was an individual of deep loyalties, and a boundless love of his country and flag. He stood up tall against those he felt were in the wrong.

His medical specialists felt that his Leukemia was a direct result of his repeated heavy exposures to Agent Orange. The Veterans Administration however, in their infinite wisdom felt otherwise, and denied his emergency claim for Agent Orange disabilities. (Hence no DIC for his wife).

He ended up loosing a promising military career and suffered an early end to his life, in his service to his country. I shall truly miss him. Thanks for your indulgence.

GBU Ted.

SWEDE LARSON.

—  
OBITUARY FOR TED GUY

Theodore Wilson Guy, 70, of Sunrise Beach, Missouri, died April 23, 1999, at St. Marys Health Center.

He was born April 18, 1929, in Chicago, a son of Theophilus W. and Edwina LaMonte Guy.

He was married October 18, 1973, to Linda Bergquist, who survives at the home.

A 1949 graduate of Kemper Military College, he served as a pilot in the Air Force until his retirement in 1973 as a colonel. A veteran of the Korean and Vietnam wars, he received a Silver Star, the Distinguished Service Medal, the Distinguished Flying Cross, the Air Medal and a Purple Heart. He was a POW for five years in Laos and North Vietnam. After his retirement from the Air Force, he became National Adjutant for the Order of Daedalians.

In 1977, he became associated with TRW, assigned to Iran as Senior Tactical Adviser to the Commander, Iranian Tactical Air Command.

He was a member of St. George Episcopal Church, Camdenton.

Other survivors include: two sons, Ted Guy Jr. and Michael Guy, both of Phoenix; two stepdaughters, Elizabeth Thannum, Los Angeles, and Katherine Roth, Chicago; one brother, Donald Guy, state of Alabama; and three grandsons.

Services will be at 3 p.m. Friday at St. George Episcopal Church. The Rev. Tim Coppinger will officiate. The remains were cremated. Inurnment, with military honors, will be at a later date in Arlington National Cemetery, Arlington, Virginia.

Memorials are suggested to the Leukemia Society of America.

POW TAP CODE IN HANOI HILTON

	1	2	3	4	5
1	A	B	C	D	E
2	F	G	H	I	J
3	L	M	N	O	P
4	Q	R	S	T	U
5	V	W	X	Y	Z

Mr. SMITH of New Hampshire. I thank the Chair for his courtesy. I yield the floor.

Mr. GRAMS. Mr. President, I ask unanimous consent that I be allowed to speak for up to 10 minutes as in morning business.

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

(The remarks of Mr. GRAMS pertaining to the introduction of S. 916 and S. 917 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BROWNBAC. Mr. President, I ask unanimous consent to speak as in morning business for a period of up to 15 minutes.

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

VIDEO VIOLENCE AND THE  
CULTURE OF KILLING

Mr. BROWNBAC. Mr. President, I rise to address the body today on another aspect of our culture. I have spoken several times this week about different aspects of our culture in areas that I think need desperate reform, which certainly has been highlighted by what took place in Colorado.

Today, I want to speak of video games. I have examples to show people in this body and I hope around the country of what is being marketed to our children, what is being put out there, what they are receiving.

I have kids who are in this age range. My oldest daughter is 12, my son is 11, and my youngest daughter is 9. They have some exposure to some of these notions. I rise to address one aspect of our society that I think demands attention, particularly in the wake of these tragic events.

Yesterday, I addressed the rise in popularity of music with hyperviolent, often misogynistic lyrics. More and more kids are tuning in to music which glorifies and glamorizes violence and viciousness. As the popularity and profitability of music depicting murder, torture, and rape grows, the music industry is making a killing off our kids.

The problem is not unique to the music industry. It is found in many entertainment fields. This coming Tuesday, we will hold a hearing in the Commerce Committee to examine marketing violence.

Today, I will talk about another equally troubling trend in pop entertainment, the rising popularity of gory, graphic video games. The video game industry has received far less attention than television or movies but is among the fastest growing entertainment media in the country.

Last year, the video game industry was worth more than \$6 billion. Its profitability is climbing steadily and rapidly. The rise in profitability is fueled by the rise in popularity of these games. Video games are being played more often by more people and particularly more kids.

Even industry executives acknowledge that video games are a growing part of the cultural landscape. I want to put this in the context of the cultural landscape. One executive of the industry went so far as to assert in a recent Wall Street Journal article that:

Games are a primary vehicle for popular culture.

These games are.

As a father with a young son who plays a lot of video games, I can tell you, they get to spend more time with him a lot of times than anybody else does, as he plays the video games.

Although many video games are non-violent, a growing number of companies are producing and promoting unimaginable gory, interactive video games. They are gory and they are interactive.

Consider these few examples. "Carmaggedon" is a highly popular video game put out by Interplay, which debuted a little over a year ago. The purpose of the game is for the player, who controls a race car, to mow down as many pedestrians as he possibly can. That is the purpose of the game, "Carmaggedon." You are in the car mowing down people. Points are awarded for each pedestrian killed, and the more gruesome, the better.

Unlike some games where the player aims to kill villains, such as monsters or aliens, the targets in this game are innocent people. The game player is no longer cast in the role of vigilante but simply a cold-blooded killer.

The video game "Quake," put out by Midway Games and ID Software, the same companies as producers of "Doom," consists of a lone gunman confronting a variety of monsters. For every kill, he gets points. As he advances in the game, the weapons he uses grow more powerful and more gory. He trades in a shotgun for an automatic, and later he gets to use a chain saw on his enemies. The more skilled the player, the gorier the weapons he gets to use. Bloodshed is his reward. "Quake" sold more than 1.7 million copies its first year out.

Here are some other examples of popular games. I want to show you some of these ads, because I think they are particularly troubling in the advertisement that they use. These are ads that were all taken from a recent gaming magazine, again, aimed at a teenage audience. These are generally aimed at people under the age of 18. And I can see some of our interns and pages up front. I rather imagine they will recognize some of this advertising that I am going to show.

But I want you to look at some. Here is "Quake." Just look how this is advertised, if you would, Mr. President.

Blowing your friends to pieces with a rocket launcher is only the beginning . . .

Sound familiar?

Whether you are in search of the ultimate online frag-fest or looking for the latest Quake news, information player ranks, or skins—the Imagine Games Network has it all.

It talks about "[b]lowing your friends to pieces with a rocket launcher is only the beginning. . . ." Unfortunately, does that sound like a news headline?

Let's look at the next one we have up here. And I want to point out, before I get to the real graphics of it, it is rated 14. So there is actually a rating system on video games. So this one is supposed to be purchased by people under the age of 18. It is rated to do so.

Listen to the title of this one. Look at how this one is advertised at the very top. "Kill Your Friends Guilt Free" is the advertising. "Kill Your Friends Guilt Free."

If you consider yourself a fighter kind of surg, Guilty Gear comes highly recommended. No true fan can be—

This is online here. What else do we have of this one? "Fighting games."

You can see the rest of it, and the gory details. It is rated for teens. This is rated for kids under the age of 18.

"Kill Your Friends Guilt Free." Does that sound horrible?

This is an actual game screen, really. This is of a very popular game.

It is built on the revolutionary Quake II engine kingpin. Life of crime. Includes a multiple player gang bang deathmatch for up to 16 thugs.

I think you can see the blood splattering here at the side in which different people are blown away.

One other point I want to make about this is that we will have people testify at our hearing about the desensitization that this does to people to allow and even empower them to do things to people that are not even imaginable, but after you spend so much time looking at and studying the screen and shooting at and blowing up people, the desensitization process happens.

We will have an expert witness testifying that that allows you to do things that you would otherwise have an internal mechanism in you saying, no, you cannot do that; no, you do not do that. But after hour after hour of the blood and guts, it has a desensitization to it.

These are advertisements.

Look at this one. Look at this one: "Deploy. Destroy. Then relax over a cold one."

"Deploy. Destroy." And "[t]hen relax over a cold one."

On this one you can see the little teen label. This is marketed and this is for teens to purchase. They actually are for teens to purchase.

Can you really sit there and say that the consumption of this on and on and on does not have some impact on a young mind, on a young soul?

"Deploy. Destroy. Then relax over a cold one."

Look at this one. This one goes further than even death.

Destroying your enemies isn't enough. \* \* \* You must devour their souls [in this one]. Legacy of Kain: Soul Reaver. As a result, stalk the shadows of Nosgoth, hunting your vampire brethren. Impale them with spears, incite them with torches, down them in water. No matter how you must destroy them, you must feed on their souls to sustain your quest, the ruin of your creator, Kain.

[Y]ou must feed on their souls to sustain your quest, the ruin of your creator, Kain. Dark Gothic story, shift real time between material and special planes. Morph.

Those are being marketed to our kids.

The video game industry has not only deemed some of these acceptable for teens and parental consent unnecessary, but they market them to teens as well.

This may seem over the top, but they are among the more popular games around. One survey of 900 fourth to eighth graders found that almost half of the children said their favorite electronic games involved violence.

Columnist John Leo put it this way:

We are now a society in which the chief form of play for millions of youngsters is

making large numbers of people die. Hurting and maiming others is the central fun activity in video games played so addictively by the young. Can it be that all this constant training in make-believe killing has no social effects?

One would think that some of these games are so violent that they are out on the fringe somewhere snubbed by respectable companies, cringing somewhere in the electronic redlight district. Not so. They are backed and distributed by some of the biggest names in the business.

GT Interactive distributes "Quake." Sony Corporation is developing the "Doom" game, which so inspired the two young killers in Littleton, into a movie. They are making this into a movie and are in the process of negotiating with its own game division's "Twisted Metal" car game, where the object is to mow down innocent pedestrians.

In these games, the goal is death. Success is determined by the body count. Others' pain is your gain.

Moreover, almost all of these games are sold in toy stores. Reports indicate that they are typically arranged in alphabetical order, not by rating or age level.

It seems pretty apparent to me that toy stores are designed to appeal to children. Children are the targeted audience. Parents do not enter toy stores to buy toys for themselves. But right there on the shelves are products that are supposedly unsuitable for children.

Defenders of these games say they are mere fantasy and harmless role-playing. But is it really the best thing for our children to play the role of murderous psychopaths? Is it truly harmless to fantasize about mass murder? Is it?

We need to do better than this. I am not saying that companies do not have a right to peddle this, but it is not right to make a killing off peddling violence to our children.

Raising children is a precious duty and a precarious task. It requires nurturing, sacrifice, and lots of love. But even the most devoted parents may find it impossible to shield their child from these images and messages that surround them at school, at the mall, at a friend's house, through music, TV, movies, and video games. We can no more shield our children from a polluted culture than we can shield them from polluted air.

Just as a polluted physical ecosystem is poisoned by several sources, so our cultural ecosystem has many points of source pollution. And this is one. We all need to do our part in cleaning up our cultural ecosystem—or else we shall all be poisoned by it.

Mr. President, I am willing to share these graphics with other offices for them to look at as well. I simply ask them to look and to examine and to think as we start to explore more in this area of cultural renewal and the need for renewal of what we are actually dealing with today—how do we

move forward to get to a better and a brighter day, so our children can live in a culture of life rather than a culture of violence and a culture of death? What are they receiving today versus what we want them to receive tomorrow? Can we really sit here and say that these have no impact on our children? I don't think we can.

I think we need to examine and push, each of us individually, and start down this line of saying, what is it that is being received? What sort of cultural pollution is getting to our children, and how do we improve that ecosystem? How do we get it renewed?

We can, and we have to start about this task, not by a series of censorship but first by knowledge and, by that, spreading and getting away from a culture of doom and death to a culture of life.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, I ask unanimous consent that I be allowed to proceed for up to 12 minutes as in morning business.

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

#### ILL-CONSIDERED PROSECUTION OF FORMER AGRICULTURE SECRETARY MICHAEL ESPY

Mr. LEAHY. Mr. President, there have been a lot of interesting things in the news this week. One is a story about the Supreme Court's ruling on Tuesday. It confirms the view that many of us have held for some time. Special Prosecutor Donald Smaltz was overreaching, at the very least, in indicting and trying former Secretary of Agriculture Mike Espy. Mr. Smaltz spent over 4 years and about \$17 million of our taxpayers' money to run out of office this distinguished public servant.

Last December, a jury said "no" to Special Prosecutor Smaltz and acquitted Mr. Espy of the charges against him. In fact, the jury said "no" and "no" and "no" and "no" and "no," I believe, over 30 times. Now the Supreme Court has said a resounding "no" also. They rejected the broad reading urged by Mr. Smaltz of the criminal laws he has used to bring down a Cabinet Secretary. The Supreme Court, Tuesday, concluded that the conviction of a trade association for giving Mr. Espy gifts was correctly thrown out by a lower court.

According to the Supreme Court, if Mr. Smaltz's reading of the Federal gratuity statute were correct—a reading that out-of-control special prosecu-

tors seem to have—"it would criminalize, for example, token gifts to the President based on his official position and not linked to any identifiable act—such as the replica jerseys given by championship sports teams each year during ceremonial White House visits . . . [or] a high school principal's gift of a school baseball cap to the Secretary of Education, by reason of his office, on the occasion of the latter's visit to the school."

The Supreme Court wisely rejected these absurd results.

Secretary Espy began his tenure as Agriculture Secretary facing challenges to the safety of our food supply, and he dealt with those challenges with enormous energy, compassion, and effectiveness. Just before he was sworn as Secretary, several children died because they ate contaminated hamburgers in Washington State.

I remember this very well. I remember Secretary Espy immediately flying to Washington State to be with the families, because he cares about people. I remember talking to him about that, because I was at that time chairman of the Senate Agriculture Committee. I know that when he flew back to Washington, he devoted himself to preventing these needless deaths. He started putting into effect policies which will save thousands of lives in our country. He fought the industry itself—a very powerful, well-heeled industry—to do the right thing.

History will record his tenure as a turning point in updating and modernizing our food safety standards—a tradition continued by Secretary Glickman and President Clinton.

But his "trial by fire" began at the hand of a special prosecutor run amuck. The unanimous jury verdict acquitting him underscores what I have been concerned about for some time—unaccountable prosecutors with unlimited budgets who can and will bring charges that no other prosecutor in the world would bring.

This special prosecutor is one who is extremely frustrating. If I thought that what he did was out of sheer stupidity, that would be one thing. It would be enough if we thought that this was a man who was just not bright enough to know his job. But along with his total lack of judgment, his total stupidity, came a man whose overwhelming ego was such that he cared less about anybody he was after. The taxpayers were paying his bill. He cared only about preening before the cameras himself.

He was particularly interested in promoting himself and patting himself on the back. He was among the first of the special prosecutors to establish his own Internet web page. It is like an advertisement for himself on this web page. Mr. Smaltz posted his reaction to the jury verdict and downplayed the acquittal since an "indictment of a public official may, in fact, be as great a deterrent as a conviction of that official." That was the most flagrant ad-

mission of abuse of a prosecutor's power that I have ever seen—I was a prosecutor for nearly 9 years—and it remains posted on his web page today.

What he is saying is, it doesn't make any difference if the person is guilty or not. It doesn't make any difference if the jury acquitted over and over again, and the person is not guilty. All the prosecutor has to do is bring an indictment; that will teach them. This is no way to restore faith in the criminal justice system. This is an example of a prosecutor who indicts somebody for something that no jury would ever convict the person for, but says, "I will show them because I am the prosecutor," or, "I can do that because, after all, it is going to cost you hundreds of thousands and maybe millions of dollars to prove your innocence. And, besides, the taxpayers are paying my bill. So why should I care about you?"

What ego, what stupidity, what arrogant abuse of power. I really cannot think of words strong enough to condemn such actions.

No prosecutor should bring an indictment simply as a deterrent and without a good-faith belief that the case can be proved beyond a reasonable doubt. Prosecutors should not bring these charges simply to harass somebody, simply to cost them money. A prosecutor has a sworn duty not to bring a charge unless he or she thinks there is at least a reasonable chance they can prove the charge and the person is guilty. Common decency, saying nothing about the canons of ethics, would require that. Frankly, no prosecutor who has to answer to anybody would do that. Only a prosecutor who doesn't have to answer to anyone, only a prosecutor who has the taxpayers paying their unlimited bills, would do that.

Putting aside the harm to reputation and cost to the defendant and witnesses of bringing unwarranted charges, indictments based on flimsy facts can be dangerous. The Government is barred under our Constitution's double jeopardy clause from bringing a case twice. So a prosecutor has a responsibility to ensure that the Government can prove its case the first time around. There is no opportunity for a second "bite at the apple."

One item that Special Prosecutor Smaltz did not put up on his web page was, I thought, one of the most disgusting things I have seen any prosecutor do. It was so bad that apparently, even with his unbridled ego and his lack of intellectual honesty, he did not feel he could bring himself to put it on the web page. That item was: he congratulated his team of well paid prosecutors with gifts of wristwatches. According to the press reports, these watches "look good, with Smaltz' name around an eagle in the center of the independent counsel seal and the case name, 'In re Espy.'"

It is like he was on some big game hunt and these were the trophies. Stupidity one might excuse, and stupidity

was evident here. But this kind of arrogant, egotistical abuse of a public trust nobody can forgive. In fact, I have wondered whether the cost of those gratuities exceeded the costs of the gifts that Mr. Espy was charged with receiving. Watch gifts may not be criminal; I find them certainly offensive.

Mr. President, as we go into the debate we will have this year on whether we renew the Office of Independent Counsel—something, I predict, will not be done—let us not aim all our fire at the excesses of Kenneth Starr, or his tactics, or his misstatements of the facts to the Attorney General, or even some of the lies that came out of his office. Let us not focus just on that. Let's look at people like Donald Smaltz, a man who showed what happens when somebody of limited talent, of questionable ethics, of no integrity, how they can act when they are given unbelievable power, unlimited budget; and we in the Congress should ask ourselves whether we want to continue this.

The Office of Independent Counsel, when filled with good men and women—and there have been some very good men and women of both parties who have been there—who follow the restraints that prosecutors would normally expect to have, have done a good job. But when it is filled by people who would serve with a sense of self-aggrandizement, it hurts the whole Nation. It hurts an awful lot of innocent people—people found innocent by juries, people found innocent by appellate courts, people whose reputations are besmirched and their bankrolls exhausted by the actions of unconscionable, incompetent, out-of-control persons like this man.

Mr. President, I may speak more on this. I have tried to restrain myself in my comments about him today and to give him the benefit of the doubt. I have probably given him the benefit of the doubt more than he deserves.

Mr. President, seeing no one else seeking the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. 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. KERRY. Mr. President, I ask unanimous consent to speak as in morning business.

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

(The remarks of Mr. KERRY, Mr. KOHL, and Mr. JEFFORDS pertaining to the introduction of S. 918 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. LINCOLN. Mr. President, I ask unanimous consent to address the Senate for 10 minutes.

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

Mrs. LINCOLN. I thank the Chair.

#### AGRICULTURE SUPPLEMENTAL APPROPRIATIONS

Mrs. LINCOLN. Mr. President, I rise today to bring attention to a situation that grows more dim with each passing day. My colleagues and I came to the floor before the Easter recess and addressed this very issue.

The Farm Service Agency has depleted many of its accounts, and quick passage of the supplemental appropriations bill is absolutely vital to replenish these funds and to get our farmers back into the fields.

I was very pleased with USDA's emergency action on March 26 to keep loan money available and to keep temporary employees on staff. However, that funding has run out in many areas, and Congress has yet to complete action on the bill.

The billions of dollars in agricultural credit authority contained in the bill is literally the only hope of staying on the farm for hundreds of Arkansas producers and many farm families.

In Arkansas, we need an additional \$41 million for FSA's loan programs. We are experiencing the largest USDA credit demand since the mid-1980s. As of April 23, our State FSA offices had delivered more than \$179 million in credit assistance.

Due to bad weather, low prices and poor outlooks, the need for Government-guaranteed credit has increased substantially this year. Our agricultural industry is on a deadline with Mother Nature, and it cannot wait any longer.

The timeliness of this legislation cannot be overemphasized. For those of us in Southern States, our planting time has already come and is just about gone. We are in dire straits. All farmers across this Nation are in dire straits. It is so very important for us to act in this body in a timely fashion in recognizing this problem.

In addition, I take this opportunity to express to my colleagues that agriculture is vitally important to all of us across this Nation and to the rest of this world. It seems that every time I turn on the television, there is another story applauding the unbelievable success of our Nation's economy.

Unfortunately, not every segment of our society is sharing in this period of economic bliss. The agricultural community nationwide is suffering.

USDA economic projections for 1999 do not offer much hope for relief in the

immediate future, and it will fall upon our shoulders to explore the short-term, as well as the long-term, policy resolutions to farm revenue problems.

It may not be the most popular issue of the day, but every one of us enjoys the safest, most abundant and most affordable food supply in the world today produced by American agricultural growers.

This safe and abundant food supply will not be there for this Nation or for the world if we do not support our family farmers at this critical time. Once those family farms are gone, they will no longer be back in production.

I certainly thank the President for allowing me to talk about this and to reiterate to my colleagues how absolutely important it is.

#### IN HONOR OF SENATOR DAVID PRYOR

Mrs. LINCOLN. Mr. President, I rise today to do something that I know my fellow colleagues in the Senate will be very interested in, and that is to pay tribute to one of the Senate's esteemed graduates and a role model for all Americans, former Senator David Pryor.

As a young woman and a former Congresswoman from Arkansas, I have always looked up to Senator David Pryor for his intelligence, his dedication, his tenacity and his compassion for his fellow man.

Now, I have found a new reason to admire my former colleague and longtime friend. For those of you who don't know, last week David Pryor left his current post at Harvard's Kennedy School of Government.

No, he didn't take a job at Yale or even an Ambassadorship. He has gone to Kosovo. Not as a diplomat or as a U.S. official, not even as a Harvard professor, but as a hands-on volunteer who is helping care for Kosovo refugees in Albania.

I am sure that many of you who served with David Pryor and already know him as a great humanitarian are not in the least bit surprised by this.

Senator Pryor recently signed on with the International Rescue Mission, a New York based group which was started by Albert Einstein to help those suffering under Hitler's regime. The organization is currently building shelters and assembling sanitation systems to improve living conditions for thousands of displaced Albanians.

Senator Pryor loaded up his suitcase with gifts for the refugee children—candy bars and crayons. And he told the International Rescue Mission that he was going there to work for 30 to 60 days.

Some may ask what prompted David Pryor to take this step. By all accounts, he has had a remarkable career—serving as a Senator and the Governor of my home state and the state legislature as one of its youngest members.

He has been able to continue his love of politics by teaching young people at

Harvard's esteemed school of Government. And he has a wonderful family, who he enjoys immensely and who loves him dearly. It all sounds like a pretty full life.

When asked by a friend why he made the decision to go to Kosovo, Pryor responded that he was too young to fight in World War II and he was too involved in his own career during the civil rights struggle to contribute much in that event.

Now, later in life he was struck by the reports and pictures coming out of the Yugoslav region. He was concerned for the thousands of children and families who were in need and who he wanted to do something for. So, after a week of deliberating within himself, he woke his wife in the middle of the night and said, "Honey, we've got to talk." A week later, off he went.

Since he has been in Albania, Senator Pryor has reported once back to his family and sent a fascinating letter to friends, family and former staff. He works in a camp digging latrines and assisting the Red Cross efforts to secure supplies. Last Saturday he bought 5,000 bars of soap and diapers for 1,000 babies.

"Being here a week makes me wonder about our world and how people can do such unthinkable, brutal things to other humans," Senator Pryor wrote. "It is a world of unreality."

He says of the men "All their incentive and pride has been stripped from them and they having nothing left."

About half of the dislocated refugees in the camp where Senator Pryor works are children. They are scared. They are tired. They are hungry. And above all, they are devastatingly sad. They mourn lost loved ones and ache to return to their homeland.

Senator Pryor also shared with his family the stories of two women, one whose daughter had been raped at the hands of a Serb police officer; the other a young mother has been separated from her three children, all under the age of 5, for more than a month. She was forced to flee her home, abandon her life and possessions in Yugoslavia, and now continues to desperately search for her family, her small children.

These are just some of the images Senator David Pryor is seeing on his trip. They are even more heart wrenching than any of us could imagine.

Whether or not you support U.S. involvement in the Kosovo region, none of us can imagine or ignore the human tragedy that is unfolding along its borders. Every day our televisions and newspapers carry new images of the suffering—new reports of atrocities by Yugoslav troops.

I, for one, feel better about the humanitarian conditions and the thousands who are suffering, knowing that David Pryor is lending a hand and leading with his heart.

My generation has yet to see the kind of nationwide mobilization and spirit of volunteerism that swept our

country during World War II and the Korean War. My mother has often told me of rationing gas and preserving food. She told me of joining together with friends and family to plant a victory garden and to make morale-boosting gifts to send to our troops overseas.

I have such enormous respect for the efforts of all Americans during that time and I hope we as a nation can join together in support of our troops and the humanitarian efforts to help the Kosovo refugees now.

I commend Senator David Pryor's efforts, wish him well, and urge all of us to take note of his selfless example.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I ask unanimous consent beginning at 9:30 on Friday there be 30 minutes for debate only with respect to the Social Security lockbox issue, and at 10 a.m. a cloture vote occur pursuant to rule XXII.

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

Mr. LOTT. I further ask that following that vote, the Senate proceed to S. Res. 33 reported today by the Judiciary Committee regarding National Military Appreciation Month, and the Senate proceed to vote on the resolution without further debate.

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

Mr. LOTT. I ask consent it be in order for me to ask for the yeas and nays at this time.

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

Mr. LOTT. Mr. President, I now ask for the yeas and nays on adoption of S. Res. 33.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LOTT. There will be two rollcall votes on Friday beginning at 10 a.m. I thank my colleagues for their consideration of these issues.

As a result of the agreement outlined, there will be no further votes today. In addition, I am working with the minority leader, Senator McCain, and others to reach an agreement for consideration of the resolution Senator MCCAIN introduced regarding Kosovo. That could involve other votes or other resolutions. For now, we are working on exactly when the MCCAIN resolution would come up. I hope the Senate can reach consideration on this matter in early May. I expect a little debate yet today on the pending lockbox issue.

#### RECESS

Mr. LOTT. In light of a briefing that is ongoing, a very important briefing in the secure room with regard to the conflict in Kosovo, I ask that the Senate stand in recess until 4:30 so all Senators can attend this briefing.

There being no objection, the Senate, at 3:42 p.m., recessed until 4:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. GORTON].

The PRESIDING OFFICER. The Presiding Officer, in his capacity as a Senator from the State of Washington, notes the absence of a quorum.

The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

#### CONGRATULATING THE ST. PIUS DECATHLON TEAM

Mr. DOMENICI. Mr. President, with the recent tragic events in Colorado, it's good for us to remind one another that there are a lot of terrific young people out there accomplishing great feats involving teamwork, academic study, and a lot of guts.

That's why today I want to salute the St. Pius High School academic decathlon team from my hometown in Albuquerque, NM. The St. Pius students just finished in 7th place at the national academic decathlon finals in California. That's the best finish New Mexico young people have ever scored at the decathlon nationals.

One of the St. Pius team members said it best about the contest. He said it's the only competitive event in high school where your best chance of winning involves going home and reading a book.

These outstanding young people were tested based on their knowledge and scholastic skills in fine art, music, history, economics, mathematics and literature.

It is with great pride that I salute the St. Pius decathlon team and their accomplishments. Congratulations to team members Caleb Benton, Nicholas Jaramillo, Stephanie Piegzik, Dennis Carmody, Mark Mulder, Matt Spurgeon, Louis Rivera, Ben Sachs, Jesse Vigil and their coach James Penn.

THE PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 925 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

#### THE FLAWED ENDANGERED SPECIES ACT

Mr. DOMENICI. Mr. President, I rise today to share with my fellow Senators

an extraordinary exchange that occurred last week in the Interior Appropriations Subcommittee when they were conducting a hearing under your chairmanship regarding the year 2000 budget for the Department of Interior.

As some of you here may know, Secretary Babbitt and I, while both being from adjacent Western States, have not agreed on a lot of land management, water, and endangered species issues affecting the West. However, last Thursday a most unusual and enlightening thing took place. We both agreed that, regarding the impact of the Endangered Species Act on desert States like New Mexico, the current implementation of the law does not work.

I ask unanimous consent Secretary Babbitt's testimony be printed in the RECORD. It is not yet an official record because the entire transcript has not been completed, but it is a literal translation of what he said that day.

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

DEPARTMENTS OF THE INTERIOR AND  
RELATED AGENCIES APPROPRIATIONS  
FOR FISCAL YEAR 2000

THURSDAY, APRIL 22, 1999

U.S. SENATE, SUBCOMMITTEE OF THE  
COMMITTEE ON APPROPRIATIONS,

Washington, DC.

The subcommittee met at 9:33 a.m., in room SD-124, the Dirksen Senate Office Building, Hon. Slade Gorton (chairman of the subcommittee) presiding. Present: Senators Gorton, Stevens, Cochran, Domenici, Burns, Campbell and Byrd.

UNEDITED PARTIAL TRANSCRIPT

Senator GORTON. Senator Campbell?

Senator CAMPBELL. Mr. Chairman, Senator Domenici has to—he has another very tight commitment.

Did you want to ask a question before I go?

Senator DOMENICI. I would really ask if I could ask two questions. I have to preside at a committee hearing at 10:00 o'clock, and I will be a little late to that.

Senator GORTON. Fine, fine. Go ahead.

Senator DOMENICI. Thank you.

Mr. Secretary, I am going to submit some questions to you with reference to the drought in the State of New Mexico, which will essentially be asking you if you can make sure there is a coordination of all of the federal agencies, some under you, as to what might be done.

We are—we are clearly—I do not know if you know this, but we are destined this year to have the worst drought we have ever had. Our rivers are going to run dry, and a lot of things are going to happen that are very, very bad. And I will ask you about that in detail.

But now I want to raise an issue that is related to the drought and share it with you with reference to the Endangered Species Law, and I think you are aware of this.

Mr. Secretary, New Mexico, like Arizona, is a very arid state. Folks here in the Beltway are primarily unaware of the critical needs for water out there in the West. We are very grateful that you come from out there and you know about these needs.

With the lack of snow pack and precipitation in New Mexico, we are going to have a drought. In fact, parts of the Rio Grande River which you are familiar with, which historically has gone dry at various times, may dry up as early as this week, believe it or not.

The traditional stresses of water users are only made more difficult by litigation regarding the needs for the silver minnow endangered species. A recent notice of intent to sue by the Forest Guardians and others—that is an entity in New Mexico—threatened to force the release of stored water in any of Heron, El Vado, Abiqui, and Cochiti Reservoirs to maintain—quote, “to maintain the riparian habitat necessarily for the survival,” of the silver minnow and the willow flycatcher.

I am concerned about water necessary for the survival of New Mexico, our cities which use that water, our irrigators which have—as you know, under our water system, they have primacy as per the time they applied it to the ground, and they own much of that water.

In the lawsuit which sought to force immediate critical habitat designation, you, as the Secretary of Interior, in the lawsuit which I will make available to you, you argued that the Department did not have the data necessary to determine water amounts needed for the fish.

Fish and Wildlife Service Director Rappaport-Clark stated in an affidavit that: The Service must comply with NEPA requirements and perform an economical analysis of the impacts. The EIS would likely be needed which would require more time for the habitat designation. The Environmental—the ESA requires that the Service, when designating critical habitat, take into consideration the economic impacts of specifying any particular area as critical.

I wonder if you would share with the committee, as soon as you can, answers to the following questions, and if you could answer them right now, it would be very helpful.

Secretary BABBITT. I would be happy to. I would be happy to.

Senator DOMENICI. Without scientific data available for the minnow, water needs, nor reliable economic analysis, will not the Department need additional time to follow through and find out what the needs are? You have stated that in the lawsuit, but would you tell the committee if that is the case?

Secretary BABBITT. Well, Senator, if I may—

Senator DOMENICI. Please.

Secretary BABBITT. I would like to step back and frame this issue and then specifically answer your question.

Senator DOMENICI. Sure.

Secretary BABBITT. Senator, I do not think it is any secret that we have not had much luck in our relationship in finding common ground in New Mexico.

Senator DOMENICI. No.

Secretary BABBITT. But this is another tough problem being served up, and let me just say that notwithstanding our failures in the past, I intend to do everything I can to see if we can work our way through this.

Now, let me say this also: I believe that our failure to work out a reasonable relationship is in some ways due to the underlying fact that in New Mexico, more than any other western state, including Alaska, Colorado, Montana and Washington, these issues are characterized by intransigence on both sides.

I have never worked in an environment in which the natural resource users have been so rigid and inflexible; and I would say exactly the same thing of the environmental groups. Now, it is in that context that we must deal with this problem.

I have voiced my concerns about the way that we are mandated to use the designation of critical habitat under the Endangered Species Act. It does not work. It does not produce good results. It should be modified, because the Courts are driving us to front-

end determinations which, more properly, should be incorporated in recovery plans at the back end when we, in fact, have the information.

Now, the Courts have laid out a set of case decisions here that have put us in a strait-jacket. They are not going to give us the kind of time we need because the Act does not allow it. So that is just the bottom line.

Do we need more time? Yes. But the Endangered Species Act does not give it to us. The Courts do not give it to us. And we are going to proceed with declaring critical habitat. I would prefer not to. It is a—it is not productive. It is incendiary, and it will be in this case.

Now, finally, let me say, and then I will back off, that I believe that there are solutions available here. It is going to take some movement by those middle ground irrigation districts. They do not have a reputation for water use efficiency. And there are many ways, I believe, that we could work something out. They have not shown the flexibility that we have found in other places, like in Eastern Washington, in Colorado, and elsewhere.

The environmentalists may, in fact, be making—not “may, in fact,” but are, in fact, making some unreasonable demands about their version of what the hydrology of the Rio Grande Valley ought to be like.

I would like to continue attempting the work. I have talked with the Bureau of Reclamation. I believe we have some water resources that are going to allow us to stagger through this season, with a little bit of flexibility.

Senator DOMENICI. Thank you very much.

I know I used a lot of the Committee's time.

But I compliment you on your statement, and—while I do not necessarily agree with you characterization of my fellow New Mexicans as being intransigent and the worst in America, as you have just phrased it, but—but I do believe that something is terribly bad in the way the Courts are handling this situation because you have to close down a river to users without knowing what the habitat—what the water is needed for the—what water is needed for the endangered species.

It is an impossibility. Maybe we could fix that here. It probably would bring the world down on our necks, even if we tried to do what he suggested. But we ought to think about that.

Let me make sure that everybody understands the seriousness of this problem. I grew up within eight blocks of this river. And for many years of my younger days, I used to walk to this river, and many times it was dry.

So for those who are used to rivers in your state or in Alaska that run all year long and were having arguments about salmon fish habitat, we do not have that. We have a river that, for much of the time, does not have any water in it.

On the other hand, we built storage places that make it better now. We do have more water, and we have a different water system than most of you. Our water system is based upon: The first one to use it and apply it to a beneficial use owns it, and they own it as of the date they did it. And they are valuable; you can sell those rights.

Now, the problem we have is that the endangered species comes along with litigants who know how to use the Courts, and they say, regardless of those water rights, you have to save the fish, the minnow.

Now, the minnows have survived, I believe, during eras that I have told you about. When there is no water running in the river, they



have survived in some other place in the river where there is water.

And now what we have is a drought and rivers that do not always run wet, and we have at the worst possible time a lawsuit against him and his Department saying, "Create an endangered species, Mr. Judge," and now ordering them to try to get water out of the reclamation projects, even if they have to dump our lakes that are there for irrigation purposes and other things, to save the minnow.

Now, that is a very frustrating position for a state to be in, and for a Senator, when the Endangered Species Act is a national law. And I do not know whether we want them to go to court and see if they really have water rights under the Endangered Species Law.

That is a nice question. And everybody has been kind of dancing around it, except for a couple of courts—you could guess where—from California, California Circuit. They have kind of ruled that they have water rights even though they are not part of New Mexico's water ambience at all.

The Secretary is indicating that perhaps people have been intransigent regarding their water rights. I can tell you they may have been. But if you were under the gun all of the time about whether you are going to have enough water even though you own it, you would be kind of nervous about sharing it with anybody.

And I think that is kind of what happened, and then put on the 800,000-population city which gets its water from an underground aquifer that is fed by this river, and they own a lot of water in order for their future, and you have a real tough situation. So I may need the Senators' assistance.

But I will tell you for now, Mr. Secretary, I hope you are not alluding, in terms of intransigence, to your and my difficulties earlier in your Secretarial term. They are there, and they are acknowledged, and they will kind of be wounds for a long time on both of us.

But this is a new ball game with a new problem, and I clearly intend to work with you if you will work with me to see if we can find a way to get through this on a temporary basis until we can fix it up in some permanent manner.

Thank you very much.

Senator STEVENS. Senator, would you yield just for one minute?

Senator DOMENICI. I am finished. Thank you.

Senator STEVENS. My friend, I think that is the most enlightened statement about the Endangered Species Act that I have heard from any Administration official since that act was passed, and I was here when it passed. And I am going to get a copy of that, and I do believe that we can work on that basis.

Mr. DOMENICI. Secretary Babbitt's testimony could open the door to some changes in the Endangered Species Act and may permit all parties to work together. I am submitting, as I indicated, this unedited transcript from the hearing for the RECORD. The Secretary's remarks are very significant because they acknowledge that this law, however well intentioned, is not working as it should. I hope we can begin serious work on improving the Endangered Species Act, certainly as it applies to dry States where water is very much in demand and where we have an imposition on those waters by the Endangered Species Act as it is currently being implemented.

Just last month I indicated that people and people's needs should come be-

fore the minnow, which is an endangered species in this particular Rio Grande river valley. I wrote a letter to editors of papers in our State, which appeared in multiple newspapers around New Mexico, saying it is now time to face the devastating impacts of laws such as the Endangered Species Act on people in a desert State like New Mexico, particularly in the area of water.

I got some real arguments and some flak for writing that letter, but I also got some very enlightened commentary on the problems facing an arid State, and I am pleasantly surprised to find that Secretary Babbitt has contributed to the debate in a very constructive way.

New Mexico, my home State, is very dry. I have found that people within the beltway and in eastern America are unaware of the critical need for water in the West. With the lack of snow pack and precipitation in our State this year, we are facing a severe drought this summer. In fact, parts of the Rio Grande River, the largest river in our State, which runs from north to south and through the city of Albuquerque and many other communities, which has historically gone dry at times—this river is already drying up, even this early in the season.

My discussion with Secretary Babbitt was extremely timely, since my office received a call this past weekend from the Fish and Wildlife representatives saying they were out trying to find out what was happening to the endangered silvery minnow in the dry stretches of the river.

You see, the traditional tension among water users is not only exacerbated by litigation regarding the needs of the endangered silvery minnow, but also obviously exacerbated by all conflicting water needs when you are in a drought period.

In a lawsuit filed by the Forest Guardians and Defenders of Wildlife, a recent 10th Circuit Court of Appeals decision ordered an immediate critical habitat designation for the Rio Grande silvery minnow. The practical effect of this determination is the fish may get too much of the limited water in the river and some human users may not get any.

A Federal district judge in New Mexico allowed a few more months for the designation, but the lawsuit only dramatizes the growing conflict between the Federal Endangered Species Act and water for Rio Grande users. Secretary Babbitt agreed.

I asked the Secretary whether the Interior Department had sufficient data to determine the true water needs to sustain the silvery minnow in the Rio Grande River in New Mexico or to make an accurate economic and social assessment of the critical habitat designation on existing water rights owners.

In States like New Mexico, people actually own a proportionate share of the water in a river basin. All of those

owners and their rights are predicated upon State law, which says if you put water to a beneficial use and continue to use it over time, you own the water rights that you have moved off the river and used. From the time you first applied water to beneficial use, you become a priority owner of the water as of that time.

Secretary Babbitt replied that his Department does not have sufficient information, but it has no choice but to act because of Federal court orders.

Secretary Babbitt stated that the Endangered Species Act does not work. He hoped that it could be modified to prevent court-ordered, unscientific, premature determinations. The courts need to give the Interior Department time to gather the data to develop a workable plan for habitat designation.

He does not have that data necessary to make a valid, critical habitat designation, and the courts, in trying to follow the act, are not giving him the necessary time. He will be forced to proceed, perhaps, with declaring a habitat. He also said he felt that it will not be productive and will be very inflammatory.

Litigation has only inflamed passions on both sides of this debate. In addition to the critical habitat litigation, a recent notice of intent to sue by the Forest Guardians and others threatens to force the release of stored water in any of four New Mexico reservoirs to "maintain the riparian habitat necessary for the survival" of two endangered species.

I am concerned about water necessary for the survival of New Mexicans, their well-being and way of life. I can only hope that the potential needs of this silvery minnow will not drain reservoirs which Albuquerque, Santa Fe, and many others depend on for their water.

I do believe that something is terribly wrong when people who own rights to water have to forego usage or face penalties for "taking" of a species without knowing what amount of water is needed for that endangered species.

Incidentally, Mr. President, I grew up in Albuquerque, and I lived within about eight city blocks of this Rio Grande River. I can tell you, as anyone who has lived in New Mexico for very long can assert, that river ran dry plenty of times. Historical data collected before the irrigation projects or large population increases along the river showed it dried up consistently in certain places. I am no biologist, but that minnow survived.

I can assure you that the river water did not run down the entire length of the river from north to south, which is what some say we must do now for the survival of the silvery minnow.

Mr. President, it really is upsetting when I understand that some data available indicates that the minnow "needs" more water than the Rio Grande can provide, even without consideration of the needs of human users.

How can critical habitat be designated without the consideration of all users and their needs along the river, especially if they have property rights and own the water?

Some irrigators may have to take their toothbrushes to work because they might be thrown in jail due to a "take" of fish that they have shared the wet and dry times with for many years.

I care about including the silvery minnow. I care about making sure we try our best to save the silvery minnow. I support the intent of the Endangered Species Act. I actually was here to vote in favor of it, and I did. Today, I agree with Secretary Babbitt that it is broken and does not work. I do not think the problem is necessarily what we designed in the legislation, but I think the court interpretations have made it unworkable.

Mr. President, I say to my colleagues, I know the mention of modifying the Endangered Species Act brings howls and scowls from some quarters, but I say to you today that it can and it must be improved. I am willing to work with my fellow Senators and the administration and those surrounding this issue on all sides to try to find some solutions to this problem, both nationally and for my State of New Mexico.

Mr. President, I yield the floor.

Mrs. MURRAY addressed the Chair.

THE PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I ask unanimous consent to speak as in morning business for 15 minutes.

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

Mrs. MURRAY. Thank you, Mr. President.

#### MICROSOFT CORPORATION

Mrs. MURRAY. Mr. President, I rise today to talk about an issue of great importance to Washington State and our country. I know it is an issue the Presiding Officer, the Senator from Washington, shares concern with me. There has been a lot of talk in recent months in the media and on the Senate floor about Microsoft and the Department of Justice. I want to take a few minutes today on the Senate floor and share a few of my thoughts on Microsoft.

Recently, Microsoft's competitors and critics have portrayed Microsoft as a serious threat to the technology sector. I can speak from experience about Microsoft. The Microsoft I know is far different than the ruthless company that has been described in newspaper articles. My own professional and political career covers the 20-year period of Microsoft's growth from the first personal computers to today's innovative software programs which have spurred consumers and educators and students and the business community to the reinvention of their daily lives.

Almost everyone is familiar with Microsoft and its products. Bill Gates

and Paul Allen, the company's founders, had one vision in mind—that one day every home and family would have a PC. It was an ambitious goal but one that seems more attainable every day. Through the years, the company has developed tremendous innovations in the technology industry, but Microsoft is more than the product it makes. I want to take some time today to talk about the things Microsoft does to make the lives of everyone in our country better.

I have spent most of my career as an advocate for education. I have traveled all across my State visiting schools and talking to students, parents, teachers, and local business leaders. I have worked hard to put computers into schools and train teachers in the use of technology and make sure that all children, no matter who they are or where they come from, has access to technology and the opportunities such skills and knowledge bring.

If there is one thing I have learned, it is that providing a good education, if we want to do it, takes the involvement of everyone, and that is particularly true of businesses. Microsoft believes one of its most important goals is to build technology to empower teachers and families to make lifelong learning more dynamic, more powerful, and more accessible. To this end, Microsoft contributes more than a half billion dollars annually for education, workforce training, and access to technology programs.

Microsoft is a leader in education technology. Through its connected learning community effort, they help students and educators and parents access technology, and through its "Working Connections" program, Microsoft supports technology training for underserved populations through the Nation's community college system. If we want our young people to compete for high paying technology jobs, we need to make sure they have the right skills.

Microsoft is also a leader in addressing the technological gap in many communities across our country. The Gates Library Foundation grants provide public access to the Internet in underserved areas in both rural and urban settings. Their ongoing financial commitment to this effort is making a real difference for underserved populations and areas.

I tell you these things today because I know firsthand of all the great things Microsoft and its employees are doing to bring new inventions and opportunities to American consumers.

When a grandfather learns how to e-mail his grandchild and play a larger role in that child's life, I appreciate Microsoft's efforts on behalf of families. When a Washington State family finds work in the technology sector, I appreciate Microsoft's contribution to my State's economy. When a child discovers the Internet as an educational tool for the first time, I see a child filled with excitement, for learning and

hope for the future, and I thank Microsoft for helping to make that possible. That is the Microsoft I see and that is the Microsoft I represent in the Senate.

Now, we all know that high technology, and particularly the software business, is immensely competitive. Certainly, Microsoft, and all the other Washington high-tech firms, compete vigorously. That is the nature of these industries. Washington State has become a high-tech leader through hard work, a dedicated and creative workforce, and an unmatched quality of life.

Microsoft has enjoyed immense success over the years and continues to grow at an impressive rate. This success has been hard fought, however, and has recently drawn the oversight of the Department of Justice.

The Department of Justice has alleged consumer harm, but I have to ask: Where are the consumers who have been hurt? There is no consumer uproar over Microsoft or its business practices. Microsoft's business model—high volume, product sales at low prices—is both successful and proconsumer.

Microsoft's consumer benefits are well understood by the American public. A recent nationwide poll conducted by Hart-Teeter found that 73 percent of those polled believe Microsoft has benefited consumers, and 69 percent of those individuals have a favorable impression of Microsoft.

While those results do not surprise me, I was surprised to learn that 66 percent of those polled believe that the Government should not be pursuing this case against Microsoft, and more than half of the respondents believe that this case represents a poor use of tax dollars.

I have read the complaint filed by the Justice Department and I have followed the court proceedings in this case. I have seen how easy it might be to conclude, based on press reports, that Microsoft is faring poorly in the courtroom. The vigorous courtroom presentations during the trial have led to an aggressive public relations effort outside the courtroom. I think it is time for the parties in this case to move to a more productive dialogue.

The judge in this trial has implored both sides to seek a settlement. And I agree. Microsoft and the Justice Department should do all they can to meet the judge's request. Both sides should be free to pursue a settlement in private and free from the influence of the public and their competitors. Settlement of this case will mean that consumers will continue to benefit from Microsoft's innovative products and the antitrust claims will be put to rest.

At issue here is more than just the fate of Microsoft. The resolution of this trial will have broad implications on the software industry as a whole. Microsoft employs more than 30,000 people, including 15,000 from my home

State. The U.S. software industry employs more than 600,000 people and enjoys an annual growth rate of 10 percent.

The industry paid more than \$36 billion in wages to U.S. employees in 1996. Software and high-tech companies have been the driving force behind the economic expansion that we continue to experience here in the United States, and much of our economic future lies in these knowledge-based industries. We have to be cautious and thoughtful about Government intervention so that we do not stifle the economic promise that software and high-tech companies offer.

Of course, we should not protect companies or guarantee profits and market share. But we—as legislators and as the Federal Government—must be careful to correctly interpret the state of competition. My own view is competition is alive in this industry. Any tech company that rests on its current product line or stock price risks a quick and decisive downfall.

While Microsoft is headquartered in Redmond, WA, my remarks are more than a defense of a constituent company. My concerns should be felt by every Senator on this floor.

A recent piece in the Wall Street Journal offered the following passage:

Dominant firms are the norm in high tech. TV ads boast that virtually all internet traffic travels on Cisco systems. Quicken has 80 percent of the financial-software market. Netscape once boasted of having 90 percent of the browser business. Intel still has 76 percent of the microprocessor business. America Online, Lotus Notes and Oracle all dominate their respective markets. Executives who work in such glass offices should think twice before encouraging zealous prosecutors and glib reporters to define monopoly as a large share of an artificially tiny market.

The high-tech industry employs 4.5 million workers across this country. According to the American Electronics Association, 47 of the 50 States added high-tech workers between 1994 and 1996. It is not just States such as Washington and California and Texas that are booming as a result of technology jobs. Georgia, Colorado, North Carolina, Oregon, Illinois, Virginia, Florida, and Utah are States that are experiencing phenomenal job growth in the tech sector.

To maintain this impressive nationwide job growth in the technology sector, the Congress and the Federal Government must be careful. Let's not forget that most of this phenomenal growth occurred over the last decade when technology was not on either the Federal or congressional radar screen.

Before yielding, let me reiterate the points that brought me to the floor today. I hope each of my colleagues will give serious consideration to these issues.

Microsoft is a true Washington State and American success story that is still unfolding for the benefit of consumers, business and the general public. Microsoft has a particularly impressive record of community activism,

and I am especially proud of the company's efforts in the area of education.

The ongoing court case is of utmost interest and importance to me in the work I do in the Senate. I implore all parties to give the legal system an opportunity to work. Judge Jackson has urged both parties to seek a settlement, and I strongly encourage them to heed the judge's advice.

Finally, the outcome of the Microsoft case will have long-term ramifications on our Nation's economy. Technology is growing rapidly, and we all know many technology jobs are high-paying, family-wage jobs. The United States is a technology superpower. The Federal Government must use its immense powers with care and caution in monitoring the technology sector. When the Federal Government interjects itself in this intensely competitive sector of our economy, it must ensure that it does not do serious damage to our economy.

Mr. President, I again urge my colleagues to pay attention to the Microsoft case. I look forward to discussing this issue with my colleagues again on the floor of the Senate.

#### EDUCATION AND CLASS SIZE

Mrs. MURRAY. Mr. President, while I have the floor, I want to turn quickly to a different topic, and that is on the issue of education and class size.

I know my colleagues have watched me come to the floor and talk numerous times about how important it is that we reduce class sizes in the grades of 1 through 3. I have talked about the research in this country which has shown that reducing class size makes a difference for our students.

I ask unanimous consent to have printed in the RECORD a report from Tennessee that has just come out. It is called the Star Report.

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

[From the Project STAR News]

#### BENEFITS OF SMALL CLASSES PAY OFF AT GRADUATION

PROJECT STAR FINDS SMALL CLASSES IN K-3 LINKED TO GREATER STUDENT ACHIEVEMENT, BETTER GRADES, LOWER DROPOUT RATES, AND HIGHER COLLEGE ASPIRATIONS

WASHINGTON, D.C.—A ground-breaking Tennessee-based class size study has found that public school students placed in small classes in grades K-3 continue to outperform students in larger classes right through high school graduation.

Researchers for Project STAR (Student/Teacher Achievement Ratio)—whose earlier findings helped form the basis for class size reduction in some 20 states—today reported that students placed in small class sizes in grades K-3 have better high school graduation rates, higher grade point averages, and are more inclined to pursue higher education.

"This research adds to the evidence we have compiled over the past 14 years," said Dr. Helen Pate-Bain, who convinced the Tennessee state legislature to provide funding for the initial STAR research. "The project's findings indicate that students placed in small classes in grades K-3 continue to benefit from that experience in grades 4-12."

The original STAR research tracked the progress of an average of 6,500 students each year in 79 schools between 1985 and 1989 (and 11,600 students overall). It found that children who attended small classes (13-17 pupils per teacher) in kindergarten through grade 3 outperformed students in larger classes (22-25 pupils) in both reading and math on the Stanford Achievement Test for elementary students. The second phase of the STAR research found that even after returning to larger classes in grade 4, STAR's small class students continued to outperform their peers who had been in larger class sizes.

At a news conference held today at the National Press Club, STAR researchers released a new wave of findings:

Students in small classes are more likely to pursue college: STAR students who attended small classes—and black students in that group in particular—were more likely to take the ACT or SAT college entrance exams, according to Princeton University economist Dr. Alan B. Krueger, who researched test data linked to the Project STAR database. "Attendance in small classes appears to have cut the black-white gap in the probability of taking college-entrance exam by more than half," Krueger said.

Small classes lead to higher graduation rates: Preliminary data from participating STAR school districts in Tennessee show that students in small classes were more likely to graduate on schedule; they were less likely to drop out of high school; and they were more likely to graduate in the top 25% of their classes, according to Dr. Jayne Boyd-Zaharias, a STAR researcher since 1986. In addition, Boyd-Zaharias found that small class students graduated with higher grade point averages (GPAs) than regular class size students.

Students in small classes achieve at higher levels: Three other researchers—Dr. Jeremy D. Finn, professor of education at SUNY Buffalo, Susan B. Gerber of SUNY Buffalo, and Charles M. Achilles, Ed.D., of Eastern Michigan University, together with Boyd-Zaharias—released new findings showing that STAR students who attended small classes in grades K-3 were between 6 and 13 months ahead of their regular-class peers in math, reading, and science in each of grades 4, 6, and 8. "Our analyses show that at least three years in a small class are necessary in order for the benefits to be sustained through later grades," wrote the researchers. "Further, the benefits of having been in a small class in the primary years generally increase from grade to grade."

Class size is different from pupil/teacher ratio: Achilles, one of the original STAR researchers, explained the difference between class size (the number of students assigned to a teacher) and pupil/teacher ratio (the total number of students divided by the total number of educators in a school). Many "class size" studies, he noted, have relied on pupil/teacher ratios to make their case. The STAR research is able to track students based on specific class size. Achilles noted that some 20 states—including Michigan, California, Nevada, Florida, Texas, Utah, Illinois, Indiana, New York, Oklahoma, Iowa, Minnesota, Massachusetts, South Carolina, and Wisconsin—have initiated or considered STAR-like class size reduction efforts.

Teachers who taught small classes in Project STAR support the program strongly.

"All educators instinctively know that the smaller the class size, the more individual attention a teacher can provide a student," said Sandy Heinrich, a teacher at Granbery Elementary School in Davidson County, Tenn., who taught first grade in the STAR program in 1986. "The more individual attention per student, the more learning and personal growth each student can enjoy. I was

fortunate enough to witness this notion first-hand."

The STAR research is the only large-scale, long-term class size research of its kind. Dr. Frederick Mosteller, a professor of mathematical statistics at Harvard University, said this about STAR in 1995: "Because a controlled education experiment (as distinct from a sample survey) of this quality, magnitude, and duration is a rarity, it is important that both educators and policymakers have access to its statistical information and understand its implications."

In fact, the STAR research provided support for federal legislation that proposes to reduce class sizes by hiring 100,000 new teachers in grades K-3 nationwide.

Last fall, Congress appropriated \$1.2 billion in the FY 1999 federal budget as a "down-payment" on that legislation, enough to hire approximately 30,000 teachers for one year. Future funding will require congressional authorization and additional annual appropriations. Pate-Bain was scheduled to share the new STAR findings with a number of education policy experts and Members of Congress later in the day.

Mrs. MURRAY. This is a report about a study that researchers in Tennessee began many years ago in relation to reduced class size in the first through third grades. They followed those young people all the way through to the point where they are now graduating this year.

It is a very impressive study. It shows exactly what I have been debating on the floor of the Senate; and that is that students who are in smaller class sizes in the first through third grades are more likely to pursue college, have higher graduation rates, they achieve at higher levels, and it makes a difference in discipline.

Mr. President, it seems to me that we have to get back to this issue. I urge all of my colleagues to take a second look and recognize that we can make a difference by continuing our support of class size reduction and teacher training here in the Senate.

I ask unanimous consent that the 23 Senators on the list that I send to the desk be added as cosponsors to my bill, S. 564, the Class Size Reduction and Teacher Quality Act of 1999.

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

Mrs. MURRAY. Thank you, Mr. President.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### NUCLEAR WASTE STORAGE

Mr. LOTT. Mr. President, more than 15 years ago, Congress directed the Department of Energy (DOE) to take responsibility for the disposal of nuclear waste created by commercial nuclear power plants and our nation's defense programs. Today, there are more than

100,000 tons of spent nuclear fuel that must be dealt with. Over a year has now passed since the DOE was absolutely obligated under the NWPAA of 1982 to begin accepting spent nuclear fuel from utility sites. Today DOE is no closer in coming up with a solution. This is unacceptable. This is in fact wrong—so say the Federal Courts. The law is clear, and DOE must meet its obligation. If the Department of Energy does not live up to its responsibility, Congress will act.

I am encouraged that Congressmen BLILEY, BARTON, UPTON, and the rest of the House of Representatives have begun to address this issue. It is good to see a bipartisan effort for a safe, practical and workable solution for America's spent fuel storage needs. The proper storage of spent fuel is not a partisan issue—it is a safety issue. The solution being advanced is certainly more responsible than just leaving waste at 105 separate power plants in 34 states all across the nation. There are 29 sites which will reach their storage capacity by the end of this year.

Where is DOE? Where is the solution? All of America's experience in waste management over the last twenty-five years of improving environmental protection has taught Congress that safe, effective waste handling practices entail using centralized, permitted, and controlled facilities to gather and manage accumulated waste.

Mr. President, the management of used nuclear fuel should capitalize on this knowledge and experience. Nearly 100 communities have spent fuel sitting in their "backyard," and it needs to be gathered and accumulated. This lack of a central storage capacity could very possibly cause the closing of several nuclear power plants. These affected plants produce nearly 20% of America's electricity. Closing these plants just does not make sense.

Nuclear energy is a significant part of America's energy future, and must remain part of the energy mix. America needs nuclear power to maintain our secure, reliable, and affordable supplies of electricity. Nuclear power, at the same time, allows the nation to directly and effectively address increasingly stringent air quality requirements.

Both the House and the Senate passed a bill in the 105th Congress to require the DOE to build this interim storage site in Nevada, but unfortunately this bill didn't complete the legislative process because of time constraints. We ran out of time. I challenge my colleagues in both chambers of the 106th Congress to get this environmental bill done. The citizens, in some 100 communities where fuel is stored today, challenge the Congress to act and get this bill done. The nuclear industry has already committed to the federal government about \$15 billion toward building the facility. In fact, the nuclear industry continues to pay about \$650 million a year in fees for storage of spent fuel. It is time for the

federal government to honor its commitment to the American people and the power community. It is time for the federal government to protect those 100 communities.

To ensure that the federal government meets its commitment to states and electricity consumers, the 106th Congress must mandate completion of this program—a program that includes temporary storage, a site for permanent disposal, and a transportation infrastructure to safely move used fuel from plants to the storage facility.

Mr. President, this federal foot dragging is unfortunate and unacceptable. Clearly, the only remedy to stopping these continued delays is timely action in the 106th Congress on this legislation. By moving this process, which must also include the work of the Senate, the House's work can be improved. Let's move forward and get this bill done.

#### COMMENDING ABHISHEK GUPTA

Mr. REID. Mr. President, I would like to take this opportunity to praise the outstanding accomplishments of a distinguished young man from Florida. At the age of 17, Abhishek Gupta has succeeded in making a greater contribution towards the alleviation of pain and suffering on a global scale than most people can boast of in a lifetime. Last November, Abhishek organized 9 other students and initiated a project designed to provide humanitarian relief to underprivileged citizens in his Southern Florida community and throughout the world.

In a rare exemplification of compassion and determination, Abhishek, a junior at Phillips Exeter Academy in New Hampshire, created a non-profit organization called "Clothes, Food and Education for the Poor and Needy." Drawing on Abhishek's inspiration, this group worked toward the goal of raising \$50,000 to provide crucial relief for numerous families about whom Abhishek had read in several local newspaper articles.

Abhishek went to work lobbying corporate sponsors to pay for operational expenses, and entreating members of his community to help him meet his goal. Ultimately, he exceeded his own expectations by raising \$60,000 in a matter of weeks. He channeled this money toward helping impoverished children in Southern Florida and victims of Hurricane Mitch in Central America.

Mr. President, I have always believed that the most effective way to give charity is to give time—money comes second. I want to stress that Abhishek did not only formulate the infrastructure for raising such a lofty sum, he also spent part of his Christmas vacation accompanying a medical team to Honduras and Nicaragua in order to contribute personally. During his week in Central America, Abhishek helped administer food, clothing and medical supplies to the disaster victims, and

provided direct medical aid to nearly 600 patients who were in dire need of treatment.

"Clothes, Food and Education for the Poor and Needy" is continuing to collect donations for relief of the downtrodden, and I commend Abhishek Gupta for his dedication to such a worthy cause. It is rare that so young a citizen can play such a direct role in both reducing human pain and suffering, and providing inspiration to old and young alike.

#### THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, April 28, 1999, the federal debt stood at \$5,598,229,787,052.49 (Five trillion, five hundred ninety-eight billion, two hundred twenty-nine million, seven hundred eighty-seven thousand, fifty-two dollars and forty-nine cents).

One year ago, April 28, 1998, the federal debt stood at \$5,512,794,000,000 (Five trillion, five hundred twelve billion, seven hundred ninety-four million).

Five years ago, April 28, 1994, the federal debt stood at \$4,564,295,000,000 (Four trillion, five hundred sixty-four billion, two hundred ninety-five million).

Ten years ago, April 28, 1989, the federal debt stood at \$2,756,668,000,000 (Two trillion, seven hundred fifty-six billion, six hundred sixty-eight million) which reflects a doubling of the debt—an increase of almost \$3 trillion—\$2,841,561,787,052.49 (Two trillion, eight hundred forty-one billion, five hundred sixty-one million, seven hundred eighty-seven thousand, fifty-two dollars and forty-nine cents) during the past 15 years.

#### SENATOR DAVID PRYOR—HELPING THE REFUGEES AND INSPIRING US ALL

Mr. KENNEDY. Mr. President, our former colleague in the Senate from Arkansas, David Pryor, has a new mission, and I believe that all of us will be greatly inspired by his commitment and dedication.

During the spring term this year, Senator Pryor has been a fellow at the Institute of Politics in the Kennedy School of Government at Harvard University. Last week, touched by the tragic plight of the hundreds of thousands of refugees from Kosovo, he left for Tirana, Albania to be a volunteer with the International Rescue Committee, which is dedicated to easing the plight of the refugees.

I commend our former colleague for the inspiring example he is setting of service to those most in need. His action clearly and deeply impressed his students at Harvard. An article in the Harvard Crimson last week reported his decision and his departure for Albania. I believe the article will be of interest to all of us in the Senate, and I ask unanimous consent that it be printed in the RECORD.

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

[From the Harvard Crimson, Apr. 21, 1999]

IOP FELLOW PRYOR HEADS TO BALKAN STATES—FORMER SENATOR TO AID KOSOVAR REFUGEES

(By Alysson R. Ford)

Since the NATO bombings of Yugoslavia began almost a month ago, members of the Harvard community have expressed concern about the plight of Kosovar refugees in peace vigils, panels, and class discussions on Kosovo.

But David Pryor—a spring term fellow at the Institute of Politics (IOP) and a former U.S. senator and governor of Arkansas—has taken his desire to help ease the refugee crisis a few steps further.

After notifying colleagues and students of his decision Monday, Pryor departed yesterday for the Albanian capital of Tirana as volunteer for the International Rescue Committee (IRC).

In a letter to Director of the IOP Alan K. Simpson, Pryor expressed that he wanted to do something concrete for those devastated by the conflict.

Pryor wrote that he did not know exactly how he would help the Kosovar refugees but added that he felt it was important to offer his assistance.

"What I am doing is something I must do. I don't know exactly where I will be, nor do I know what my assignment will be, I just hope I can make a contribution—even though small," Pryor wrote. "I was too young for Hitler, too self-preoccupied for [the civil rights struggle in] Selma, and this time I've got to do something."

Pryor estimated in his letter that he would be gone 30 to 60 days with the IRC, an organization created in 1933 to assist victims who were fleeing from Nazi Germany. The group has been in the Balkans since 1991, according to Edward P. Bligh, IRC vice president of communications.

Most recently, the IRC has sent volunteers and aid to Albania and Macedonia to help the refugees who have been streaming out of Kosovo. The group is helping to shelter refugees and develop water supplies and sanitary facilities. It also provides medical services and has special programs for children, Bligh said.

Pryor also wrote in his letter that the IRC volunteers had inspired him.

"To be able to watch and know these gallant, and yes, believing, young men and women who want to serve restores faith and binds our hopes together," Pryor wrote.

But those who know Pryor said he is the one providing inspiration to others.

"Here's a man that has dedicated his life to serving the people of Arkansas [and] the people of the U.S.," said IOP fellow and former South Carolina governor David Beasley. "He makes us proud to be American, and he inspires us all."

Simpson spoke of the positive example that Pryor is setting, particularly to the often-cynical students he sees on campus.

"When [students] look around cynically at politicians and those looking only to serve themselves, they'll remember David Pryor [as a positive example]," Simpson said.

Pryor taught a study group at the IOP this semester called "Everything (Well Almost) You Ever Wanted To Know About Winning and Holding Public Office But Were Afraid to Ask."

Students who know Pryor said they were impressed by his commitment to helping others.

"For this 65-plus-year-old, former U.S. senator to just decide to go off to Albania . . . I

think it really exemplifies the kind of person he is and the kind of senator he was," said Eugene Krupitsky '02, one of Pryor's study group liaisons.

"It was just amazing to think of this individual just leaving the IOP early to go do community action. It's exemplary that he is bridging the gap between politics and community service," he added.

In his letter, Pryor wrote of a friend from his home state who has a sign painted on the side of his truck that says, "When you wake up, get up, and when you get up, do something."

"That's what I intend to do," Pryor wrote. "I'm going to go over and do something."

#### COMBINED SEWER OVERFLOW CONTROL AND PARTNERSHIP ACT OF 1999

Ms. SNOWE. Mr. President, I rise today in support of the Smith-Snowe Combined Sewer Overflow Control and Partnership Act of 1999. If enacted, this bill will eliminate or appropriately control combined sewer overflow (CSO) discharges in this country by the year 2010. This legislation will also help ratepayers in at least 53 communities throughout the state of Maine and over 1,000 other communities around the country. Presently, over 43 million people in the U.S. are incurring the high costs of trying to overcome the problem of combined sewer overflows because of the lack of federal statute and funding to meet federal sewage treatment mandates for these CSO communities.

Mr. President, CSOs are by far the single largest public works project in the history of almost every CSO community. When the Maine Municipal Association members met with me last month, they informed me of communities where people are facing paying more in sewer rates than they will owe in property taxes. This, to me, is unacceptable.

Most, but not all, of the combined sewer systems are located primarily in the Northeast and Great Lakes areas where sewer lines and stormwater collection systems were first constructed in the 1800s and early 1900s. Typically, sewer lines designated to carry raw sewage from urban residential areas and business were laid first. These were followed by stormwater drainage systems designed to collect rainwater during storms to reduce or eliminate urban flooding. In many cases, sewer lines and stormwater conduits were connected into a combined sewer, which served as a single collection system to transport both sewage and stormwater. Eleven states in the two geographic areas of New England and the Great Lakes account for 85 percent of the water-quality problems attributed to CSOs nationwide.

Sewer overflow problems arise mainly during wet weather, causing an overload of the systems, and the untreated or partially treated waste water discharges through combined sewer overflow outfalls into receiving waters such as rivers, lakes, estuaries and bays. The CSOs are the last remaining discharges from a point, or known, source

of untreated or partially treated sewage into the nation's waters.

The federal government has been long on regulation and short on financial assistance. The CSO problem was first addressed when Congress revisited the Federal Water Pollution Control Act, better known as the Clean Water Act, almost three decades ago. The subsequent Clean Water Act Amendments of 1972 established the fundamental principles and objectives of a national wastewater management policy. To implement these goals, a national program was created to regulate the discharge of pollutant into surface waters, the National Pollutant Discharge Elimination System, or NPDES. This system required outfalls for industrial process waste and sewage from municipal treatment plants. Individual states were allowed to assume responsibility for the administration of NPDES once their permitting processes were approved by the EPA.

Maine and 37 other states operate EPA-approved NPDES permitting programs. The law requires that state water-quality standards be consistent with federal policy, but, if necessary to achieve the act's objectives, states are allowed to impose water-quality standards more stringent than those required by federal regulations.

Section 10(a)(4) of the CWA Amendments of 1972 explicitly linked the achievement of national water-quality goals to federal financial assistance for municipalities affected by the new mandate by creating the Construction Grants Program (CGP) that provided subsidies for the construction of publicly owned treatment works. In Section 516(b), the EPA was charged with administering the program, and was required to develop biennial estimates of the cost of construction of all needed publicly owned treatment works in each of the States.

In the past, federal funds have paid for as much as 75 percent of the construction costs for water treatment and sewage facilities. In recent years, federal contributions have been limited to low interest loans rather than grants, through a revolving loan fund (SRF), and local ratepayers and taxpayers bear the burden of rehabilitating, upgrading and for operating costs. It is clear that more federal funding assistance is needed so that CSO communities can be given policy and financial tools with which to handle their ongoing CSO problem of sewer overflows into our rivers and bays.

The Smith-Snowe CSO bill amends the Clean Water Act and addresses the problems faced by such CSO cities and towns, 45 in my state alone. The purpose of the bill is to move forward with technology-based controls that are the most cost effective and to make sure communities do not put in controls that are not actually needed. The bill seeks to codify the Environmental Protection Agency's rational approach to CSO control, its "CSO Policy of April, 1994". Codification is necessary since

the implementation of EPA's CSO policy has been inadequate to date.

The bill also provides congressional approval of the inclusion of realistic water quality standards compliance schedules for CSO control in permits and other enforceable documents issued as called for in the 1994 EPA Control Policy.

Initiation of the water quality standards/designated use review and revision process called for in EPA's Control Policy must also occur before requiring long-term CSO control plan implementation. The guidelines that the EPA is currently developing to assist communities for implementing measures for the control of CSOs are only just that, guidelines, and could potentially be changed after a community has spent hundreds of thousands of dollars following them. CSO communities need certainty, not changing guidelines after costly measures have already been taken.

The bill also authorizes federal grant funding assistance for CSO communities to implement long term CSO controls.

The problem of CSOs has been a long standing issue Mr. President, for which I cosponsored similar legislation in the House in the 102nd Congress. The CSO problem is not going to go away, but only become a bigger financial burden for our CSO communities.

I want to thank my colleagues who have agreed to cosponsor the Smith-Snowe CSO bill and urge those not yet cosponsoring to join us in support of this much needed legislation.

#### MESSAGES FROM THE HOUSE

At 1:11 p.m., a message from the House of Representatives, delivered by one of its reading clerks, Mr. Hanrahan, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1569. An act to prohibit the use of funds appropriated to the Department of Defense from being used for the deployment of ground elements of the United States Armed Forces in the Federal Republic of Yugoslavia unless that deployment is specifically authorized by law.

#### 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-2741. A communication from the Deputy Archivist, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled "Researcher registration and research room procedures" (RIN3095-AA69), received April 26, 1999; to the Committee on Governmental Affairs.

EC-2742. A communication from the Director, Office of Personnel Management, transmitting a draft of proposed legislation entitled "Federal Employees' Benefits Equity

Act of 1999"; to the Committee on Governmental Affairs.

EC-2743. A communication from the Chairman, United States Parole Commission, Department of Justice, transmitting, pursuant to law, the annual report for 1998; to the Committee on Governmental Affairs.

EC-2744. A communication from the Executive Director, Committee for Purchase from People who are Blind or Severely Disabled, transmitting, pursuant to law, the report of a rule relative to the procurement list, received April 20, 1999; to the Committee on Governmental Affairs.

EC-2745. A communication from the Executive Director, Committee for Purchase from People who are Blind or Severely Disabled, transmitting, pursuant to law, the report of a rule relative to the procurement list, received April 7, 1999; to the Committee on Governmental Affairs.

EC-2746. A communication from the President and Chief Executive Officer, Overseas Private Investment Corporation, transmitting, pursuant to law, the annual management report for fiscal year 1998; to the Committee on Governmental Affairs.

EC-2747. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report for fiscal years 1997 and 1998; to the Committee on Health, Education, Labor, and Pensions.

EC-2748. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "The Sixth Triennial Report to Congress on Drug Abuse and Addiction Research", dated November, 1998; to the Committee on Health, Education, Labor, and Pensions.

EC-2749. A communication from the Board Members, United States of America Railroad Retirement Board, transmitting, a draft of proposed legislation amending the Railroad Retirement Act; to the Committee on Health, Education, Labor, and Pensions.

EC-2750. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a statement of policy entitled "Use of Alternative Dispute Resolution"; to the Committee on Health, Education, Labor, and Pensions.

EC-2751. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits" received April 9, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC-2752. A communication from the President, United States Institute of Peace, transmitting, pursuant to law, the report of the audit for fiscal year 1998; to the Committee on Health, Education, Labor, and Pensions.

EC-2753. A communication from the Secretary of Health and Human Services and the Secretary of Labor, transmitting jointly, a draft of proposed amendments to the Older Americans Act of 1965; to the Committee on Health, Education, Labor, and Pensions.

EC-2754. A communication from the Assistant General Counsel, Division of Regulatory Services, Office of Postsecondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Final Regulation—Gaining Early Awareness and Readiness for Undergraduate Programs" (RIN1840-AC59), received April 12, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC-2755. A communication from the Assistant General Counsel for Regulations, Office of Elementary and Secondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Notice of Final Funding Priorities for Fiscal



Year 1999 under the Native Hawaiian Curriculum Development, Teacher Training, and Recruitment Program", received April 12, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC-2756. A communication from the Assistant General Counsel for Regulations, Office of Postsecondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Final Regulations—Federal Family Education Loan Program" (RIN1840-AC57), received April 12, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC-2757. A communication from the Assistant General Counsel for Regulations, Special Education & Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled "National Institute on Disability & Rehabilitative Research" (84.133A & 84.133B), received April 13, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC-2758. A communication from the Deputy Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Mutual Recognition of Pharmaceutical Good Manufacturing Practice Inspection Reports, Medical Device Quality System Audit Reports, and Certain Medical Device Product Evaluation Reports Between the United States and the European Community: Correction" (RIN0910-ZA11), received April 9, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC-2759. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medical Devices; Exemptions from Premarket Notification; Class II Devices", received April 6, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC-2760. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Over-the-Counter Drug Products Containing Analgesic/Antipyretic Active Ingredients for Internal Use; Required Alcohol Warning—Final Rule" (Docket No. 77N-094W), received April 12, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC-2761. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medical Devices; Retention in Class III and Effective Date of Requirement for Premarket Approval for Three Preamendment Class III Devices" (98N-0405), received April 19, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC-2762. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medical Devices; Effective Date of Requirement for Premarket Approval for Three Class III Preamendments Physical Medicine Devices" (98N-0467), received April 19, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC-2763. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Quality Mammography"

(98N-0728), received April 29, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC-2764. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Over-the-Counter Human Drugs; Labeling Requirements; Corrections" (RIN0910-AA79), received April 19, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC-2765. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Secondary Direct Food Additives Permitted in Food for Human Consumption; Sulphopropyl Cellulose", received April 19, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC-2766. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Indirect Food Additives: Adjuvants, Production Aids and Sanitizers", received April 12, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC-2767. A communication from the Under Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, a report relative to various export licenses; to the Committee on Banking, Housing, and Urban Affairs.

EC-2768. A communication from the Under Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, a report relative to various export controls; to the Committee on Banking, Housing, and Urban Affairs.

EC-2769. A communication from the Managing Director, Office of General Counsel, Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled "Prohibition on Payment of Fee in Lieu of Mandatory Excess Capital Stock Redemption" (RIN3069-AA83), received April 9, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-2770. A communication from the Managing Director, Office of General Counsel, Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled "Collateral Eligible to Secure Federal Home Loan Bank Advances" (RIN3069-AA77), received April 13, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-2771. A communication from the President, transmitting, pursuant to law, a report concerning the national emergency with respect to Angola; to the Committee on Banking, Housing, and Urban Affairs.

EC-2772. A communication from the Chairman, National Credit Union Administration, transmitting, pursuant to law, the annual report for calendar year 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-2773. A communication from the President and Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to exports to Tunisia; to the Committee on Banking, Housing, and Urban Affairs.

EC-2774. A communication from the Secretary, Security and Exchange Commission, transmitting, pursuant to law, the report of amendments to a rule entitled "Deregistration of Certain Registered Investment Companies" (RIN3235-AG29) and Form N-8F and Rule 8f-1, received April 19, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-2775. A communication from the Executive Director, Presidential Advisory Com-

mission on Holocaust Assets in the United States, transmitting a draft of proposed legislation relative to the Commission; to the Committee on Banking, Housing, and Urban Affairs.

EC-2776. A communication from the Chairman, Federal Financial Institutions Examination Council, transmitting, pursuant to law, the annual report for 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-2777. A communication from the Legislative and Regulatory Activities Division, Comptroller of the Currency, transmitting, pursuant to law, the report of a rule entitled "Risk-Based Capital Standards: Market Risk", received April 15, 1999; to the Committee on Banking, Housing, and Urban Affairs.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 22. A resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives serving as law enforcement officers.

S. Res. 29. A resolution to designate the week of May 2, 1999, as "National Correctional Officers and Employees Week."

S. Res. 33. A resolution designating May 1999 as "National Military Appreciation Month."

S. Res. 72. A resolution designating the month of May in 1999 and 2000 as "National ALS Awareness Month."

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 39. A bill to provide a national medal for public safety officers who act with extraordinary valor above the call of duty, and for other purposes.

S. 322. A bill to amend title 4, United States Code, to add the Martin Luther King Jr. holiday to the list of days on which the flag should especially be displayed.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 704. A bill to amend title 18, United States Code, to combat the overutilization of prison health care services and control rising prisoner health care costs.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S.J. Res. 14. A joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

## EXECUTIVE REPORTS OF A COMMITTEE

The following executive reports of a committee were submitted:

By Mr. WARNER, from the Committee on Armed Services:

Brian E. Sheridan, of Virginia, to be an Assistant Secretary of Defense.

Lawrence J. Delaney, of Maryland, to be an Assistant Secretary of the Air Force.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. WARNER. Mr. President, for the Committee on Armed Services, I report favorably nomination lists which were printed in the RECORDS of March 2, 18, 22, April 13, 15, 20 and 21, 1999, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

In the Air Force nominations beginning \*Husam S. Nolan, and ending James H. Walker, which nominations were received by the Senate and appeared in the Congressional Record of March 18, 1999

In the Army nominations beginning Thomas M. Johnson, and ending \*Anthony P. Risi, which nominations were received by the Senate and appeared in the Congressional Record of March 18, 1999

In the Army nominations beginning Randall F. Cochran, and ending \*Regina K. Draper, which nominations were received by the Senate and appeared in the Congressional Record of March 18, 1999

In the Army nominations beginning Alfred C. Faber, Jr., and ending Edward L. Wright, which nominations were received by the Senate and appeared in the Congressional Record of March 18, 1999

In the Army nominations beginning Dale F. Becker, and ending John F. Stoley, which nominations were received by the Senate and appeared in the Congressional Record of March 18, 1999

In the Marine Corps nomination Harold E. Poole, Sr., which was received by the Senate and appeared in the Congressional Record of March 18, 1999

In the Navy nomination of Leo J. Grassilli, which was received by the Senate and appeared in the Congressional Record of March 18, 1999

In the Air Force nominations beginning Robert J. Vaughn, and ending Todd B. Silverman, which nominations were received by the Senate and appeared in the Congressional Record of March 22, 1999

In the Air Force nominations beginning Gerald F. Bunting Blake, and ending Jeffery A. Renshaw, which nominations were received by the Senate and appeared in the Congressional Record of March 22, 1999

In the Navy nominations beginning Clifford A. Anderson, and ending Stephen G. Young, which nominations were received by the Senate and appeared in the Congressional Record of March 22, 1999

In the Marine Corps nomination of Timothy W. Foley, which was received by the Senate and appeared in the Congressional Record of April 15, 1999

In the Air Force nomination of Jerry A. Cooper, which was received by the Senate and appeared in the Congressional Record of April 20, 1999

In the Air Force nomination of Thomas A. Drohan, which was received by the Senate and appeared in the Congressional Record of April 20, 1999

In the Air Force nominations beginning Harvey J. U. Adams, Jr., and ending David J. Zupi, which nominations were received by the Senate and appeared in the Congressional Record of April 20, 1999

In the Air Force nominations beginning Ronald G. Adams, and ending Walter H. Zimmer, which nominations were received by the Senate and appeared in the Congressional Record of April 20, 1999

In the Army nomination of Stephen K. Siegrist, which was received by the Senate and appeared in the Congressional Record of April 20, 1999

In the Army nomination of David A. Mayfield, which was received by the Senate and appeared in the Congressional Record of April 20, 1999

In the Army nominations beginning John D. Knox, and ending David M. Shublak, which nominations were received by the Senate and appeared in the Congressional Record of April 20, 1999

In the Army nomination of Francisco J. Dominguez, which was received by the Senate and appeared in the Congressional Record of April 20, 1999

In the Army nomination of Japhet C. Rivera, which was received by the Senate and appeared in the Congressional Record of April 20, 1999

In the Army nomination of Roy T. McCutcheon, III, which was received by the Senate and appeared in the Congressional Record of April 20, 1999

In the Army nominations beginning Joseph I. Smith, and ending Sara J. Zimmer, which nominations were received by the Senate and appeared in the Congressional Record of April 20, 1999

In the Marine Corps nomination of Kenneth C. Cooper, which was received by the Senate and appeared in the Congressional Record of April 20, 1999

In the Marine Corps nominations beginning Francis X. Bergmeister, and ending Kenneth P. Myers, which nominations were received by the Senate and appeared in the Congressional Record of April 20, 1999

In the Marine Corps nominations beginning Seth D. Ainspac, and ending James B. Zientek, which nominations were received by the Senate and appeared in the Congressional Record of April 20, 1999

In the Marine Corps nominations beginning Robert S. Abbott, and ending Steven M. Zotti, which nominations were received by the Senate and appeared in the Congressional Record of April 20, 1999

In the Navy nominations beginning Brian L. Kozkil, and ending Stephen M. Wilson, which nominations were received by the Senate and appeared in the Congressional Record of April 20, 1999

In the Navy nomination of Melvin D. Newman, which was received by the Senate and appeared in the Congressional Record of April 20, 1999

In the Navy nomination of Scott R. Hendren, which was received by the Senate and appeared in the Congressional Record of April 20, 1999

In the Army nominations beginning Paul C. Proffitt, and ending Michael D. Zabrzski, which nominations were received by the Senate and appeared in the Congressional Record of April 21, 1999

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of the above dates, at the end of the Senate proceedings.)

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CONRAD (for himself, Mr. NICKLES, Mr. INOUE, Mr. ROCKEFELLER, and Mr. HARKIN):

S. 909. A bill to provide for the review and classification of physician assistant positions in the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. CRAIG:

S. 910. A bill to streamline, modernize, and enhance the authority of the Secretary of

Agriculture relating to plant protection and quarantine, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRAMS:

S. 911. A bill to amend title XVIII of the Social Security Act to ensure medicare reimbursement for certain ambulance services, and to improve the efficiency of the emergency medical system, and for other purposes; to the Committee on Finance.

By Mr. KYL (for himself, Mrs. HUTCHISON, Mr. DOMENICI, Mr. MCCAIN, Mr. GRAMM, Mr. BINGAMAN, Mr. HOLLINGS, Mr. ABRAHAM and Mr. KYL):

S. 912. A bill to modify the rate of basic pay and the classification of positions for certain United States Border Patrol agents, and for other purposes; to the Committee on the Judiciary.

By Ms. COLLINS (for herself and Ms. SNOWE):

S. 913. A bill to require the Secretary of Housing and Urban Development to distribute funds available for grants under title IV of the Stewart B. McKinney Homeless Assistance Act to help ensure that each State received not less than 0.5 percent of such funds for certain programs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SMITH of New Hampshire (for himself, Ms. SNOWE, Mr. WARNER, Mr. VOINOVICH, Ms. COLLINS, Mr. ABRAHAM, Mr. ROBB, Mr. HAGEL, and Mr. LUGAR):

S. 914. A bill to amend the Federal Water Pollution Control Act to require that discharges from combined storm and sanitary sewers conform to the Combined Sewer Overflow Control Policy of the Environmental Protection Agency, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GRAMM (for himself, Mrs. HUTCHISON, Mr. MACK, and Mr. COVERDELL):

S. 915. A bill to amend title XVIII of the Social Security Act to expand and make permanent the medicare subvention demonstration project for military retirees and dependents; to the Committee on Finance.

By Mr. GRAMS (for himself, Mr. FEINGOLD, Mr. FITZGERALD, Mr. ABRAHAM, Mr. KOHL, Mr. HAGEL, Mr. DURBIN, Mr. ALLARD, Mr. CRAIG, Mr. CONRAD, and Mr. WELLSTONE):

S. 916. A bill to amend the Agricultural Market Transition Act to repeal the Northeast Interstate Dairy Compact provision; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRAMS (for himself and Mr. FEINGOLD):

S. 917. A bill to equalize the minimum adjustments to prices for fluid milk under milk marketing orders; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KERRY (for himself, Mr. BOND, Mr. BINGAMAN, Ms. LANDRIEU, Mr. HARKIN, Mr. LIEBERMAN, Mr. WELLSTONE, Mr. KOHL, Mr. BURNS, Mr. ROBB, Mr. EDWARDS, Mr. LEVIN, Mr. GRAHAM, Ms. SNOWE, Mr. AKAKA, Mrs. MURRAY, Mr. CLELAND, Mr. KENNEDY, Mr. JEFFORDS, Ms. COLLINS, Mr. ABRAHAM, Mr. LEAHY, Mr. BAUCUS, Mr. KERREY, Mr. GRASSLEY, Mr. MOYNIHAN, Mrs. LINCOLN, Mr. BAYH, Mr. CHAFEE, Mr. LAUTENBERG, Mr. COCHRAN, and Mr. DASCHLE):

S. 918. A bill to authorize the Small Business Administration to provide financial and business development assistance to military reservists' small business, and for other purposes; to the Committee on Small Business.

By Mr. DODD (for himself, Mr. LIEBERMAN, Mr. KERRY, and Mr. KENNEDY):

S. 919. A bill to amend the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994 to expand the boundaries of the Corridor; to the Committee on Energy and Natural Resources.

By Mrs. HUTCHISON (for herself, Mr. MCCAIN, Mr. HOLLINGS, and Mr. INOUE):

S. 920. A bill to authorize appropriations for the Federal Maritime Commission for fiscal years 2000 and 2001; to the Committee on Commerce, Science, and Transportation.

By Mr. ABRAHAM (for himself, Mr. MCCAIN, and Mr. LOTT):

S. 921. A bill to facilitate and promote electronic commerce in securities transactions involving broker-dealers, transfer agents and investment advisers; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ABRAHAM (for himself and Mr. HOLLINGS):

S. 922. A bill to prohibit the use of the "Made in the USA" label on products of the Commonwealth of the Northern Mariana Islands and to deny such products duty-free and quota-free treatment; to the Committee on Finance.

By Mr. SMITH of Oregon (for himself, Mr. THOMAS, and Mr. BROWNBACK):

S. 923. A bill to promote full equality at the United Nations for Israel; to the Committee on Foreign Relations.

By Mr. NICKLES (for himself, Ms. LANDRIEU, Mr. MURKOWSKI, Mr. DOMENICI, and Mrs. HUTCHISON):

S. 924. A bill entitled the "Federal Royalty Certainty Act"; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI:

S. 925. A bill to require the Secretary of the military department concerned to reimburse a member of the Armed Forces for expenses of travel in connection with leave cancelled to meet an exigency in connection with United States participation in Operation Allied Force; to the Committee on Armed Services.

By Mr. DODD (for himself, Mr. HAGEL, Mr. GRAMS, Mr. LUGAR, Mr. CHAFEE, Mr. LEAHY, Mr. KERREY, Mr. KERRY, Mr. LEVIN, Mr. KENNEDY, Mr. JEFFORDS, Mrs. LINCOLN, and Mrs. MURRAY):

S. 926. A bill to provide the people of Cuba with access to food and medicines from the United States, and for other purposes; to the Committee on Foreign Relations.

By Mr. DODD (for himself and Mr. HAGEL):

S. 927. A bill to authorize the President to delay, suspend, or terminate economic sanctions if it is in the important national interest of the United States to do so; to the Committee on Foreign Relations.

By Mr. SANTORUM (for himself, Mr. SMITH of New Hampshire, Mr. LOTT, Mr. ABRAHAM, Mr. ALLARD, Mr. ASHCROFT, Mr. BOND, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. COCHRAN, Mr. CRAIG, Mr. CRAPO, Mr. DEWINE, Mr. DOMENICI, Mr. ENZI, Mr. FITZGERALD, Mr. FRIST, Mr. GORTON, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mr. HUTCHINSON, Mr. INHOPE, Mr. KYL, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. ROBERTS, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of Oregon, Mr. THOMAS, Mr. THURMOND, Mr. VOINOVICH, and Mr. WARNER):

S. 928. A bill to amend title 18, United States Code, to ban partial-birth abortions; to the Committee on the Judiciary.

By Mr. ROBB (for himself, Mrs. HUTCHISON, Mr. KERREY, Mr. HAGEL,

Mr. REED, Mr. SMITH of New Hampshire, Mr. CLELAND, Mr. ABRAHAM, and Mr. HUTCHINSON):

S. 929. A bill to provide for the establishment of a National Military Museum, and for other purposes; to the Committee on Armed Services.

By Mr. REID (for himself and Mr. BRYAN):

S. 930. A bill to provide for the sale of certain public land in the Ivanpah Valley, Nevada, to the Clark County, Nevada, Department of Aviation; to the Committee on Energy and Natural Resources.

By Mr. MCCAIN (for himself, Mr. LIEBERMAN, and Mr. CONRAD):

S.J. Res. 23. A joint resolution expressing the sense of the Congress regarding the need for a Surgeon General's report on media and violence; to the Committee on Health, Education, Labor, and Pensions.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HATCH (for himself, Mr. BINGAMAN, Mr. MCCAIN, Mr. REID, Mr. DOMENICI, Mr. LAUTENBERG, Mr. ABRAHAM, Mrs. FEINSTEIN, Mr. BOND, Mrs. MURRAY, and Mrs. HUTCHISON):

S. Res. 90. A resolution designating the 30th day of April 2000 as "Dia de los Ninos: Celebrating Young Americans", and for other purposes; to the Committee on the Judiciary.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CONRAD (for himself, Mr. NICKLES, Mr. INOUE, Mr. ROCKEFELLER, and Mr. HARKIN):

S. 909. A bill to provide for the review and classification of physician assistant positions in the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

### PHYSICIAN ASSISTANT EQUITY ACT

Mr. CONRAD. Mr. President, today I am pleased to be joined by Senators NICKLES, ROCKEFELLER, INOUE, and HARKIN to introduce legislation that directs the Office of Personnel Management (OPM) to develop a classification standard appropriate to the occupation of physician assistant.

Physician assistants are a part of a growing field of health care professionals that make quality health care available and affordable in underserved areas throughout our country. Because the physician assistant profession was very young when OPM first developed employment criteria in 1970, the agency adapted the nursing classification system for physician assistants. Today, this is no longer appropriate. Physician assistants have different education and training requirements than nurses and they are licensed and evaluated according to different criteria.

The inaccurate classification of physician assistants had led to recruitment and retention problems of physician assistants in federal agencies, usually caused by low starting salaries and low salary caps. Because it is recognized that physician assistants provide

cost-effective health care, this is an important problem to resolve.

This legislation mandates that OPM review this classification in consultation with physician assistants and the organizations that represent physician assistants. The bill specifically states that OPM should consider the educational and practice qualifications of the position as well as the treatment of physician assistants in the private sector in this review.

Mr. President, I believe that this legislation will make an important correction that will help federal agencies make better use of these providers of cost-effective, high quality health care.

By Mr. CRAIG:

S. 910. A bill to streamline, modernize, and enhance the authority of the Secretary of Agriculture relating to plant protection and quarantine, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

### NOXIOUS WEED COORDINATION AND PLANT PROTECTION ACT

• Mr. CRAIG. Mr. President, I rise today to introduce the "Noxious Weed Coordination and Plant Protection Act of 1999"—a comprehensive bill which will focus the effort of federal agencies in fighting noxious weeds and other plant pests.

In January I introduced the Plant Protection Act, S. 321. This bill generated a lot of discussion and several suggestions for improvement, much of which is reflected in the bill I am introducing today. The Noxious Weed Coordination and Plant Protection Act of 1999 retains most of S. 321 but includes a section on federal coordination of noxious weed removal.

Mr. President, I ask that the bill and a section-by-section analysis be printed in the RECORD.

The material follows:

S. 910

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Noxious Weed Coordination and Plant Protection Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.

### TITLE I—PLANT PROTECTION

- Sec. 101. Regulation of movement of plant pests.
- Sec. 102. Regulation of movement of plants, plant products, biological control organisms, noxious weeds, articles, and means of conveyance.
- Sec. 103. Notification and holding requirements on arrival.
- Sec. 104. General remedial measures for new plant pests and noxious weeds.
- Sec. 105. Extraordinary emergencies.
- Sec. 106. Recovery of compensation for unauthorized activities.
- Sec. 107. Control of grasshoppers and Mormon Crickets.
- Sec. 108. Certification for exports.

## TITLE II—INSPECTION AND ENFORCEMENT

- Sec. 201. Inspections and warrants.
- Sec. 202. Collection of information.
- Sec. 203. Subpoena authority.
- Sec. 204. Penalties for violation.
- Sec. 205. Enforcement actions of Attorney General.
- Sec. 206. Court jurisdiction.

## TITLE III—MISCELLANEOUS PROVISIONS

- Sec. 301. Cooperation.
- Sec. 302. Buildings, land, people, claims, and agreements.
- Sec. 303. Reimbursable agreements.
- Sec. 304. Protection for mail handlers.
- Sec. 305. Preemption.
- Sec. 306. Regulations and orders.
- Sec. 307. Repeal of superseded laws.

## TITLE IV—FEDERAL COORDINATION

- Sec. 401. Definitions.
- Sec. 402. Invasive Species Council.
- Sec. 403. Advisory committee.
- Sec. 404. Invasive Species Action Plan.

## TITLE V—AUTHORIZATION OF APPROPRIATIONS

- Sec. 501. Authorization of appropriations.
- Sec. 502. Transfer authority.

### SEC. 2. FINDINGS.

Congress finds that—

(1) the detection, control, eradication, suppression, prevention, and retardation of the spread of plant pests and noxious weeds is necessary for the protection of the agriculture, environment, and economy of the United States;

(2) biological control—

(A) is often a desirable, low-risk means of ridding crops and other plants of plant pests and noxious weeds; and

(B) should be facilitated by the Secretary of Agriculture, Federal agencies, and States, whenever feasible;

(3) the smooth movement of enterable plants, plant products, certain biological control organisms, or other articles into, out of, or within the United States is vital to the economy of the United States and should be facilitated to the extent practicable;

(4) markets could be severely impacted by the introduction or spread of plant pests or noxious weeds into or within the United States;

(5) the unregulated movement of plants, plant products, biological control organisms, plant pests, noxious weeds, and articles capable of harboring plant pests or noxious weeds would present an unacceptable risk of introducing or spreading plant pests or noxious weeds;

(6) the existence on any premises in the United States of a plant pest or noxious weed new to or not known to be widely prevalent in or distributed within and throughout the United States could threaten crops, other plants, and plant products of the United States and burden interstate commerce or foreign commerce; and

(7) all plants, plant products, biological control organisms, plant pests, noxious weeds, or articles capable of harboring plant pests or noxious weeds regulated under this Act are in or affect interstate commerce or foreign commerce.

### SEC. 3. DEFINITIONS.

In this Act:

(1) **ARTICLE.**—The term “article” means a material or tangible object that could harbor a plant pest or noxious weed.

(2) **BIOLOGICAL CONTROL ORGANISM.**—The term “biological control organism” means an enemy, antagonist, or competitor organism used to control a plant pest or noxious weed.

(3) **ENTER.**—The term “enter” means to move into the commerce of the United States.

(4) **ENTRY.**—The term “entry” means the act of movement into the commerce of the United States.

(5) **EXPORT.**—The term “export” means to move from the United States to any place outside the United States.

(6) **EXPORTATION.**—The term “exportation” means the act of movement from the United States to any place outside the United States.

(7) **IMPORT.**—The term “import” means to move into the territorial limits of the United States.

(8) **IMPORTATION.**—The term “importation” means the act of movement into the territorial limits of the United States.

(9) **INTERSTATE.**—The term “interstate” means—

(A) from 1 State into or through any other State; or

(B) within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

(10) **INTERSTATE COMMERCE.**—The term “interstate commerce” means trade, traffic, movement, or other commerce—

(A) between a place in a State and a point in another State;

(B) between points within the same State but through any place outside the State; or

(C) within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

(11) **MEANS OF CONVEYANCE.**—The term “means of conveyance” means any personal property that could harbor a pest, disease, or noxious weed and that is used for or intended for use for the movement of any other personal property.

(12) **MOVE.**—The term “move” means to—

(A) carry, enter, import, mail, ship, or transport;

(B) aid, abet, cause, or induce the carrying, entering, importing, mailing, shipping, or transporting;

(C) offer to carry, enter, import, mail, ship, or transport;

(D) receive to carry, enter, import, mail, ship, or transport;

(E) release into the environment; or

(F) allow an agent to participate in any of the activities referred to in this paragraph.

(13) **MOVEMENT.**—The term “move” means the act of—

(A) carrying, entering, importing, mailing, shipping, or transporting;

(B) aiding, abetting, causing, or inducing the carrying, entering, importing, mailing, shipping, or transporting;

(C) offering to carry, enter, import, mail, ship, or transport;

(D) receiving to carry, enter, import, mail, ship, or transport;

(E) releasing into the environment; or

(F) allowing an agent to participate in any of the activities referred to in this paragraph.

(14) **NOXIOUS WEED.**—The term “noxious weed” means a plant or plant product that has the potential to directly or indirectly injure or cause damage to a plant or plant product through injury or damage to a crop (including nursery stock or a plant product), livestock, poultry, or other interest of agriculture (including irrigation), navigation, natural resources of the United States, public health, or the environment.

(15) **PERMIT.**—The term “permit” means a written (including electronic) or oral authorization by the Secretary to move a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance under conditions prescribed by the Secretary.

(16) **PERSON.**—The term “person” means an individual, partnership, corporation, association, joint venture, or other legal entity.

(17) **PLANT.**—The term “plant” means a plant (including a plant part) for or capable of propagation (including a tree, tissue culture, plantlet culture, pollen, shrub, vine, cutting, graft, scion, bud, bulb, root, and seed).

(18) **PLANT PEST.**—The term “plant pest” means—

(A) a living stage of a protozoan, invertebrate animal, parasitic plant, bacteria, fungus, virus, viroid, infection agent, or pathogen that has the potential to directly or indirectly injure or cause damage to, or cause disease in, a plant or plant product; or

(B) an article that is similar to or allied with an article referred to in subparagraph (A).

(19) **PLANT PRODUCT.**—The term “plant product” means—

(A) a flower, fruit, vegetable, root, bulb, seed, or other plant part that is not covered by paragraph (17); and

(B) a manufactured or processed plant or plant part.

(20) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture.

(21) **STATE.**—The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(22) **UNITED STATES.**—The term “United States”, when used in a geographical sense, means all of the States.

## TITLE I—PLANT PROTECTION

### SEC. 101. REGULATION OF MOVEMENT OF PLANT PESTS.

(a) **PROHIBITION OF UNAUTHORIZED MOVEMENT OF PLANT PESTS.**—Except as provided in subsection (b), no person shall import, enter, export, or move in interstate commerce a plant pest, unless the importation, entry, exportation, or movement is authorized under general or specific permit and is in accordance with such regulations as the Secretary may promulgate to prevent the introduction of plant pests into the United States or the dissemination of plant pests within the United States.

(b) **AUTHORIZATION OF MOVEMENT OF PLANT PESTS BY REGULATION.**—

(1) **EXCEPTION TO PERMIT REQUIREMENT.**—The Secretary may promulgate regulations to allow the importation, entry, exportation, or movement in interstate commerce of specified plant pests without further restriction if the Secretary finds that a permit under subsection (a) is not necessary.

(2) **PETITION TO ADD OR REMOVE PLANT PESTS FROM REGULATION.**—A person may petition the Secretary to add a plant pest to, or remove a plant pest from, the regulations promulgated under paragraph (1).

(3) **RESPONSE TO PETITION BY THE SECRETARY.**—In the case of a petition submitted under paragraph (2), the Secretary shall—

(A) act on the petition within a reasonable time; and

(B) notify the petitioner of the final action the Secretary takes on the petition.

(4) **BASIS FOR DETERMINATION.**—The determination of the Secretary on the petition shall be based on sound science.

(c) **PROHIBITION OF UNAUTHORIZED MAILING OF PLANT PESTS.**—

(1) **IN GENERAL.**—Subject to section 304, a letter, parcel, box, or other package containing a plant pest, whether or not sealed as letter-rate postal matter, is nonmailable and shall not knowingly be conveyed in the mail or delivered from any post office or by any mail carrier, unless the package is mailed in

compliance with such regulations as the Secretary may promulgate to prevent the dissemination of plant pests into the United States or interstate.

(2) APPLICATION OF POSTAL LAWS.—Nothing in this subsection authorizes a person to open a mailed letter or other mailed sealed matter except in accordance with the postal laws (including regulations).

(d) REGULATIONS.—Regulations promulgated by the Secretary to implement subsections (a), (b), or (c) may include provisions requiring that a plant pest imported, entered, to be exported, moved in interstate commerce, mailed, or delivered from a post office—

(1) be accompanied by a permit issued by the Secretary before the importation, entry, exportation, movement in interstate commerce, mailing, or delivery of the plant pest;

(2) be accompanied by a certificate of inspection issued (in a manner and form required by the Secretary) by appropriate officials of the country or State from which the plant pest is to be moved;

(3) be raised under post-entry quarantine conditions by or under the supervision of the Secretary for the purposes of determining whether the plant pest may be infested with other plant pests, may pose a significant risk of causing injury to, damage to, or disease in a plant or plant product, or may be a noxious weed; and

(4) be subject to such remedial measures as the Secretary determines are necessary to prevent the dissemination of plant pests.

**SEC. 102. REGULATION OF MOVEMENT OF PLANTS, PLANT PRODUCTS, BIOLOGICAL CONTROL ORGANISMS, NOXIOUS WEEDS, ARTICLES, AND MEANS OF CONVEYANCE.**

(a) IN GENERAL.—The Secretary may prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of a plant, plant product, biological control organism, noxious weed, article, or means of conveyance, if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into the United States or the dissemination of a plant pest or noxious weed within the United States.

(b) REGULATIONS.—The Secretary may promulgate regulations to carry out this section, including regulations requiring that a plant, plant product, biological control organism, noxious weed, article, or means of conveyance imported, entered, to be exported, or moved in interstate commerce—

(1) be accompanied by a permit issued by the Secretary prior to the importation, entry, exportation, or movement in interstate commerce;

(2) be accompanied by a certificate of inspection issued (in a manner and form required by the Secretary) by appropriate officials of the country or State from which the plant, plant product, biological control organism, noxious weed, article, or means of conveyance is to be moved;

(3) be subject to remedial measures the Secretary determines to be necessary to prevent the spread of plant pests or noxious weeds; and

(4) in the case of a plant or biological control organism, be grown or handled under post-entry quarantine conditions by or under the supervision of the Secretary for the purpose of determining whether the plant or biological control organism may be infested with a plant pest or noxious weed, or may be a plant pest or noxious weed.

(c) LIST OF RESTRICTED NOXIOUS WEEDS.—

(1) PUBLICATION.—The Secretary may publish, by regulation, a list of noxious weeds that are prohibited or restricted from entering the United States or that are subject to restrictions on interstate movement within the United States.

(2) PETITIONS TO ADD PLANT SPECIES TO OR REMOVE PLANT SPECIES FROM LIST.—

(A) IN GENERAL.—A person may petition the Secretary to add a plant species to, or remove a plant species from, the list authorized under paragraph (1).

(B) ACTION ON PETITION.—The Secretary shall—

(i) act on the petition within a reasonable time; and

(ii) notify the petitioner of the final action the Secretary takes on the petition.

(C) BASIS FOR DETERMINATION.—The determination of the Secretary on the petition shall be based on sound science.

(d) LIST OF BIOLOGICAL CONTROL ORGANISMS.—

(1) PUBLICATION.—The Secretary may publish, by regulation, a list of biological control organisms the movement of which in interstate commerce is not prohibited or restricted.

(2) DISTINCTIONS.—In publishing the list, the Secretary may take into account distinctions between biological control organisms, such as whether the organisms are indigenous, nonindigenous, newly introduced, or commercially raised.

(3) PETITIONS TO ADD BIOLOGICAL CONTROL ORGANISMS TO OR REMOVE BIOLOGICAL CONTROL ORGANISMS FROM LIST.—

(A) IN GENERAL.—A person may petition the Secretary to add a biological control organism to, or remove a biological control organism from, the list authorized under paragraph (1).

(B) ACTION ON PETITION.—The Secretary shall—

(i) act on the petition within a reasonable time; and

(ii) notify the petitioner of the final action the Secretary takes on the petition.

(C) BASIS FOR DETERMINATION.—The determination of the Secretary on the petition shall be based on sound science.

**SEC. 103. NOTIFICATION AND HOLDING REQUIREMENTS ON ARRIVAL.**

(a) DUTY OF SECRETARY OF THE TREASURY.—

(1) NOTIFICATION.—The Secretary of the Treasury shall promptly notify the Secretary of Agriculture of the arrival of a plant, plant product, biological control organism, plant pest, or noxious weed at a port of entry.

(2) HOLDING.—The Secretary of the Treasury shall hold a plant, plant product, biological control organism, plant pest, or noxious weed, for which notification is made under paragraph (1) at the port of entry until the plant, plant product, biological control organism, plant pest, or noxious weed is—

(A) inspected and authorized by the Secretary of Agriculture for entry into or movement through the United States; or

(B) otherwise released by the Secretary of Agriculture.

(3) EXCEPTIONS.—Paragraphs (1) and (2) shall not apply to a plant, plant product, biological control organism, plant pest, or noxious weed that is imported from a country or region of a country designated by the Secretary of Agriculture, by regulation, as exempt from the requirements of those paragraphs.

(b) NOTIFICATION BY RESPONSIBLE PERSON.—The person responsible for a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance required to have a permit under section 101 or 102 shall, as soon as practicable on arrival at the port of entry and before the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance is moved from the port of entry, notify the Secretary of Agriculture or, at the Secretary of Agriculture's direction, the proper official of the

State to which the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance is destined, or both, as the Secretary of Agriculture may prescribe, or—

(1) the name and address of the consignee;

(2) the nature and quantity of the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance proposed to be moved; and

(3) the country and locality where the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance was grown, produced, or located.

(c) PROHIBITION OF MOVEMENT OF ITEMS WITHOUT INSPECTION AND AUTHORIZATION.—No person shall move from a port of entry or interstate an imported plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance unless the imported plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance has been—

(1) inspected and authorized by the Secretary of Agriculture for entry into or movement through the United States; or

(2) otherwise released by the Secretary of Agriculture.

**SEC. 104. GENERAL REMEDIAL MEASURES FOR NEW PLANT PESTS AND NOXIOUS WEEDS.**

(a) AUTHORITY TO HOLD, TREAT, OR DESTROY ITEMS.—If the Secretary considers it necessary to prevent the dissemination of a plant pest or noxious weed that is new to or not known to be widely prevalent or distributed within and throughout the United States, the Secretary may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance that—

(1)(A) is moving into or through the United States or interstate, or has moved into or through the United States or interstate; and

(B)(i) the Secretary has reason to believe is a plant pest or noxious weed or is infested with a plant pest or noxious weed at the time of the movement; or

(ii) is or has been otherwise in violation of this Act;

(2) has not been maintained in compliance with a post-entry quarantine requirement; or

(3) is the progeny of a plant, plant product, biological control organism, plant pest, or noxious weed that is moving into or through the United States or interstate, or has moved into the United States or interstate, in violation of this Act.

(b) AUTHORITY TO ORDER AN OWNER TO TREAT OR DESTROY.—

(1) IN GENERAL.—The Secretary may order the owner of a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance subject to action under subsection (a), or the owner's agent, to treat, apply other remedial measures to, destroy, or otherwise dispose of the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance, without cost to the Federal Government and in a manner the Secretary considers appropriate.

(2) FAILURE TO COMPLY.—If the owner or agent of the owner fails to comply with an order of the Secretary under paragraph (1), the Secretary may take an action authorized by subsection (a) and recover from the owner or agent of the owner the costs of any care, handling, application of remedial measures, or disposal incurred by the Secretary in connection with actions taken under subsection (a).

(c) CLASSIFICATION SYSTEM.—

(1) IN GENERAL.—To facilitate control of noxious weeds, the Secretary may develop a

classification system to describe the status and action levels for noxious weeds.

(2) CATEGORIES.—The classification system may include the geographic distribution, relative threat, and actions initiated to prevent introduction or distribution.

(3) MANAGEMENT PLANS.—In conjunction with the classification system, the Secretary may develop integrated management plans for noxious weeds for the geographic region or ecological range where the noxious weed is found in the United States.

(d) APPLICATION OF LEAST DRASTIC ACTION.—No plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance shall be destroyed, exported, or returned to the shipping point of origin, or ordered to be destroyed, exported, or returned to the shipping point of origin under this section unless, in the opinion of the Secretary, there is no less drastic action that is feasible and that would be adequate to prevent the dissemination of any plant pest or noxious weed new to or not known to be widely prevalent or distributed within and throughout the United States.

#### SEC. 105. EXTRAORDINARY EMERGENCIES.

(a) AUTHORITY TO DECLARE.—Subject to subsection (b), if the Secretary determines that an extraordinary emergency exists because of the presence of a plant pest or noxious weed that is new to or not known to be widely prevalent in or distributed within and throughout the United States and that the presence of the plant pest or noxious weed threatens plants or plant products of the United States, the Secretary may—

(1) hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, a plant, plant product, biological control organism, article, or means of conveyance that the Secretary has reason to believe is infested with the plant pest or noxious weed;

(2) quarantine, treat, or apply other remedial measures to any premises, including a plant, plant product, biological control organism, article, or means of conveyance on the premises, that the Secretary has reason to believe is infested with the plant pest or noxious weed;

(3) quarantine a State or portion of a State in which the Secretary finds the plant pest or noxious weed or a plant, plant product, biological control organism, article, or means of conveyance that the Secretary has reason to believe is infested with the plant pest or noxious weed; or

(4) prohibit or restrict the movement within a State of a plant, plant product, biological control organism, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination of the plant pest or noxious weed or to eradicate the plant pest or noxious weed.

(b) REQUIRED FINDING OF EMERGENCY.—The Secretary may take action under this section only on finding, after review and consultation with the Governor or other appropriate official of the State affected, that the measures being taken by the State are inadequate to prevent the dissemination of the plant pest or noxious weed or to eradicate the plant pest or noxious weed.

(c) NOTIFICATION PROCEDURES.—

(1) IN GENERAL.—Before any action is taken in a State under this section, the Secretary shall—

(A) notify the Governor or another appropriate official of the State;

(B) issue a public announcement; and

(C) except as provided in paragraph (2), publish in the Federal Register a statement of—

(i) the findings of the Secretary;

(ii) the action the Secretary intends to take;

(iii) the reason for the intended action; and

(iv) if practicable, an estimate of the anticipated duration of the extraordinary emergency.

(2) TIME SENSITIVE ACTIONS.—If it is not practicable to publish a statement in the Federal Register under paragraph (1) before taking an action under this section, the Secretary shall publish the statement in the Federal Register within a reasonable period of time, not to exceed 10 business days, after commencement of the action.

(d) APPLICATION OF LEAST DRASTIC ACTION.—No plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance shall be destroyed, exported, or returned to the shipping point of origin, or ordered to be destroyed, exported, or returned to the shipping point of origin under this section unless, in the opinion of the Secretary, there is no less drastic action that is feasible and that would be adequate to prevent the dissemination of a plant pest or noxious weed new to or not known to be widely prevalent or distributed within and throughout the United States.

(e) PAYMENT OF COMPENSATION.—

(1) IN GENERAL.—The Secretary may pay compensation to a person for economic losses incurred by the person as a result of action taken by the Secretary under this section.

(2) AMOUNT.—The determination by the Secretary of the amount of any compensation to be paid under this subsection shall be final and shall not be subject to judicial review.

#### SEC. 106. RECOVERY OF COMPENSATION FOR UNAUTHORIZED ACTIVITIES.

(a) RECOVERY ACTION.—The owner of a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance destroyed or otherwise disposed of by the Secretary under section 104 or 105 may bring an action against the United States to recover just compensation for the destruction or disposal of the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance (not including compensation for loss due to delays incident to determining eligibility for importation, entry, exportation, movement in interstate commerce, or release into the environment) if the owner establishes that the destruction or disposal was not authorized under this Act.

(b) TIME FOR ACTION; LOCATION.—

(1) TIME FOR ACTION.—An action under this section shall be brought not later than 1 year after the destruction or disposal of the plant, plant product, biological control mechanism, plant pest, noxious weed, article, or means of conveyance involved.

(2) LOCATION.—The action may be brought in a United States District Court where the owner is found, resides, transacts business, is licensed to do business, or is incorporated.

(c) PAYMENT OF JUDGMENTS.—A judgment in favor of the owner shall be paid out of any money in the Treasury appropriated for plant pest control activities of the Department of Agriculture.

#### SEC. 107. CONTROL OF GRASSHOPPERS AND MORMON CRICKETS.

(a) IN GENERAL.—Subject to the availability of funds under this section, the Secretary of Agriculture shall carry out a program to control grasshoppers and Mormon Crickets on all Federal land to protect rangeland.

(b) TRANSFER AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (3), on the request of the Secretary of Agriculture, the Secretary of the Interior shall

transfer to the Secretary of Agriculture, from any no-year appropriations, funds for the prevention, suppression, and control of actual or potential grasshopper and Mormon Cricket outbreaks on Federal land under the jurisdiction of the Secretary of the Interior.

(2) USE.—The transferred funds shall be available only for the payment of obligations incurred on the Federal land.

(3) TRANSFER REQUESTS.—The Secretary of Agriculture shall make a request for the transfer of funds under this subsection as promptly as practicable.

(4) LIMITATION.—The Secretary of Agriculture may not use funds transferred under this subsection until funds specifically appropriated to the Secretary of Agriculture for grasshopper and Mormon Cricket control have been exhausted.

(5) REPLENISHMENT OF TRANSFERRED FUNDS.—Funds transferred under this section shall be replenished by supplemental or regular appropriations, which the Secretary of Agriculture shall request as promptly as practicable.

(c) TREATMENT FOR GRASSHOPPERS AND MORMON CRICKETS.—

(1) IN GENERAL.—Subject to the availability of funds under this section, on request of the head of the administering agency or the agriculture department of an affected State, the Secretary of Agriculture, to protect rangeland, shall immediately treat Federal, State, or private land that is infested with grasshoppers or Mormon Crickets at levels of economic infestation, unless the Secretary of Agriculture determines that delaying treatment will not cause greater economic damage to adjacent owners of rangeland.

(2) OTHER PROGRAMS.—In carrying out this section, the Secretary of Agriculture shall work in conjunction with other Federal, State, and private prevention, control, or suppression efforts to protect rangeland.

(d) FEDERAL COST SHARE OF TREATMENT.—

(1) CONTROL ON FEDERAL LAND.—Out of funds made available under this section, the Secretary of Agriculture shall pay 100 percent of the cost of grasshopper or Mormon Cricket control on Federal land to protect rangeland.

(2) CONTROL ON STATE LAND.—Out of funds made available under this section, the Secretary of Agriculture shall pay 50 percent of the cost of grasshopper or Mormon Cricket control on State land.

(3) CONTROL ON PRIVATE LAND.—Out of funds made available under this section, the Secretary of Agriculture shall pay 33.3 percent of the cost of grasshopper or Mormon Cricket control on private land.

(e) TRAINING.—From funds made available or transferred by the Secretary of the Interior to the Secretary of Agriculture to carry out this section, the Secretary of Agriculture shall provide adequate funding for a program to train personnel to accomplish effectively the purposes of this section.

#### SEC. 108. CERTIFICATION FOR EXPORTS.

The Secretary may certify a plant, plant product, or biological control organism as free from plant pests and noxious weeds, and exposure to plant pests and noxious weeds, according to the phytosanitary or other requirements of the countries to which the plant, plant product, or biological control organism may be exported.

#### TITLE II—INSPECTION AND ENFORCEMENT

##### SEC. 201. INSPECTIONS AND WARRANTS.

(a) IN GENERAL.—Consistent with guidelines approved by the Attorney General, the Secretary may—

(1) stop and inspect, without a warrant, a person or means of conveyance moving into the United States to determine whether the



person or means of conveyance is carrying a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance subject to this Act;

(2) stop and inspect, without a warrant, a person or means of conveyance moving in interstate commerce on probable cause to believe that the person or means of conveyance is carrying a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance subject to this Act;

(3) stop and inspect, without a warrant, a person or means of conveyance moving in intrastate commerce or on premises quarantined as part of an extraordinary emergency declared under section 105 on probable cause to believe that the person or means of conveyance is carrying a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance subject to this Act; and

(4) enter, with a warrant, a premises in the United States for the purpose of conducting investigations or making inspections under this Act.

**(b) WARRANTS.—**

(1) **IN GENERAL.**—A United States judge, a judge of a court of record in the United States, or a United States magistrate judge may, on proper oath or affirmation showing probable cause to believe that there is on certain premises a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance regulated under this Act, issue a warrant for entry on the premises to conduct an investigation or make an inspection under this Act.

(2) **EXECUTION.**—The warrant may be applied for and executed by the Secretary or a United States marshal.

**SEC. 202. COLLECTION OF INFORMATION.**

The Secretary may gather and compile information and conduct such investigations as the Secretary considers necessary for the administration and enforcement of this Act.

**SEC. 203. SUBPOENA AUTHORITY.**

(a) **AUTHORITY TO ISSUE.**—The Secretary may require by subpoena—

(1) the attendance and testimony of a witness; and

(2) the production of all documentary evidence relating to the administration or enforcement of this Act or a matter under investigation in connection with this Act.

(b) **LOCATION OF PRODUCTION.**—The attendance of a witness and production of documentary evidence may be required from any place in the United States at any designated place of hearing.

(c) **ENFORCEMENT OF SUBPOENA.**—If a person fails to comply with a subpoena, the Secretary may request the Attorney General to invoke the aid of a court of the United States within the jurisdiction in which the investigation is conducted, or where the person resides, is found, transacts business, is licensed to do business, or is incorporated, in obtaining compliance.

**(d) FEES AND MILEAGE.—**

(1) **IN GENERAL.**—A witness summoned by the Secretary shall be paid the same fees and mileage that are paid to a witness in a court of the United States.

(2) **DEPOSITIONS.**—A witness whose deposition is taken, and the person taking the deposition, shall be entitled to the same fees that are paid for similar services in a court of the United States.

**(e) PROCEDURES.—**

(1) **IN GENERAL.**—The Secretary shall publish procedures for the issuance of subpoenas under this section.

(2) **LEGAL SUFFICIENCY.**—The procedures shall include a requirement that a subpoena be reviewed for legal sufficiency and signed by the Secretary.

(3) **DELEGATION.**—If the authority to sign a subpoena is delegated, the agency receiving the delegation shall seek review for legal sufficiency outside that agency.

(f) **SCOPE OF SUBPOENA.**—A subpoena for a witness to attend a court in a judicial district or to testify or produce evidence at an administrative hearing in a judicial district in an action or proceeding arising under this Act may run to any other judicial district.

**SEC. 204. PENALTIES FOR VIOLATION.**

(a) **CRIMINAL PENALTIES.**—A person that knowingly violates this Act, or that knowingly forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys a certificate, permit, or other document provided under this Act shall be guilty of a misdemeanor, and, on conviction, shall be fined in accordance with title 18, United States Code, imprisoned not more than 1 year, or both.

**(b) CIVIL PENALTIES.—**

(1) **IN GENERAL.**—A person that violates this Act, or that forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys a certificate, permit, or other document provided under this Act may, after notice and opportunity for a hearing on the record, be assessed a civil penalty by the Secretary that does not exceed the greater of—

(A) \$50,000 in the case of an individual (except that the civil penalty may not exceed \$1,000 in the case of an initial violation of this Act by an individual moving regulated articles not for monetary gain), or \$250,000 in the case of any other person for each violation, except the amount of penalties assessed under this subparagraph in a single proceeding shall not exceed \$500,000; or

(B) twice the gross gain or gross loss for a violation or forgery, counterfeiting, or unauthorized use, defacing or destruction of a certificate, permit, or other document provided for in this Act that results in the person's deriving pecuniary gain or causing pecuniary loss to another person.

(2) **FACTORS IN DETERMINING CIVIL PENALTY.**—In determining the amount of a civil penalty, the Secretary—

(A) shall take into account the nature, circumstance, extent, and gravity of the violation; and

(B) may take into account the ability to pay, the effect on ability to continue to do business, any history of prior violations, the degree of culpability of the violator, and any other factors the Secretary considers appropriate.

(3) **SETTLEMENT OF CIVIL PENALTIES.**—The Secretary may compromise, modify, or remit, with or without conditions, a civil penalty that may be assessed under this subsection.

**(4) FINALITY OF ORDERS.—**

(A) **IN GENERAL.**—An order of the Secretary assessing a civil penalty shall be treated as a final order reviewable under chapter 158 of title 28, United States Code.

(B) **COLLECTION ACTION.**—The validity of an order of the Secretary may not be reviewed in an action to collect the civil penalty.

(C) **INTEREST.**—A civil penalty not paid in full when due under an order assessing the civil penalty shall (after the due date) accrue interest until paid at the rate of interest applicable to a civil judgment of the courts of the United States.

(c) **LIABILITY FOR ACTS OF AN AGENT.**—For purposes of this Act, the act, omission, or failure of an officer, agent, or person acting for or employed by any other person within the scope of employment or office of the officer, agent, or person, shall be considered to be the act, omission, or failure of the other person.

(d) **GUIDELINES FOR CIVIL PENALTIES.**—The Secretary shall coordinate with the Attor-

ney General to establish guidelines to determine under what circumstances the Secretary may issue a civil penalty or suitable notice of warning in lieu of prosecution by the Attorney General of a violation of this Act.

**SEC. 205. ENFORCEMENT ACTIONS OF ATTORNEY GENERAL.**

The Attorney General may—

(1) prosecute, in the name of the United States, a criminal violation of this Act that is referred to the Attorney General by the Secretary or is brought to the notice of the Attorney General by any person;

(2) bring a civil action to enjoin the violation of or to compel compliance with this Act, or to enjoin any interference by a person with the Secretary in carrying out this Act, if the Attorney General has reason to believe that the person has violated or is about to violate this Act, or has interfered, or is about to interfere, with the Secretary; and

(3) bring a civil action for the recovery of an unpaid civil penalty, funds under a reimbursable agreement, late payment penalty, or interest assessed under this Act.

**SEC. 206. COURT JURISDICTION.**

(a) **IN GENERAL.**—Except as provided in section 204(b), a United States district court, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of other territories and possessions are vested with jurisdiction in all cases arising under this Act.

(b) **LOCATION.**—An action arising under this Act may be brought, and process may be served, in the judicial district where—

(1) a violation or interference occurred or is about to occur; or

(2) the person charged with the violation, interference, impending violation, impending interference, or failure to pay resides, is found, transacts business, is licensed to do business, or is incorporated.

**TITLE III—MISCELLANEOUS PROVISIONS**

**SEC. 301. COOPERATION.**

(a) **IN GENERAL.**—To carry out this Act, the Secretary may cooperate with—

(1) other Federal agencies or entities;

(2) States or political subdivisions of States;

(3) national governments;

(4) local governments of other nations;

(5) domestic or international organizations;

(6) domestic or international associations; and

(7) other persons.

(b) **RESPONSIBILITY.**—The individual or entity cooperating with the Secretary shall be responsible for—

(1) obtaining the authority necessary for conducting the operations or taking measures on all land and property within the foreign country or State, other than land and property owned or controlled by the United States; and

(2) other facilities and means determined by the Secretary.

(c) **TRANSFER OF BIOLOGICAL CONTROL METHODS.**—The Secretary may transfer to a Federal or State agency or other person biological control methods using biological control organisms against plant pests or noxious weeds.

(d) **COOPERATION IN PROGRAM ADMINISTRATION.**—The Secretary may cooperate with State authorities or other persons in the administration of programs for the improvement of plants, plant products, and biological control organisms.

**SEC. 302. BUILDINGS, LAND, PEOPLE, CLAIMS, AND AGREEMENTS.**

(a) **IN GENERAL.**—The Secretary may acquire and maintain such real or personal

property, and employ such persons, make such grants, and enter into such contracts, cooperative agreements, memoranda of understanding, or other agreements, as are necessary to carry out this Act.

(b) TORT CLAIMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may pay a tort claim (in the manner authorized in the first paragraph of section 2672 of title 28, United States Code) if the claim arises outside the United States in connection with an activity authorized under this Act.

(2) REQUIREMENTS OF CLAIM.—A claim may not be allowed under paragraph (1) unless the claim is presented in writing to the Secretary not later than 2 years after the claim arises.

**SEC. 303. REIMBURSABLE AGREEMENTS.**

(a) PRECLEARANCE.—

(1) IN GENERAL.—The Secretary may enter into a reimbursable fee agreement with a person for preclearance (at a location outside the United States) of plants, plant products, biological control organisms, articles, and means of conveyance for movement to the United States.

(2) ACCOUNT.—All funds collected under this subsection shall be credited to an account that—

(A) may be established by the Secretary; and

(B) if established, shall remain available for preclearance activities until expended.

(b) OVERTIME.—

(1) IN GENERAL.—Notwithstanding any other law, the Secretary may pay an employee of the Department of Agriculture performing services under this Act relating to imports into and exports from the United States, for all overtime, night, or holiday work performed by the employee, at a rate of pay determined by the Secretary.

(2) REIMBURSEMENT OF SECRETARY.—The Secretary may require a person for whom the services are performed to reimburse the Secretary for funds paid by the Secretary for the services.

(3) ACCOUNT.—All funds collected under this subsection shall be credited to the account that incurs the costs and remain available until expended.

(c) LATE PAYMENT PENALTY AND INTEREST.—

(1) COLLECTION.—On failure of a person to reimburse the Secretary in accordance with this section, the Secretary may assess a late payment penalty against the person.

(2) INTEREST.—Overdue funds due the Secretary under this section shall accrue interest in accordance with section 3717 of title 31, United States Code.

(3) ACCOUNT.—A late payment penalty and accrued interest shall be credited to the account that incurs the costs and shall remain available until expended.

**SEC. 304. PROTECTION FOR MAIL HANDLERS.**

This Act shall not apply to an employee of the United States in the performance of the duties of the employee in handling the mail.

**SEC. 305. PREEMPTION.**

(a) REGULATION OF FOREIGN COMMERCE.—No State or political subdivision of a State may—

(1) regulate in foreign commerce a plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance; or

(2) in order to control a plant pest or noxious weed—

(A) eradicate a plant pest or noxious weed; or

(B) prevent the introduction or dissemination of a biological control organism, plant pest, or noxious weed.

(b) REGULATION OF INTERSTATE COMMERCE.—

(1) IN GENERAL.—Except as provided in paragraph (2), if the Secretary has promulgated a regulation or order to prevent the dissemination of a plant, plant product, biological control organism, plant pest, or noxious weed within the United States, no State or political subdivision of a State may—

(A) regulate the movement in interstate commerce of the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance; or

(B) in order to control the plant pest or noxious weed—

(i) eradicate the plant pest or noxious weed; or

(ii) prevent the introduction or dissemination of the biological control organism, plant pest, or noxious weed.

(2) EXCEPTIONS.—

(A) REGULATIONS CONSISTENT WITH FEDERAL REGULATIONS.—Except as provided in subparagraph (B), a State or a political subdivision of a State may impose a prohibition or restriction on the movement in interstate commerce of plants, plant products, biological control organisms, plant pests, noxious weeds, articles, or means of conveyance that are consistent with and do not exceed the requirements of the regulations promulgated or orders issued by the Secretary under this Act.

(B) SPECIAL LOCAL NEED.—A State or political subdivision of a State may impose a prohibition or restriction on the movement in interstate commerce of plants, plant products, biological control organisms, plant pests, noxious weeds, articles, or means of conveyance, that are in addition to a prohibition or restriction imposed by the Secretary, if the State or political subdivision of a State demonstrates to the Secretary and the Secretary finds that there is a special need for additional prohibitions or restrictions based on sound scientific data or a thorough risk assessment.

**SEC. 306. REGULATIONS AND ORDERS.**

The Secretary may promulgate such regulations, and issue such orders, as the Secretary considers necessary to carry out this Act.

**SEC. 307. REPEAL OF SUPERSEDED LAWS.**

(a) REPEAL.—The following provisions of law are repealed:

(1) Subsections (a) through (e) of section 102 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 147a).

(2) Section 1773 of the Food Security Act of 1985 (7 U.S.C. 148f).

(3) The Golden Nematode Act (7 U.S.C. 150 et seq.).

(4) The Federal Plant Pest Act (7 U.S.C. 150aa et seq.).

(5) The Joint Resolution of April 6, 1937 (56 Stat. 57, chapter 69; 7 U.S.C. 148 et seq.).

(6) The Act of January 31, 1942 (56 Stat. 40, chapter 31; 7 U.S.C. 149).

(7) The Act of August 20, 1912 (commonly known as the "Plant Quarantine Act") (37 Stat. 315, chapter 308; 7 U.S.C. 151 et seq.).

(8) The Halogeton Glomeratus Control Act (7 U.S.C. 1651 et seq.).

(9) The Act of August 28, 1950 (64 Stat. 561, chapter 815; 7 U.S.C. 2260).

(10) The Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 et seq.), other than the first section and section 15 of that Act (7 U.S.C. 2801 note, 2814).

(b) EFFECT ON REGULATIONS.—Regulations promulgated under the authority of a provision of law repealed by subsection (a) shall remain in effect until such time as the Secretary promulgates a regulation under section 306 that supersedes the earlier regulation.

**TITLE IV—FEDERAL COORDINATION**

**SEC. 401. DEFINITIONS.**

In this title:

(1) ACTION PLAN.—The term "Action Plan" means the National Invasive Species Action Plan developed and submitted to Congress under section 404, including any updates to the Action Plan.

(2) ALIEN SPECIES.—The term "alien species" means, with respect to a particular ecosystem, any species, including its seeds, eggs, spores, or other biological material capable of propagating the species, that is not native to that ecosystem.

(3) CONTROL.—The term "control" means—

(A) the suppression, reduction, or management of invasive species populations;

(B) the prevention of the spread of invasive species from areas where the species are present; and

(C) the taking of measures such as the restoration of native species and habitats to reduce the effects of invasive species and to prevent further invasions.

(4) COUNCIL.—The term "Council" means the Invasive Species Council established by section 402.

(5) ECOSYSTEM.—The term "ecosystem" means the complex of a community of organisms and the community's environment.

(6) FEDERAL AGENCY.—The term "Federal agency" has the meaning given the term "agency" in section 551 of title 5, United States Code, except that the term does not include an independent establishment (as defined in section 104 of title 5, United States Code).

(7) INTRODUCTION.—The term "introduction" means the intentional or unintentional escape, release, dissemination, or placement of a species into an ecosystem as a result of human activity.

(8) INVASIVE SPECIES.—The term "invasive species" means an alien species the introduction of which causes or is likely to cause economic or environmental harm or harm to human health.

(9) NATIVE SPECIES.—The term "native species" means, with respect to a particular ecosystem, a species that, other than as a result of an introduction, historically occurred or currently occurs in the ecosystem.

(10) SPECIES.—The term "species" means a group of organisms all of which—

(A) have a high degree of physical and genetic similarity;

(B) generally interbreed only among themselves; and

(C) show persistent differences from members of allied groups of organisms.

(11) STAKEHOLDER.—The term "stakeholder" means an entity with an interest in invasive species, including—

(A) a State, tribal, or local government agency;

(B) an academic institution;

(C) the scientific community; and

(D) a nongovernmental entity, including an environmental, agricultural, or conservation organization, trade group, commercial interest, or private landowner.

**SEC. 402. INVASIVE SPECIES COUNCIL.**

(a) ESTABLISHMENT.—There is established an advisory council to be known as the "Invasive Species Council".

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall be composed of—

(A) the Secretary of State;

(B) the Secretary of the Treasury;

(C) the Secretary of Defense;

(D) the Secretary of the Interior, who shall be a cochairperson of the Council;

(E) the Secretary of Agriculture, who shall be a cochairperson of the Council;

(F) the Secretary of Commerce, who shall be a cochairperson of the Council;

(G) the Secretary of Transportation;

(H) the Administrator of the Environmental Protection Agency; and

(1) a representative of State government appointed by the National Governors' Association.

(2) OTHER FEDERAL AGENCY REPRESENTATIVES.—The Council may—

(A) invite other representatives of Federal agencies to serve as members of the Council, including representatives from subcabinet bureaus or offices with significant responsibilities concerning invasive species; and

(B) prescribe special procedures for the participation by those other representatives on the Council.

(c) DUTIES.—The Invasive Species Council shall—

(1) provide national leadership regarding invasive species;

(2) oversee the implementation of this title and make recommendations designed to ensure that the activities of Federal agencies concerning invasive species are coordinated, complementary, cost-efficient, and effective, relying to the maximum extent practicable on organizations addressing invasive species, such as—

(A) the Aquatic Nuisance Species Task Force established by section 1201 of the Non-Indigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4721);

(B) the Federal Interagency Committee for the Management of Noxious and Exotic Weeds; and

(C) the Committee on Environment and Natural Resources of the Office of Science and Technology Policy;

(3) encourage planning and action at local, tribal, State, regional, and ecosystem-based levels to achieve the goals and objectives of the Action Plan, in cooperation with stakeholders and organizations addressing invasive species;

(4) develop recommendations for international cooperation in addressing invasive species;

(5) develop, in consultation with the Council on Environmental Quality, guidance to Federal agencies under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) concerning prevention and control of invasive species, including the procurement, use, and maintenance of native species in a manner designed to affect invasive species;

(6) facilitate development of a coordinated network among Federal agencies to document, evaluate, and monitor impacts from invasive species on the economy, the environment, and human health;

(7) facilitate establishment of a coordinated, up-to-date information-sharing system that—

(A) uses, to the maximum extent practicable, the Internet; and

(B) facilitates access to and exchange of information concerning invasive species, such as—

(i) information on the distribution and abundance of invasive species;

(ii) life histories of invasive species and invasive characteristics;

(iii) economic, environmental, and human health impacts from invasive species;

(iv) techniques for management of invasive species; and

(v) laws and programs for management, research, and public education concerning invasive species; and

(8) develop and submit to Congress the Action Plan.

(d) EXECUTIVE DIRECTOR; STAFF.—With the concurrence of the other cochairpersons, the Secretary of the Interior shall—

(1) appoint an Executive Director of the Council; and

(2) provide staff and administrative support for the Council.

#### SEC. 403. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of the Interior shall—

(1) establish an advisory committee to provide information and advice for consideration by the Council; and

(2) after consultation with other members of the Council, appoint members of the advisory committee to represent stakeholders.

(b) DUTIES.—The duties of the advisory committee shall include making recommendations for plans and actions at local, tribal, State, regional, and ecosystem-based levels to achieve the goals and objectives of the Action Plan.

(c) COOPERATION.—The advisory committee shall act in cooperation with stakeholders and organizations addressing the problem of invasive species.

(d) ADMINISTRATIVE AND FINANCIAL SUPPORT.—The Secretary of the Interior shall provide administrative and financial support for the advisory committee.

#### SEC. 404. INVASIVE SPECIES ACTION PLAN.

(a) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Council shall develop and submit to Congress a National Invasive Species Action Plan, which shall—

(1) detail and recommend performance-oriented goals and objectives and specific measures of success for Federal agency efforts concerning invasive species;

(2) detail and recommend measures to be taken by the Council to carry out its duties under section 402; and

(3) identify the personnel, other resources, and additional levels of coordination needed to achieve the goals and objectives of the Action Plan.

(b) PUBLIC PARTICIPATION AND COORDINATION.—The Action Plan shall be—

(1) developed through a public process and in consultation with Federal agencies and stakeholders; and

(2) coordinated with any State plans concerning invasive species.

(c) SPECIAL REQUIREMENTS FOR FIRST ACTION PLAN.—

(1) IN GENERAL.—The first Action Plan submitted under subsection (a) shall—

(A) include a review of existing and prospective approaches and authorities for preventing the introduction and spread of invasive species, including approaches for—

(i) identifying pathways for the introduction of invasive species; and

(ii) minimizing the risk of introductions by means of those pathways; and

(B) identify research needs and recommend measures to minimize the risk that introductions will occur.

(2) RECOMMENDED PROCESSES.—The measures recommended under paragraph (1)(B) shall provide for—

(A) a science-based process to evaluate risks associated with the introduction and spread of invasive species; and

(B) a coordinated and systematic risk-based process to identify, monitor, and interdict pathways that may be involved in the introduction of invasive species.

(3) RECOMMENDATIONS FOR LEGISLATION.—If any measure recommended under paragraph (1)(B) is not authorized by law in effect as of the date of the recommendation, the Council shall develop and submit to Congress legislative proposals for necessary changes in law.

(d) UPDATES AND EVALUATIONS OF ACTION PLAN.—The Council shall—

(1) develop and submit to Congress biennial updates of the Action Plan; and

(2) concurrently evaluate and report on success in achieving the goals and objectives specified in the Action Plan.

(e) RESPONSE BY FEDERAL AGENCIES.—Not later than 18 months after the date of submission to Congress of the Action Plan, each Federal agency that is required to implement a measure recommended under subsection (a)(1) or (c)(1)(B) shall—

(1) take the recommended action; or

(2) provide to the Council an explanation of why the action is not feasible.

#### TITLE V—AUTHORIZATION OF APPROPRIATIONS

##### SEC. 501. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

(b) COMPENSATION.—Except as provided in section 106 and as specifically authorized by law, no part of the amounts appropriated under this section shall be used to provide compensation for property injured or destroyed by or at the direction of the Secretary.

##### SEC. 502. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER CERTAIN FUNDS.—In connection with an emergency in which a plant pest or noxious weed threatens a segment of the agricultural production of the United States, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department of Agriculture such amounts as the Secretary considers necessary to be available in the emergency for the arrest, control, eradication, and prevention of the dissemination of the plant pest or noxious weed and for related expenses.

(b) AVAILABILITY.—Any funds transferred under this section shall remain available for such purposes until expended.

(c) CONFORMING AMENDMENTS.—The first section of Public Law 97-46 (7 U.S.C. 147b) is amended—

(1) by striking “plant pests or”; and

(2) by striking “section 102 of the Act of September 21, 1944, as amended (7 U.S.C. 147a), and”.

#### SECTION-BY-SECTION ANALYSIS OF THE NOXIOUS WEED COORDINATION AND PLANT PROTECTION ACT

Sections 1, 2, and 3—The first three sections of the bill serve as a “road map” to the rest of the legislation. Section 1 consists entirely of the title and table of contents. Section 2 outlines certain findings as to why the legislation is necessary. Section 3 provides the definitions used throughout the rest of the bill.

##### TITLE ONE—PLANT PROTECTION

Section 101—Outlaws the importation or interstate movement of a plant pest (defined in Section 3 as anything that has the potential to directly or indirectly injure or cause damage to or disease in a plant product) without a permit from the Secretary of Agriculture.

Section 102—Grants USDA the authority to block or regulate the importation or movement of a noxious weed, or other plant, if the Secretary determines that such a prohibition is necessary to prevent the weed's introduction into a new area. In addition, USDA is required to publish a list of noxious weeds that are prohibited from entering the country or whose interstate movement is restricted and allows a procedure to have weeds added to or removed from the list. USDA would also publish a list of control agents which may be transported without restriction.

Section 103—Requires the Secretary of the Treasury (who oversees the Customs Service) to notify USDA of the arrival of any plant or noxious weed upon its arrival at a port of entry and to hold it at the border until it can be inspected and authorized for entry.

Section 104—Authorizes USDA to hold, seize, quarantine, treat, or destroy any noxious weed or plant pest that it finds in violation of this law.

Section 105—Authorizes USDA to declare “extraordinary emergencies” when necessary to confront the importation or to

fight the spread of a noxious weed. In addition, the bill outlines what actions are authorized during such an emergency.

Section 106—Allows a plant owner to seek compensation from USDA if the owner "establishes that the destruction or disposal" of this plant or other property "was not authorized under this Act" if he does so within one year of the action.

Section 107—Makes USDA the federal department in charge of the fight against grasshoppers and Mormon Crickets on all federal lands. In addition to the authority, funds to carry out the program would be transferred from other federal agencies and departments to USDA. It also establishes a cost sharing program in which the federal government will assume the entire cost of fighting grasshoppers and Mormon Crickets on federally owned land, one-half of the cost on state owned land, and one-third the cost on private land.

Section 108—Allows the USDA to develop a means by which it can certify plants to be free of pests or noxious weeds.

#### TITLE TWO—INSPECTION AND ENFORCEMENT

Section 201—Allows USDA inspectors to stop and inspect persons and items entering the country or moving from one state to another in search of noxious weeds or plant pests. In addition, USDA is authorized to seek a warrant to search private premises for weeds and pests.

Section 202—Allows USDA to "gather and compile information" needed to carry out its investigations.

Section 203—Authorizes and restricts how USDA may issue a subpoena in its investigations.

Section 204—Establishes criminal and civil penalties for anyone who "knowingly violates this Act," forges or counterfeits a permit, or uses a permit unlawfully. Such a violation would be a misdemeanor punishable with a maximum penalty of 1 year in prison and/or a fine of up to \$250,000 (limits are set in the case that the action is taken by an individual [\$50,000] or done without the intention of monetary gain [\$1,000]).

Section 205—Authorizes the Attorney General to enforce the Act.

Section 206—Locates enforcement at a federal court where the violation occurs or where the defendant lives.

#### TITLE THREE—MISCELLANEOUS PROVISIONS

Sections 301, 302, and 303—Authorizes USDA to seek cooperation with other agencies, states, associations, and individuals in fulfilling its responsibilities.

Section 304—Stipulates that the regulations against mailing a plant pest or noxious weed included in the bill will not interfere with an employee of the U.S. Postal Service and his responsibility in handling the mail.

Section 305—Authorizes USDA to issue regulations and orders needed to carry out the Act.

Section 306—Repeals federal laws which have been superseded or replaced by the Act.

#### TITLE FOUR—FEDERAL COORDINATION

Section 401—Provides the definitions used throughout the rest of the title.

Section 402—Establishes a multi-agency Invasive Species Council and outlines the duties of the Council.

Section 403—Directs the Secretary of the Interior to establish an advisory committee to provide information and advice to the Council.

Section 404—Gives the Council nine months to develop a National Invasive Species Action Plan with public participation and coordination with State plans concerning invasive species.

#### TITLE FIVE—AUTHORIZATION FOR APPROPRIATIONS

Section 501—Authorizes Congress to appropriate the funds necessary to carry out the Act.

Section 502—Authorizes the Secretary of Agriculture to transfer other USDA funds to the programs authorized by the Act.●

By Mr. KYL (for himself, Mrs. HUTCHISON, Mr. DOMENICI, Mr. MCCAIN, Mr. GRAMM, Mr. BINGAMAN, Mr. HOLLINGS, Mr. ABRAHAM, and Mr. KYL):

S. 912. A bill to modify the rate of basic pay and the classification of positions for certain United States Border Patrol agents, and for other purposes; to the Committee on the Judiciary.

#### BORDER PATROL RECRUITMENT AND RETENTION ACT OF 1999

Mr. KYL. Mr. President, I rise today with Senator KAY BAILEY HUTCHISON to introduce the Border Patrol Recruitment and Retention Act of 1999.

In 1996, the Congress passed unanimously, and the President signed, my amendment to the Immigration Reform Act requiring that 1,000 Border Patrol agents be hired each year between the years 1997 and 2001. Last year, Congress provided the Immigration and Naturalization Service with \$93 million to hire, train, and deploy 1,000 agents during 1999.

We have now learned that the INS will not come close to hiring the required 1,000 agents during this year; and, in fact, may only hire 200 to 400. As a result, states that need the increased personnel the most will not receive them. Arizona, which itself was slated to receive 400 new agents, will now receive only 100 to 150 new agents. That's not nearly enough. Border Patrol agents in the Tucson sector apprehended 60,537 illegal immigrants last month and seized over 28,000 pounds of marijuana, an all-time record in both areas. Project that annually and then factor in the estimate that 3 times as many illegal aliens successfully cross the border than are apprehended. The situation is so out of control in Arizona that recently, 600 people attempted to cross the border en masse in broad daylight. Some Arizonans are growing so anxious about the upsurge of illegal activity in their community that they have attempted to take matters into their own hands. Unless Arizona is given more federal personnel and resources to get things under control, many are worried about how this situation will develop.

What the INS says is that it is having recruitment and retention problems, and so it cannot take on the added personnel at this time. Couldn't the INS foresee some of these recruitment issues more than two months before now? And couldn't INS do something to correct the problem of recruitment?

We concluded Congress would have to initiate some solutions. Therefore, Senator HUTCHISON and I introduce this bill today to try to begin to address some of the Border Patrol's recruitment and retention problems. It is not a panacea, and we need to continue to explore additional ways of improving recruitment and retention; but it will open the debate and will provide for a

much-needed increase in salary levels for the Border Patrol.

Currently Border Patrol agents are, for the most part, capped at a GS-9 level (currently, only about 20 percent of agents, namely those who perform special duties, are raised to the GS-11 level). The Border Patrol Retention and Recruitment Enhancement Act would allow all agents with a successful year's experience at a GS-9 level to move up to a GS-11 level. This would enable agents to move from an approximate \$34,000 annually salary to an approximate \$41,000 annually salary. And that's fair. These agents have a tough time in their assignments. They must speak two languages. They deserve a raise.

The bill would also establish the Office of Border Patrol Recruitment and Retention, which would allow the Border Patrol to be more involved in recruiting and hiring and will direct the Border Patrol to make policy suggestions about ways to improve recruitment and retention. Currently, the INS and the Office of Personnel Management are responsible for all such activity. We have heard testimony from Border Patrol chiefs who say that the Border Patrol has unique and specific knowledge about how to enhance these efforts.

Mr. President, this bill will not solve all of the Border Patrol's recruiting and retention problems, but it will be a responsible start toward increasing the numbers of agents who will so honorably protect our nation's borders.

Mr. President, I yield the floor.

Mrs. HUTCHISON addressed the Chair.

THE PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Mr. President. I thank Senator KYL for his leadership on this bill that we have just introduced.

Senator KYL and I, along with Senators DOMENICI, GRAMM, MCCAIN, and BINGAMAN, have been very concerned about the Border Patrol issue that faces our border States. In fact, we were stunned this week to learn that though Congress has authorized and authorized funding for 1,000 new Border Patrol agents that in fact only 200 to 400 are coming on line this year.

Mr. President, that is stunning. That is stunning when you consider that last year the Border Patrol apprehended 1.5 million persons illegally crossing the border, and fully half of those were at my State of Texas. In fact, the McAllen Border Patrol sector, which includes Brownsville, Harlingen and McAllen, had the largest number of drug seizures of all Border Patrol Sectors in the United States—1,610 drug seizures just in that one sector. The drugs apprehended have a value of over \$410 million. Two Border Patrol agents in the McAllen sector lost their lives last year in a raid of a drug trafficker's hideout. It was the first time Border Patrol agents had been killed during such a raid.

Senator ABRAHAM held a hearing this week, and the Chief of the Border Patrol told us that he has not been able to recruit and retain and, in fact, is losing 10 percent of the agents. For every one that we are bringing on, we are losing two, because our Border Patrol agents are capped at a journeyman-9 level. That translates to roughly \$34,000 a year for an agent that has several years of experience. For an agent, that is certainly a job of law enforcement at its toughest.

Under the bill that we have just introduced, the agents would be eligible to be paid at a journeyman-11 level, which is approximately a \$7,000 increase.

This pay raise is also consistent with the pay of other law enforcement agencies that work along the border. One significant problem for the Border Patrol has been that many agents go to work for the Customs Service, or the DEA when they reach the cap. So they get to their cap, their experience, and they go over to another Federal agency that pays better.

We must solve this discrepancy among Federal agencies in the same place that are doing similar kinds of tough duty work for hazardous pay. Yet, the Border Patrol is \$7,000 less than Customs and DEA agents. We must correct this discrepancy if we are going to get control of our borders, which are a sieve right now with drugs moving through at an alarming rate.

This is not just a Texas-Arizona-New Mexico-California problem. The drugs that come in from our borders go right up into Ohio, Michigan, New Hampshire, Oregon—all over our country, because we don't have the proper control of our border.

Mr. President, there is not a higher priority for the Federal Government than to have the sovereign borders of the United States safe from illegal drugs coming into our country, and most certainly illegal immigrants that have not gone through the proper procedures so that we know who is coming into our country and what their record is so that we have the control that any sovereign nation would have.

Mr. President, this is an emergency. It is why Senator KYL and I have introduced this legislation today, because we are in a crisis. This is a war. It is a war on drugs, and we are losing. We are losing our young people in this country. Part of the problem is that we are not putting the resources into law enforcement.

I have to say, Mr. President, that I am disappointed to the maximum that our INS has money from Congress and authorization from Congress to hire 1,000 agents and they have only been able to come up with 200 to 400 agents this year. That means we are 600 to 800 short, as we speak, from what was allocated this year, and which was given priority by Congress. I think the INS needs to make this a priority. We are going to give them the pay increases with the bill that we have just introduced today.

Senator GREGG, who has been a strong supporter of our efforts to beef up the border, has said he will work with us to reprogram money from this year's budget for these pay increases so that we will hopefully be able to do this on an expedited basis by October 1 of this year.

Hopefully, we will be able to retain agents knowing that this pay raise is in the pipeline. But, Mr. President, it also takes an effort by the INS to make it a priority to fill these slots, because if they don't look at a little more creative approach to recruiting, the \$7,000 increase is not going to be enough.

I am at my wit's end. Senator KYL, Senator MCCAIN, Senator GRAMM, Senator DOMENICI, and Senator BINGAMAN are at their wit's end, and certainly Senator FEINSTEIN and Senator BOXER are at their wit's end with promises made and not fulfilled by the Border Patrol to keep the illegal drugs out of our country that are preying on our young people.

This is a priority. It is an emergency. It is a war that we are losing, and we are going to try to fix it. But we must have the support of the INS to do it. We are going to give them pay raises. We are going to create another office in the Border Patrol for recruitment and retention to tell us what else we need to do, and we are going to fix this problem if we can have a hand-to-hand relationship with the INS and the Border Patrol.

It is inexcusable that they did not come to us earlier to tell us they were this far behind. We are going to fix this problem. We are not going to sit back and let the children of our country be absorbed in drugs that are illegally crossing the border and made available to young people who are not yet mature enough to know what to do when they are approached.

Mr. President, we are trying to do our part. I call on the INS and the Border Patrol and this administration to do their part, because we are not going to take it anymore. We are going to solve this problem. We are going to put the resources in it. If the INS will put those resources to work and be creative and innovative and dogged in their determination, we will make a difference, but we can't do it without their commitment.

Thank you, Mr. President.

Mr. HOLLINGS. Will the distinguished Senator yield?

Mrs. HUTCHISON. I yield to the Senator from South Carolina.

Mr. HOLLINGS. I thank the Senator for the introduction. I ask unanimous consent that I be made a cosponsor.

Mrs. HUTCHISON. I would be pleased to add Mr. HOLLINGS as an original cosponsor.

Mr. HOLLINGS. I would like to say a word about this particular problem.

Is the Senator yielding the floor?

Mrs. HUTCHISON. I thank the Senator from South Carolina, because he has provided leadership and support in our committee and because he has the

training agency that is sitting empty right now in his State. They do a great job training our agents. He knows what a problem this is. I look forward to his remarks. I appreciate his support, and I appreciate his leadership in the past on trying to help us recruit. I think this is something that is in the interest of all of us to solve so that every school in America will be drug free.

I yield the floor.

Mr. HOLLINGS. Mr. President, let me thank the distinguished Senator from Texas. She is right on target. We have graduated over 2,000 agents from the finest school down there for Border Patrol agents. Two who trained there have already been killed.

I have visited from time to time. The matter of pay is the issue. We advertise and we solicit in the local area over the entire State—and nationally—and it is a pay problem.

I hope we can confront it.

Mr. MCCAIN. Mr. President, I join Senator KYL and the other co-sponsors in introducing legislation that I hope will significantly improve the Border Patrol's ability to recruit and retain the talented individuals we need to guard our nation's borders against illegal immigration and illicit drugs. This legislation is timely and important. I hope we can act on it promptly.

As my colleagues know, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 mandated the addition of 1,000 new Border Patrol agents annually through 2001 as a means of providing better enforcement against illegal immigration, particularly along the southwest border. Unfortunately, this Administration has seen fit to request full funding for those authorized agents in only one year since we passed that law.

Moreover, problems in recruiting and retaining Border Patrol agents have resulted in a net increase of only several hundred new agents annually. Thus, during the current fiscal year, for which we did in fact appropriate funds for 1,000 new agents, the recruiting and retention problems are such that the Border Patrol will see a net increase in its ranks of only several hundred agents. Indeed, Border Patrol Chief Gus de la Vina testified before the Senate Immigration Subcommittee only yesterday that, despite the Congressional mandate to add 1,000 new agents this year, the Border Patrol only anticipates hiring between 200 and 400 agents. Arizona, which had anticipated receiving about 400 of the 1,000 new agents slated for FY 1999, will now receive fewer than 150. We can and must do better than that.

The Border Patrol's Tucson sector last month recorded a record 60,537 illegal immigrant detentions, raising this year's total to more than 200,000. And the Tucson sector does not even cover the entire Arizona border with Mexico. The immigration problem in my state is getting worse, not better, as the President's decision to request funding for no new agents in FY 2000 implies.

The Border Patrol's inability to hire the required number of new agents even as towns like Douglas, Arizona face a rising tide of illegal immigrants does not inspire confidence in its ability to properly carry out its mission.

Our legislation would promote all Border Patrol agents who have completed at least one year at the GS-9 level, and who are rated as fully successful or higher, to the GS-11 rank, placing them on a professional level commensurate with their peers in other Federal law enforcement agencies. Our bill would also create an Office of Border Patrol Recruitment and Retention to develop outreach programs for prospective Border Patrol agents, develop programs to provide retention incentives, and make recommendations about Border Patrol salaries and benefits. It is our hope that this legislation will help reverse the outflow of skilled agents from the Border Patrol, as well as make such service more appealing to the talented men and women it relies on.

America's Border Patrol agents perform critical work but have been underappreciated for years. It's time we changed that. The premise of our legislation is the Border Patrol agents, whose duties involve considerable risks and require unique abilities, perform work as important as many of our other Federal law enforcement agents and should be compensated accordingly. Similarly, the Border Patrol should develop personnel policies to attract more of our best and brightest. At a time when we are having trouble hiring and retaining new agents, and as pressure from illegal immigration intensifies in some areas, especially southern Arizona, we cannot afford not to take better care of the men and women of the U.S. Border Patrol. Our legislation makes meaningful progress toward that end.

By Ms. COLLINS (for herself and Ms. SNOWE):

S. 913. A bill to require the Secretary of Housing and Urban Development to distribute funds available for grants under title IV of the Stewart B. McKinney Homeless Assistance Act to help ensure that each State received not less than 0.5 percent of such funds for certain programs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

#### THE HOMELESSNESS ASSISTANCE FUNDING FAIRNESS ACT

Ms. COLLINS. Mr. President, I rise today to introduce the Homelessness Assistance Funding Fairness Act. I introduce this bill in conjunction with my House colleague, Congressman JOHN BALDACC, who is sponsoring a companion bill in the House. Congressman BALDACC and I have been working on issues involving the homeless for some time, in our attempt to devise an approach that will distribute federal funds more equitably and effectively.

Congress has taken important steps to begin to address the root causes of

homelessness in America. Some of the most important are the Continuum of Care programs which provide grants that link neighborhood partnerships and community services with shelter. The goal of Continuum of Care programs is self-sufficiency for people who are homeless, an approach that goes well-beyond the "band aid" solutions of yesteryear which provided the homeless only a bed for the night. Continuum of Care programs support treatment and counseling programs in conjunction with shelter, recognizing the hard reality that many homeless people must overcome serious substance abuse, addiction, and mental health problems before a life of permanent housing and stability is possible.

Under the leadership of VA-HUD Appropriations Subcommittee Chairman BOND, Congress has recognized the great importance of Continuum of Care programs, and has risen to the challenge to provide this broad spectrum of care by appropriating \$975 million last year for homeless assistance grants, a large portion of which are Continuum of Care grants.

Although the strategy behind the Continuum of Care grant programs has been saluted for its logic, the Department of Housing and Urban Development's administration of the competitive award process that allocates this funding has not been similarly celebrated.

The unfortunate experience of the State of Maine last year is illustrative of the problems in the distribution of funding. Maine submitted two Continuum of Care grant applications in 1998, one to address the needs of the City of Portland, and another to serve the needs of much of the remainder of the state.

In December 1998, HUD announced the Continuum of Care grant recipients and Maine was shocked to learn the State would receive no funding through the grant process. After some investigation, my office determined that the scores for both the Maine applications were within two points of a passing grade. Nevertheless, Continuum of Care HUD homeless assistance funding distributed to Maine went from \$3.7 million to zero, despite the fact that in 1998 Secretary Cuomo had awarded programs which received funding through the Continuum of Care program the "best practices" award of excellence.

Following a vigorous public campaign by Maine residents, and the repeated intervention of Maine's congressional delegation, HUD provided a small portion of the original request to the City of Portland outside the competitive process. The money, though welcomed, was far from enough to allow Portland to meet the needs of its homeless population.

The human cost of this bureaucratic determination is immense. In light of the ongoing needs of the homeless in Maine, as well as the often harsh weather conditions in our region of the country, HUD's decision was particularly troubling.

The experience of the state of Maine has convinced me not only of the critical need for funding of these projects, but also of the need to re-evaluate the process for distributing these funds. No state should be wholly shut out of the funding award process, because it is an unfortunate reality that all states have homeless people with significant needs.

In response to the unfortunate experience of the State of Maine last year, the legislation I am proposing specifically directs the Department of Housing and Urban Development to provide a minimum percentage of Continuum of Care competitive grant funding to each state. This will create a safety net for the homeless of each state, without ending the competitive process that recognizes programs of special merit or need. My legislation also directs HUD to distribute this funding to a state's priority programs should the state only receive this mandatory minimum.

This legislation is not only driven by basic questions of fairness to all states, but by the significant and often forgotten needs of homeless people living in rural America.

The problem of homelessness is often mischaracterized as an exclusive problem of urban areas. However, homelessness in Maine, and in many rural communities across our country, is a large and growing problem. From 1993 to 1996, Maine experienced an increase in its homeless population of almost 20%—it is estimated that more than 14,000 people are homeless in my home state today. In a state of only 1.2 million people, this is a troubling percentage of the population.

A recent article in the *Christian Science Monitor* perhaps said it best: "If the urban homeless are faceless and nameless. . . then the rural homeless are practically invisible." However, Mr. President, that does not mean they do not exist. Unlike homeless individuals in urban areas who are seen on busy streets everyday, rural individuals living in poverty often subsist in relative isolation.

The 27,000 Maine households with incomes of less than \$6,000 annually teeter on a shadowy brink where income cannot guarantee shelter. When fortune turns sour, it is these families who find themselves without decent shelter. When substance abuse or mental illness afflicts the parents, the likelihood of homelessness escalates. Indeed, in Maine, 24 percent of visitors to Maine homeless shelters are families with children.

The problem of providing services to homeless people is compounded by many challenges. In some areas of Maine, geographic isolation is the most critical obstacle to receipt of services; in others, rising housing costs makes obtaining housing exceedingly difficult for the marginally employed. Both these circumstances are compounded by the significant substance abuse and mental health problems prevalent among the homeless population in Maine as in all areas of the country.



I am proud to say that the people of Maine have developed many innovative programs to assist our homeless population. Through programs like the Bangor Area Homeless Shelter, which fills the immediate needs of outreach, shelter and counseling to area homeless, and more long term programs like Shalom House, which provides services and shelter for the mentally ill, the Preble Street Resource Center, which provides job training, social services and medical care among its many services, and the YWCA, which provides programs to assist teen age moms, Mainers have worked hard to reach out and assist those in need and to provide effective care and outreach for Maine's homeless people.

I recently had the opportunity to visit with the staff and clients of a shelter in Alfred, Maine, that is making a real difference in the lives of homeless men and women. As one man who has battled both severe alcoholism and mental illness told me, "The people at this shelter saved my life. Without their help, I'd be dead on the street. But now, I can see a future for myself." Significantly, 90 percent of the homeless people served by this York County Shelter face serious problems with substance abuse or mental illness.

These programs, and others like them, depend on federal funding, and its unexpected loss last year has left my state scrambling to make up for this serious shortfall. I hope you will join me in supporting this legislation that will prevent other states from facing this same misfortune. All states deserve at least a minimum percentage of homeless funding available through the Continuum of Care grants, because no state has yet solved the problems faced by its homeless men, women and children.

Ms. SNOWE. Mr. President, I rise in support of legislation being introduced by my colleague from Maine, Senator COLLINS, the Homeless Assistance Funding Fairness Act.

This bill will set a minimum allocation for state homeless funding by the U.S. Department of Housing and Urban Development (HUD) in an effort to prevent future repeats of a situation that Maine faced this year when HUD denied applications for homeless funding from the Maine State Housing Authority and the city of Portland, Maine's largest city.

Maine was one of just four states denied funding this year under HUD homeless programs—and that is a situation that no state should have to endure. HUD took steps to partially rectify this situation since the original announcement, but this legislation will assure minimum funding for every state and assure a fairer allocation of funding in the future. The legislation requires HUD to provide a minimum of 0.5 percent of funding to each state under Title IV of the Stewart B. McKinney Homeless Assistance Act.

Mr. President, it may interest my colleagues to learn a little more about

the problem that inspired this legislation. In January, HUD issued grant announcements for its Continuum of Care program—which provides rental assistance for those who are or were recently homeless—but denied applications by the Maine State Housing Authority and by the city of Portland, leaving the state one of only four not to receive funds.

The Maine congressional delegation immediately protested the decision to HUD Secretary Andrew M. Cuomo, and I wrote and spoke repeatedly with Secretary Cuomo about the decision—to encourage HUD to work with Maine homeless providers to find an acceptable solution. I also contacted the Senate Appropriations Subcommittee on Veterans' Affairs and Housing and Urban Development and asked committee members to examine the issue as well.

HUD officials restored about \$1 million in funding to the city of Portland, but refused to restore State homeless funding. In 1998, Maine homeless assistance providers received about \$3.5 million from the Continuum of Care Program, and this year the State had requested \$1.2 million for renewals and \$1.27 million to meet additional needs. MSHA, which coordinates the program, estimates that many individuals with mental illness or substance abuse problems who have been receiving rent subsidies will lose those subsidies over the course of the next six months as a result of HUD's failure to fund Maine programs. This in spite of the "proven track record" of Maine homeless programs, including praise by Secretary Cuomo during his visit to Maine in August 1998.

Without this homeless assistance, basic subsidized housing and shelter programs suffer, and it is more difficult for the State to provide job training, health care, child care, and other vital services to the victims of homelessness, many of whom are children, battered women, and others in serious need.

In 1988, 14,653 people were temporarily housed in Maine's emergency homeless shelters. Alarming, young people account for 30 percent of the population staying in Maine's shelters, which is approximately 135 homeless young people every night. Twenty-one percent of these young people are between 5½ with the average age being 13. Meanwhile, Maine earmarks more funding per capita for the elderly, disabled, mentally ill, and poor for services and support programs than the majority of other states, even though it ranks 36th nationwide in per capita income.

In closing, I would simply reiterate that Maine was not the only state that was frozen out of the process this year. Without congressional intervention, what state will be next? This makes it all the more important that changes be made to our homeless policy to ensure that no state falls through the cracks. As such, I urge my colleagues to join

Senator COLLINS and myself in a strong show of support for this legislation.

By Mr. SMITH of New Hampshire (for himself, Ms. SNOWE, Mr. WARNER, Mr. VOINOVICH, Ms. COLLINS, Mr. ABRAHAM, Mr. ROBB, Mr. HAGEL, and Mr. LUGAR):

S. 914. A bill to amend the Federal Water Pollution Control Act to require that discharges from combined storm and sanitary sewers conform to the Combined Sewer Overflow Control Policy of the Environmental Protection Agency, and for other purposes; to the Committee on Environment and Public Works.

COMBINED SEWER OVERFLOW CONTROL AND PARTNERSHIP ACT OF 1999

Mr. SMITH of New Hampshire. Mr. President, I would like to take a few minutes to introduce important environmental legislation that will have a significant and positive impact on our nation's waterways. Today, along with my colleague from Maine, Senator SNOWE, and seven other cosponsors, I am introducing the Combined Sewer Overflow Control and Partnership Act of 1999.

While the title of this bill, indeed, the subject matter itself, may not be the most exciting, front-burner policy issue of the day, the control of overflows from sewer systems is a serious environmental and financial concern for hundreds of communities across this country. For my own state of New Hampshire, there are six communities with combined sewer overflow, or CSO, problems. The cities of Manchester, Nashua, Portsmouth, Exeter, Berlin, and Lebanon are all facing this challenge.

I have worked closely with the mayors of these cities over the past several years and have seen first-hand the environmental problems. This legislation is aimed at helping CSO communities comply with Clean Water Act mandates to reduce or eliminate overflows into nearby rivers and streams. CSOs are the last permitted point source discharges of untreated or partially treated sewage into the nation's waters. For those colleagues who don't have CSO communities in their states, I'll briefly explain what they are.

Combined sewer systems collect sanitary sewage from homes and office buildings during periods of dry weather for conveyance to wastewater treatment plants for treatment. However, these systems also receive storm water during wet weather, which typically causes a hydraulic overload of the system, triggering the discharge of untreated wastewater to receiving waters through combined sewer overflow outfalls. Not a pleasant sight.

Most combined systems were installed at the turn of the century when they were state-of-the-art sewer technology, mainly in the Northeast and Midwest regions of the country. Controlling or eliminating CSO discharges is an enormously expensive proposition

that often requires communities to completely rebuild their sewer systems. The national cost estimates to complete this job range from \$50 billion to \$100 billion. Compounding the sheer financial magnitude of the CSO problem is the fact that the vast majority of the approximately 1,000 CSO communities nationwide have less than 10,000 residents, or ratepayers. These ratepayers could pay hundreds of dollars more per year on their water bills without this legislation. With these statistics, it is not surprising that a CSO control program often poses the single largest public works project in a CSO community's history.

Although the Federal Clean Water Act does not specifically speak to the issue of combined sewers, it has been interpreted to require the control and treatment of CSO discharges. Recognizing the financial burden this would pose on small towns, in 1994, the Environmental Protection Agency issued the "Combined Sewer Overflow Policy," which allowed CSO control programs to be developed in the most cost-effective, flexible and site-specific manner possible. This policy was developed with the input from many stakeholders, including local governments, environmental groups, and engineering firms, and was viewed as a major step forward in tackling this problem through commonsense means.

Unfortunately, this policy is just an administrative policy and lacks statutory authority. So, one of the most important provisions of this bill would essentially codify or affirm EPA's CSO Policy. This provision will give CSO communities the legal protection and regulatory relief they so desperately need. A key component of the CSO Policy is to ensure that water quality standards are consistent with whatever CSO control plans are mandated.

The second part of the bill sets up a partnership between the Federal Government and our local governments by authorizing five years of funding assistance for these communities. While there is a State revolving loan fund under the Clean Water Act that provides loan assistance to municipalities for water treatment, the SRF cannot possibly meet the needs of these CSO communities. The financial burden of CSO control programs generally far exceed the capacity of local ratepayers to assume the full cost.

I emphasize that ratepayers cannot assume the full cost of these programs.

While this bill does authorize new funding assistance, I do not intend for this funding to increase EPA's overall budget. As many of my colleagues are aware, numerous earmarks for CSOs or other public works projects are frequently included in appropriations bills. I am hoping that the existence of a CSO assistance program at EPA will discourage the practice of earmarking specific projects and seek competitive funding through this program.

In conclusion, Mr. President, I would like to add that this legislation has

been endorsed by the CSO Partnership, a recognized coalition of CSO communities and mayors. I would also like to thank Senator SNOWE for her support and assistance on this legislation, as well as the other original cosponsors: Senators WARNER, VOINOVICH, COLLINS, ABRAHAM, ROBB, HAGEL, and LUGAR. I am hopeful that we will have an opportunity to consider this legislation in the Environment and Public Works Committee and the full Senate sometime this year. It is both proenvironment and procommunity and I ask for my colleagues support and welcome their cosponsorship.

By Mr. GRAMM (for himself, Mrs. HUTCHISON, Mr. MACK, and Mr. COVERDELL):

S. 915. A bill to amend title XVIII of the Social Security Act to expand and make permanent the Medicare subvention demonstration project for military retirees and dependents; to the Committee on Finance.

LEGISLATION EXPANDING AND MAKING PERMANENT THE MEDICARE SUBVENTION DEMONSTRATION PROJECT FOR MILITARY RETIREES AND DEPENDENTS

Mr. GRAMM. Mr. President, along with Senators KAY BAILEY HUTCHISON, CONNIE MACK, and PAUL COVERDELL, I am introducing legislation today which will expand the opportunities for military retirees to use their Medicare coverage to pay for treatment at military medical facilities. By giving our military retirees this option, we fulfill a health care promise that America has made to every man and woman who has retired from our armed forces after a career of exemplary service.

Upon retirement after twenty or more years of military service, our nation promises to provide military health care to our retirees for the rest of their lives. This promise is one of the most important commitments our country makes to its military retirees. Unfortunately, for many military retirees age 65 and over, this promise is being broken. More and more of the 65 and over retirees have found themselves unable to receive care on a space-available basis at their local military medical facility. For these retirees, America's promise of health care for life is not being honored.

Ironically, many of these military retirees are entitled to Medicare in addition to their military health care eligibility. An estimated 1.2 million Americans fit into this "dual-eligible" category, with over 300,000 of them regularly using military medical treatment facilities for their health care. The result is that the Department of Defense effectively subsidizes Medicare at the rate of approximately \$1.4 billion per year to treat these dual-eligible beneficiaries.

As a first step toward fulfilling America's promise to military retirees 65 and over, Congress passed my proposal for a three-year demonstration project as part of the Balanced Budget Act of 1997. Under this demonstration

project, known as Medicare Subvention, over 28,000 dual-eligible military retirees are being treated in military facilities at selected test locations across the country. For these retirees, Medicare is reimbursing the Department of Defense up to 95% of the amount Medicare would pay Health Maintenance Organizations for similar care. Unfortunately, the limited scope of the demonstration project means that the majority of dual-eligible retirees are still unable to receive the treatment they have earned at the military facilities in their hometowns.

The bill we introduce today will keep the health care promise America made to her military retirees 65 and over by expanding the demonstration project and by ultimately making Medicare Subvention permanent across the country. Specifically, this bill will expand the test locations for the demonstration project to 16 sites effective January 1, 2000. At these 16 sites, the demonstration project will become permanent. In addition, on October 1, 2002, the bill expands Medicare Subvention to any military medical treatment facility approved by the secretaries of Defense and Health and Human Services.

This bill not only fulfills commitments America made in the past, it gives meaning and credibility to promises America is making to our military service members today. If America does not keep her word to those served during World War II, Korea, Vietnam, and the cold war, how can we expect America's best and brightest to dedicate their careers to serve this country in the future? We must act now to ensure that America's defense in the future will be as strong as it has been in the past. I ask my colleagues to support this important legislation. Mr. President, I ask unanimous consent that the text of a letter of support for the bill, signed by the Military Coalition, which is a consortium of military and veterans associations, be printed in the RECORD.

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

THE MILITARY COALITION,  
Alexandria, VA, April 27, 1999.

Hon. PHIL GRAMM,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR GRAMM: The Military Coalition, a consortium of military and veterans associations representing more than five million current and former members of the uniformed services, plus their families and survivors, is very grateful for your leadership in developing legislation to expand and make permanent TRICARE Senior Prime (the Medicare Subvention demonstration project for Medicare-eligible uniformed services beneficiaries). TRICARE Senior Prime has been successfully implemented in all of the demonstration sites and, by all accounts, has been very well received by eligible beneficiaries at each site. The Department of Defense has also expressed a strong desire to expand this program to other sites across the country wherever feasible. Your initiatives to expand TRICARE Senior Prime to ten additional locations by January 1, 2001 and

then across the remaining TRICARE Prime catchment areas not later than October 1, 2002 clearly meets a critical need for our Medicare-eligible beneficiaries.

The Military Coalition is particularly pleased that your bill takes the additional step of making TRICARE Senior Prime a permanent program. The Coalition has been concerned that some older retirees have refrained from participating in TRICARE Senior Prime because of their perception that the temporary nature of the demonstration program could place participants at financial risk. Beneficiaries need assurance that this program will not disappear abruptly as so many of their other health care benefits have, especially since TRICARE Senior Prime is an integral part of fulfilling the promise of health care for life for uniformed services beneficiaries. Your bill takes a great step toward providing retirees this assurance.

The Military Coalition is also pleased that your legislation would authorize non-enrollees to use TRICARE Senior Prime services on a "fee-for-service" basis. The Military Coalition believes this would be particularly useful for the Department of Defense, as well as beneficiaries, especially at some of the smaller facilities with little or no inpatient capabilities where it might be difficult to implement a Medicare HMO program.

The Military Coalition wholeheartedly endorses your bill, and will take whatever steps are necessary to encourage other members of the Senate to co-sponsor this bill and have it enacted as soon as the data from the existing test sites validate that Medicare subvention is as valuable to DoD, Medicare and the beneficiaries as we believe it is.

Sincerely,

THE MILITARY COALITION.

(Signatures of Associations enclosed).

Air Force Association, Air Force Sergeants Association, Army Aviation Assn. of America, Assn. of Military Surgeons of the United States, Assn. of the US Army, Commissioned Officers Assn. of the US Public Health Service, Inc., CWO & WO Assn., US Coast Guard, Enlisted Association of the National Guard of the US, Fleet Reserve Assn., Gold Star Wives of America, Inc., Jewish War Veterans of the USA, Marine Corps Reserve Officers Assn., National Guard Assn. of the US, National Military Family Assn., National Order of Battlefield Commissions, Naval Enlisted Reserve Assn., Naval Reserve Assn., Navy League of the US, Reserve Officers Assn., Society of Medical Consultants to the Armed Forces, The Military Chaplains Assn. of the USA, The Retired Enlisted Assn., The Retired Officers Assn., United Armed Forces Assn., USCG Chief Petty Officers Assn., US Army Warrant Officers Assn., Veterans of Foreign Wars of the US, and Veterans' Widows International Network, Inc.

Mr. COVERDELL. Mr. President, today I am proud to join my esteemed colleagues in introducing a bill that will expand and make permanent the Medicare Subvention demonstration program passed as part of the 1997 Balanced Budget Agreement. I worked with Senator GRAMM to pass that measure then and I am pleased to join him again today to move this program to its next level.

Military retirees have had an increasingly difficult time obtaining the lifetime health care they were promised in return for 20 years of service to their country. The problem, largely,

has been access. The number of military hospitals has decreased dramatically since the end of the cold war and TRICARE/CHAMPUS, the health care plan created to assist military retirees, not only is not available to a military retiree who is Medicare eligible, but also when it is available its reimbursement rates are so low many private practitioners will not accept it, forcing military retirees back into military hospitals on a "space available" basis. Mr. President, you can see the vicious cycle this creates. Simply, put, military retirees are being shut out of the military health care system.

Congress, in turn, has been looking for solutions to this lack of access. Last year I cosponsored a commonsense measure with Senator THURMOND. Our simple proposal would have given military retirees the option to enroll in the Federal Employees Health Benefits Plan, the same plan in which you and I and our staffs are enrolled, Mr. President. Congress acted on this idea by creating an FEHBP demonstration program. While not a total solution, the program has moved us in the right direction.

Another commonsense measure, Mr. President, is Medicare Subvention. Currently, Medicare does not reimburse the Defense Department for health care services. This makes little sense considering that Medicare would reimburse any other private physician or medical care provider. If a Medicare-eligible military retiree lives near a military hospital he cannot use his Medicare and he cannot use TRICARE. He must find another insurance provider to help pay for his medical care. This is why, Mr. President, we passed a test of the Medicare Subvention in the 105th Congress.

Now we hope to move this concept forward. It is my understanding that while the program is working, the connotation of the word "test" is deterring military retirees who might otherwise enroll in a program they know to be permanent. This bill would solve that problem. Our bill also provides a fee-for-service Medicare option at certain Military Treatment Facilities if this would be a more cost effective approach for those facilities.

Mr. President, this bill enjoys widespread support. The Military Coalition strongly favors an expansion of the Medicare subvention test. My colleague from Texas, Senator GRAMM introduced for the RECORD a letter from the Coalition supporting this bill. Further, Congressman HEFLEY's bill in the House has already garnered 69 cosponsors. I believe this is a proposal Congress should move forward.

Congress must continue to increase access to health care for our nation's military retirees. Medicare subvention is a commonsense approach to achieving this end. Thus far, based on the demonstration program, the parties involved feel that Medicare Subvention has been a success. Now we must let our military retirees know that when

they enter this program the Government will not leave them in the lurch. This bill will do exactly that.

By Mr. GRAMS (for himself, Mr. FEINGOLD, Mr. FITZGERALD, Mr. ABRAHAM, Mr. KOHL, Mr. HAGEL, Mr. DURBIN, Mr. ALLARD, Mr. CRAIG, Mr. CONRAD, and Mr. WELLSTONE):

S. 916. A bill to amend the Agricultural Market Transition Act to repeal the Northeast Interstate Dairy Compact provision; to the Committee on Agriculture, Nutrition, and Forestry.

DAIRY COMPACT REPEAL LEGISLATION

Mr. FEINGOLD. Mr. President, I rise to join the Senator from Minnesota, Senator GRAMS, in introducing a measure to repeal the Northeast Interstate Dairy Compact. The Northeast Dairy Compact was included in the 1996 farm bill during conference negotiations after it had been struck from the Senate version of the farm bill during floor consideration.

Mr. President, support of this legislation is especially crucial as compact proponents have recently introduced a measure to make permanent and expand the Northeast Interstate Dairy Compact and establish a southern dairy compact. In other words, a measure devised to control three percent of the country's milk is now seeking 40% of the country's milk. The cost to consumers, taxpayers, and farmers outside the compact region are enormous.

Mr. President, the Northeast Interstate Dairy Compact bill of 1996 established a commission for six Northeastern States—Vermont, Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut—empowered to set minimum prices for fluid milk above those established under Federal Milk Marketing Orders. This sort of compact was unprecedented and unnecessary because the Federal milk marketing order system already provided farmers in the designated compact region with minimum milk prices higher than those received by most other dairy farmers throughout the nation. But they wanted more.

This compact not only allows the six States to set artificially high fluid milk prices for their producers, it also allows those States to keep out lower priced milk from producers in competing States and provides processors within the region with a subsidy to export their higher priced milk to non-compact States.

Mr. President, the arguments against this type of price-fixing scheme are numerous: It interferes with interstate commerce by erecting barriers around one region of the Nation; It provides preferential price treatment for farmers in the Northeast at the expense of farmers nationally and may now extend that privilege to the south; It encourages excess milk production in one region without establishing effective supply control that drives down milk prices for producers throughout the country; It imposes higher costs on the

millions of consumers in the Compact region; It imposes higher costs to taxpayers who pay for nutrition programs such as food stamps and the national school lunch programs which provide milk and other dairy products and as a price-fixing mechanism, the compact it is unprecedented in the history of this Nation.

Most important to my home State of Wisconsin, Mr. President, is that the Northeast Dairy Compact exacerbates the inequities within the Federal milk marketing orders system that already discriminates against dairy farmers in Wisconsin and throughout the upper Midwest. Federal orders provide higher fluid milk prices to producers the further they are located from Eau Claire, WI, for markets east of the Rocky Mountains.

Wisconsin farmers have complained for many years that this inherently discriminatory system provides other regions, such as the Northeast, the Southeast, and the Southwest with milk prices that encourage excess production in those regions. Of course, that excess production drives down prices throughout the Nation and results in excessive production of cheese, butter, and dry milk.

Cheese and other manufactured dairy products constitute the pillar of our dairy industry in Wisconsin. Competition for the production and sale of these products by other regions spurred on by artificial incentives under milk marketing orders has eroded our markets for cheese and other products.

Mr. President, my State of Wisconsin loses more dairy farms each year than any other state. A recent survey by the National Milk Producers Federation revealed that, between 1993 and 1998, Wisconsin lost over 7000 dairy farms—that's three dairy farms a day! The number of manufacturing plants has declined from 400 in 1985 to less than 230 in 1996. These losses are due in part, to the systematic discrimination and market distortions created by Federal dairy policies that provide artificial regional advantages that cannot be justified on any rational economic grounds.

Lets look at their arguments: They claim this legislation is necessary to save their small dairy farmers, yet the bill does not target small operations. One year after the compact began, New England dairy farms went out of business at a 41% faster rate than in the prior two years.

They also claim that consumers in their regions are willing to pay a higher price at the grocery store as a result of the compact. However, studies show that higher milk prices at the retail level result in a decline in milk consumption at home. According to economists, a 10% increase in price can lead to as much as an 8% decline in consumption. The spread of dairy compacts to include half of the U.S. population in the Northeast, the South and parts of the Midwest could drive up milk prices as much as 20%.

Mr. President, my colleague from Minnesota, Senator GRAMS and I are on

the floor today offering this legislation because the Northeast Dairy Compact reinforces the outrageous discrimination that has so wounded the dairy industry in our States. We have fought to change Federal milk marketing orders and we will fight to prevent the Northeast Dairy Compact from becoming permanent and expanding, and prevent the authorization of a southern compact. We will do all of these things in the name of basic fairness, simple justice and economic sanity in the marketplace. Upper Midwest dairy farmers have been bled long enough.

When prices fall, as they have recently, all farmers feel the stress. Why should one farmer in a region arbitrarily suffer or benefit more than another farmer on a similar operation in another region because of this artificial finger on the scale called the compact. Regional inequities are the inherent assumption of compact proponents and a basic economic premise of the compact idea. Shouldn't we be working together to make conditions better for all dairy producers? Why should one region, and now multiple regions be treated differently?

And yet the Northeast Compact provides price protection for dairy farmers in six States, insulating them from market conditions which ordinary non-compact farmers have to live with. Compact proponents have never been able to explain how conditions in the Northeast merit greater protection from market price fluctuations than other regions of the country. The fact that there are no compelling arguments made in favor of the compact that justified special treatment for the Northeast was emphasized by a vote in the full Senate to strike the compact from the 1996 farm bill. It was the only recorded vote on approval or disapproval of the Northeast Dairy Compact—and it killed the compact in the Senate. The way in which the compact was ultimately included in the 1996 farm bill also illustrates the weak justification for its approval. Let me remind my colleagues that the compact was never included in the House version of the farm bill and yet emerged as part of the bill after a closed door Conference negotiation. Legislation which is patently unfair and difficult to defend must frequently be negotiated behind closed doors rather than in the light of day.

Even the Secretary of Agriculture, after approving the compact, was unable to come up with an economic justification for the compact. The Secretary's finding of 'compelling public interest' as a basis for justifying his approval of the compact was so weak and unsupported by the public record that a suit was filed by compact opponents in Federal court charging that the Secretary violated the Administrative Procedures Act.

Mr. President, authorizing dairy compacts is bad public policy because it increases costs to taxpayers and consumers and currently only benefits a

few in privileged regions. It is bad dairy policy because it exacerbates regional discrimination of existing Federal milk marketing orders by providing artificial advantages to a small group of producers at the expense of all others. And it is bad economic policy because it establishes barriers to interstate trade—barriers of the type the United States has been working hard to eliminate in international markets.

Mr. President, Congress should never have provided Secretary Glickman with authority to approve the compact. That in my view, was an improper and potentially unconstitutional delegation of our authority and it was irresponsible. It is the role of Congress to approve interstate compacts and we irresponsibly abrogated our responsibility in this matter. It is time to make it right.

It is incumbent upon Congress to undo the mistake it made in the 1996 farm bill. It's time to repeal the Northeast Interstate Dairy compact.

I urge my colleagues to support this legislation.

By Mr. GRAMS (for himself and Mr. FEINGOLD):

S. 917. A bill to equalize the minimum adjustments to prices for fluid milk under milk marketing orders; to the Committee on Agriculture, Nutrition, and Forestry.

#### THE DAIRY REFORM ACT

Mr. GRAMS. Mr. President, I rise today in order to call attention to one of the most onerous barriers currently facing American agriculture. It is a regional price-fixing cartel, which benefits only those producers within its own boundaries, at the direct expense of consumers. It is a patently unfair, unabashed attempt to distort basic principles of market forces. It is the Northeast Interstate Dairy Compact, which has been in effect in New England States since July 1997.

Today, Senator RUSS FEINGOLD of Wisconsin and I introduce the Dairy Fairness Act, which would repeal the Northeast Interstate Dairy Compact. As many southeastern States are passing enabling legislation to lay the groundwork in forming their own compacts, we feel it is necessary to once again review the notorious history of the Northeast Interstate Dairy Compact, and its negative impact on consumers and on all dairy farmers—with the notable exception, of course, of the largest dairy industries within the compact region.

The 1996 FAIR Act included significant reforms for dairy policy. It set the stage for greater market orientation in dairy, including reform of the archaic Federal milk marketing orders. Yet despite a strong vote by the Senate to strip the Northeast Interstate Dairy Compact from its version of the FAIR Act, and the deliberate exclusion of any compact language from the House version of the bill, a Northeast Interstate Dairy Compact provision was slipped into the conference report. This

language called for the termination of the compact upon the completion of the Federal milk marketing order process. That would have been in April of 1999. Well, through last year's appropriations process, the implementation of USDA's Federal Milk Marketing Order reforms have been delayed by 6 months. Of course, this was not at the request of the USDA. With the delay came an automatic extension of this compact. This political maneuvering is outrageous, and it comes with a high price tag attached—a high price tag to be paid by milk drinkers, and the rest of the Nation's dairy farmers.

The goals of the Northeast Dairy Compact have been clear since its inception. That was—to increase the profits of producers within the compact region, but at the expense of everyone outside of the compact. And by now, the obvious ramifications have been realized—higher milk prices within the compact region. This, not surprisingly, has led to a decrease in milk consumption. According to data from the Northeast Dairy Compact Commission, the compact, since it has been in effect, has added \$46.5 million to the cost of milk in New England. As the fluid milk prices which consumers pay rise, the burden falls disproportionately on low-income families, particularly those with small children. Low-income families spend a greater percentage of their income on food. They are harmed as a direct result of this compact.

The compact is having other dramatic effects as well. The increase in prices which producers receive for their milk has led to surplus production, which has had a negative effect on other producers around the country. Conversion of this surplus milk into cheese, butter, and powder drives down prices for these products in other non-compact regions. Take milk powder, for instance. Some of the compact's excess supply has been converted into nonfat milk powder. Between October 1997 and March 1998, New England produced 11 million more pounds of powder, 60 percent more than it did in the same period of the preceding year. During that time, nonfat powder production in the U.S. increased by only 2 percent. Furthermore, between October 1, 1997 and March 31, 1998, the nonfat milk powder glut in the U.S. drove prices so low that USDA had to spend nearly \$41 million to buy surplus milk powder from dairy processors. Dairy producers outside of the compact region clearly are harmed as a direct result of the compact.

In fact, the only real winners have been the largest industrial dairies of the Northeast. It is really no surprise. Just consider it: if the compact pays a premium per hundredweight of milk, and large industrial dairies are able to produce, for example, 15 to 20 times more than the "typical" traditional dairy farm that the compact was supposedly going to protect, who do you think the big winners are? It certainly isn't the traditional dairy farm. They

are also put at a competitive disadvantage, and thanks again to regional politics. And so are dairies outside the compact region.

We must keep sight of the fact that a dairy compact, or any sort of compact for that matter, is essentially a price-fixing scheme, which so abuses interstate commerce that it requires a special authorization of Congress. Otherwise it would violate Federal antitrust laws. We have come to the point where we must ask ourselves, as a nation, in which direction will we proceed concerning dairy policy. USDA has just presented its recommendations for Federal Milk Marketing Order reforms. It is not a great step in the way of reform, but at least it represents a rational attempt to decrease Federal interference in the dairy business and to treat producers all over the country a little more fairly. A national patchwork of compacts would render the Federal Milk Marketing Order reforms meaningless. It would essentially kill any hope for the beginning of real Federal reform. Interstate commerce in the milk industry would be so confusing it would be a confusing maze that harms consumers. While dairy was not included in the farm bill, it was always envisioned that a later dairy solution would conform to the free market concept of that farm bill.

We all know that it is difficult in Washington to have the courage to bypass any of those quick-fix issues in favor of a long-range view which would produce better and sound dairy policies. But that is exactly what we need today. That is where real leadership comes into play. So let's be advocates for the traditional dairy farmers, not just the mega-dairies. What is required now is a complete overhaul of this backward-looking and just plain unfair compact legislation. Senator FEINGOLD and I will continue to fight the Northeast Interstate Dairy Compact, and any other dairy compact that may be proposed. And we urge our colleagues to give all dairy farmers, in all areas of our country, the ability to compete on a level playing field.

To this end, and in order to underscore the need for significant reform, Senator FEINGOLD and I today also introduce the Dairy Reform Act, which would equalize the minimum adjustments to prices for fluid milk marketing orders at \$1.80 per hundredweight of milk. This legislation, again, represents real reform, and a level playing field that will allow farmers to compete fairly and not have the Federal Government stand on the neck of dairy farmers in one area of the country while supporting those in others. It would allow producers to compete in a system where efficiencies—efficiencies—would be rewarded and they would be important according to market principles. The current system is so weighted against the Upper Midwest that our dairy farmers have to be twice as good just to be able to break even. The Dairy Reform Act proposes a mar-

keting system which would truly be fair.

Mr. FEINGOLD. Mr. President, today I rise in support of the Dairy Reform Act of 1999, introduced by my colleague from Minnesota, Senator ROD GRAMS.

The Federal Dairy Program was developed in the 1930's, when the Upper Midwest was seen as the primary reserve for additional supplies of milk. The idea was to encourage the development of local supplies of fluid milk in areas of the country that had not produced enough to meet local needs. Six decades ago, the poor condition of the American transportation infrastructure and the lack of portable refrigeration technology prevented Upper Midwest producers from shipping fresh fluid milk to other parts of the country. Therefore, the only way to ensure consumers a fresh local supply of fluid milk was to provide dairy farmers in those distant regions with a boost in milk price large enough to encourage local production—that higher price referred to as the Class I differential. Mr. President, the system worked well—too well. Wisconsin is no longer this country's largest milk producer. This program has outlived its necessity and is now working only to shortchange the Upper Midwest, and in particular, Wisconsin dairy farmers.

The Dairy Reform Act of 1998 is very simple. It establishes that the minimum Class I price differential will be the same, \$1.80/hundredweight, for each marketing order. As many of you know, the price for fluid milk increases at a rate of approximately 21 cents per 100 miles from Eau Claire, WI. Fluid milk prices, as a result, are nearly \$3 higher in Florida than in Wisconsin, more than \$2 higher in New England, and more than \$1 higher in Texas. This bill ensures that the Class I differentials will no longer vary according to an arbitrary geographic measure—like the distance from Eau Claire Wisconsin. No longer will the system penalize producers in the Upper Midwest with an archaic program that outlived its purpose years ago. This legislation identifies one of the most unfair and unjustly punitive provisions in the current system, and corrects it. There is no substantive, equitable justification to support non-uniform Class I differentials in present day policy.

USDA's Federal Milk Marketing Order reform proposal was recently published. Although the USDA was successful in narrowing Class I differentials, discrepancies still exist. It is long past the time to set aside regional bickering and address the problems faced by dairy producers in all regions. The Dairy Reform Act of 1999 will make a change to USDA's proposed rule which will make the entire package more palatable for Wisconsin's producers. It will take USDA's proposal a step further and lead the dairy industry into a more market oriented program. Also producers will still be able to receive payment for transportation costs and over-order premiums.

This measure would finally bring fairness to an unfair system. With this bill we will send a clear message to USDA and to Congress that Upper-Midwest dairy farmers will never stop fighting this patently unfair federal milk marketing order system. After over 60 years of struggling under this burden of inequality, Wisconsin's dairy industry deserves more; it deserves a fair price.

By Mr. KERRY (for himself, Mr. BOND, Mr. BINGAMAN, Ms. LANDRIEU, Mr. HARKIN, Mr. LIEBERMAN, Mr. WELLSTONE, Mr. KOHL, Mr. BURNS, Mr. ROBB, Mr. EDWARDS, Mr. LEVIN, Mr. GRAHAM, Ms. SNOWE, Mr. AKAKA, Mrs. MURRAY, Mr. CLELAND, Mr. KENNEDY, Mr. JEFFORDS, Ms. COLLINS, Mr. ABRAHAM, Mr. LEAHY, Mr. BAUCUS, Mr. KERREY, Mr. GRASSLEY, Mr. MOYNIHAN, Mrs. LINCOLN, Mr. BAYH, Mr. CHAFEE, Mr. LAUTENBERG, Mr. COCHRAN, and Mr. DASCHLE):

S. 918. A bill to authorize the Small Business Administration to provide financial and business development assistance to military reservists' small business, and for other purposes; to the Committee on Small Business.

MILITARY RESERVIST SMALL BUSINESS RELIEF  
ACT OF 1999

Mr. KERRY. Mr. President, I come to the floor today to introduce the Military Reservist Small Business Relief Act of 1999. I offer it on behalf of myself and 30 other colleagues: Senators BOND, BINGAMAN, LANDRIEU, HARKIN, LIEBERMAN, WELLSTONE, KOHL, BURNS, ROBB, EDWARDS, LEVIN, GRAHAM, SNOWE, AKAKA, MURRAY, CLELAND, KENNEDY, JEFFORDS, COLLINS, ABRAHAM, LEAHY, BAUCUS, BOB KERREY of Nebraska, GRASSLEY, MOYNIHAN, LINCOLN, BAYH, CHAFEE, LAUTENBERG, COCHRAN, and DASCHLE. I thank these Senators for their support.

Mr. President, a number of those colleagues I listed serve on either the Small Business Committee, the Armed Services Committee or on the Veterans Affairs Committee. However, all have joined me in a universal concern that I think goes across the aisle for the problems that reservists face when they are called suddenly to active duty. This bill will help small businesses whose owner, manager, or key employee is called to active duty. Most immediately, we are obviously looking at the question of service in Kosovo, but the act also applies to future contingency operations, military conflicts, or national emergencies.

Since 1973, we have taken pains as a result of the Vietnam experience to build an all-volunteer military. Our reservists are much more than just weekend warriors. When they are called, they are an essential ingredient of any kind of long-term or significant deployment of American forces. I think everyone knows the contributions they have made as soldiers, sailors, airmen,

marines and Coast Guard, serving our country in extraordinary ways in recent years.

The National Guard and the Reservists have become a critical component of U.S. force deployment. In the Persian Gulf war they accounted for more than 46 percent of our total forces. The Acting Assistant Secretary for Defense for Reserve Affairs just Tuesday said that "Reservists are absolutely vital to our national military strategy."

To support the NATO operations in the Balkans, Secretary of Defense Cohen has asked for and received the authorization to call up members of the Selected Reserve to active duty. President Clinton has authorized deployment of 33,000 reservists, but the initial callup includes only about 2,100 personnel. These first reservists come from Alabama, Arizona, California, Kansas, Indiana, Michigan, Pennsylvania and Wisconsin. A total of 1.4 million Americans currently serve in our seven Reserve components of the U.S. Armed Forces.

When these folks are called up, even though they know they are in the Reserves and even though they know at some point in time they might be called to meet an emergency of our country, the fact is that nothing prepares their families or them for the remarkably fast transition that takes place. There are obviously emotional and personal hardships people have to deal with, but in addition to that there are significant financial realities.

I have heard first-hand, talking to a number of vets who suffered this callup process, how difficult it is. One veteran told the "Boston Globe" on the 1-year anniversary of the Persian Gulf War:

The Gulf War is going to wind up having caused a lot of stress for me personally and for my family. It didn't just take a year out of my life. It's going to take a minimum of another two years, because that's how long it's going to take for us to catch up.

I think it is imperative that we help these families and communities to bridge the gap between the moment when the troops leave and when they return. We are talking about people who fill all of the normal, everyday positions of commerce that help to keep this country strong—bankers, barbers, mechanics, merchants, farmers, doctors, Realtors, owners of fast food restaurants—all kinds of positions that reservists hold and ultimately leave when they go to active duty.

As some veterans of the Persian Gulf War know all too well, they left their businesses and their companies in good shape. They were earning a living, they were providing a service, they were adding to the tax base, they were creating jobs, and then they returned to hardships that range from bankruptcy to financial ruin; from deserted clients to layoffs.

Even if you are not a small business owner, one has to ask what happens to one's family or to one's business or company during a 6- to 7-month deployment if you or your key employee

suddenly has to depart. Particularly in rural areas and small towns it can be extremely difficult to find a replacement.

Let me share with you just one very quick story from my part of the country. For privacy purposes I am not going to use any names. However, I am going to talk about a physician from Raynham, MA. He was a lieutenant commander in the Navy Reserve and was called up for Operation Desert Storm as a flight surgeon in January 1991. For 10 years he had been a solo practitioner. After only 6 months of service, he had to file bankruptcy. That bankruptcy affected not only him but his wife, his two employees, and their families. After 1 year on duty, he came home and he found he literally had no business, no clients at that point in time, and no job—no income as a consequence.

We do not know for how long reservists will be called away, but whenever they return, we ought to make certain, to the degree we can, that the negative impacts are as minimal as possible. There is a way to do that. The way to do it is through this legislation.

What we seek to do is to authorize the SBA, the Small Business Administration, to defer existing loan repayments and to reduce the interest rates on direct loans that may be outstanding to those who are called up. That would include disaster loans. The deferrals and reductions that are authorized by this bill would be available from the date that the individual reservist is called to active duty until 180 days after his or her release from that duty.

For microloans and loans guaranteed under the SBA's financial assistance programs, such as the 504 program or 7(a) loan programs, the bill directs the agency to develop policies that encourage and facilitate ways that SBA lenders can either defer or reduce loan repayments.

For example, a microlender's ability to repay its debt to the SBA is obviously dependent upon the repayments from its microborrowers. So, with this bill's authority, if a microlender extends or defers loan repayment to a borrower who is a deployed military reservist, in turn the SBA would extend repayment obligations to the microlender.

Second, the bill establishes a low-interest, economic injury loan program to be administered by the SBA through its disaster loan program. These loans would be specifically available to provide interim operating capital to any small business when the departure of a military reservist for active duty causes economic injury. Under the bill, such harm includes three general cases: No. 1, inability to make loan repayments; No. 2, inability to pay ordinary and necessary operating expenses; or, No. 3, inability to market, produce or provide a service or product that it ordinarily provides.

Identical to the loan deferral requirements, an eligible small business can



apply for an economic injury loan from the date that the company's military reservist is ordered to active duty, again until 180 days after the release from active duty.

Finally, the bill directs the SBA, and all of its private sector partners, such as the small business development centers, the women's business centers, to make positive efforts—proactive efforts—to reach out to those businesses affected by the call-up of military reservists to active duty, and to offer business counseling and training. Those left behind to run the businesses, whether it is a spouse or a child or an employee, while the military reservist is serving overseas, may be inexperienced in running the business and need quick access to management and marketing counseling. We think it is important to do what we can to help bring those folks together, to keep the doors of the business open, and to reduce the impact of a military conflict and national emergency on the economy.

Some people might argue—I have not heard this argument sufficiently—but it is not inconceivable that some people would say: Wait a minute now, reservists do not deserve this special assistance because they ought to know the inherent risks of their chosen role and they ought to be prepared for deployment.

It is true you may live with those possibilities and those probabilities. It is also true it is very hard to pick up from the moment of notification to the moment of departure in as little as 3 days, pulling all the pieces together sufficiently. During the Persian Gulf war, one reservist's wife, Mrs. Carolee Ploof of Middlebury, VT, reported that her family had 3 days to prepare for her husband's departure. She said: "How do you prepare [for that]? I really think it's unfair that self-employed people have to lose their shirts to protect their country." So, from the moment her husband was mobilized, he reported for duty until 10 p.m. and then went home to try to teach his wife how to run the business—all in 48 hours before he was to depart.

I think we should understand we are talking here about loans and extensions on loans. We are not talking about forgiveness, and we are not talking about grants. We are talking about a hand up, not a hand-out. We are talking about trying to facilitate what is obviously a very difficult process.

Finally, let me just say we are the people who designed the policy that made it so our military deployments for significant kinds of conflicts are, in fact, so Reserve-dependent. We did that for a lot of good reasons, not the least of which is that we have a great tradition in this country of citizen soldiers—a voluntary civilian component of our military service. We also know it is a significant way to reduce the costs of a standing army. The costs of carrying a standing army, in lieu of having reservists as the important component they are, millions of times

outweighs the very small, targeted help we are talking about in this legislation.

I thank my 30 other colleagues who are cosponsors of this bill. I hope that this legislation will move very rapidly through the Senate so reservists will know, and their families will know, that, should there be a greater deployment in the future, it will not come with the kind of loss, or double hit if you will, for the notion of service to our country.

Mr. President, I ask unanimous consent the text of the bill be printed in the RECORD.

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

S. 918

*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 "Military Reservists Small Business Relief Act of 1999".

#### SEC. 2. REPAYMENT DEFERRAL FOR ACTIVE DUTY RESERVISTS.

Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding at the end the following:

"(n) REPAYMENT DEFERRED FOR ACTIVE DUTY RESERVISTS.—

"(1) DEFINITIONS.—In this subsection:

"(A) ELIGIBLE RESERVIST.—The term 'eligible reservist' means a member of a reserve component of the Armed Forces ordered to active duty during a period of military conflict.

"(B) OWNER, MANAGER, OR KEY EMPLOYEE.—An owner, manager, or key employee described in this subparagraph is an individual who—

"(i) has not less than a 20 percent ownership interest in the small business concern described in subparagraph (D)(ii);

"(ii) is a manager responsible for the day-to-day operations of such small business concern; or

"(iii) is a key employee (as defined by the Administration) of such small business concern.

"(C) PERIOD OF MILITARY CONFLICT.—The term 'period of military conflict' means—

"(i) a period of war declared by Congress;

"(ii) a period of national emergency declared by Congress or by the President; or

"(iii) a period of a contingency operation, as defined in section 101(a) of title 10, United States Code.

"(D) QUALIFIED BORROWER.—The term 'qualified borrower' means—

"(i) an individual who is an eligible reservist and who, received a direct loan under subsection (a) or (b) before being ordered to active duty; or

"(ii) a small business concern that received a direct loan under subsection (a) or (b) before an eligible reservist, who is an owner, manager, or key employee described in subparagraph (B), was ordered to active duty.

"(2) DEFERRAL OF DIRECT LOANS.—

"(A) IN GENERAL.—The Administration shall, upon written request, defer repayment of principal and interest due on a direct loan made under subsection (a) or (b), if such loan was incurred by a qualified borrower.

"(B) PERIOD OF DEFERRAL.—The period of deferral for repayment under this paragraph shall begin on the date on which the eligible reservist is ordered to active duty and shall terminate on the date that is 180 days after the date such eligible reservist is discharged or released from active duty.

"(C) INTEREST RATE REDUCTION DURING DEFERRAL.—Notwithstanding any other provision of law, during the period of deferral described in subparagraph (B), the Administration may, in its discretion, reduce the interest rate on any loan qualifying for a deferral under this paragraph.

"(3) DEFERRAL OF LOAN GUARANTEES AND OTHER FINANCINGS.—The Administration shall—

"(A) encourage intermediaries participating in the program under subsection (m) to defer repayment of a loan made with proceeds made available under that subsection, if such loan was incurred by a small business concern that is eligible to apply for assistance under subsection (b)(3); and

"(B) not later than 30 days after the date of enactment of this subsection, establish guidelines to—

"(i) encourage lenders and other intermediaries to defer repayment of, or provide other relief relating to, loan guarantees under subsection (a) and financings under section 504 of the Small Business Investment Act of 1958 that were incurred by small business concerns that are eligible to apply for assistance under subsection (b)(3), and loan guarantees provided under subsection (m) if the intermediary provides relief to a small business concern under this paragraph; and

"(ii) implement a program to provide for the deferral of repayment or other relief to any intermediary providing relief to a small business borrower under this paragraph."

#### SEC. 3. DISASTER LOAN ASSISTANCE FOR MILITARY RESERVISTS' SMALL BUSINESSES.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting after the undesignated paragraph that begins with "Provided, That no loan", the following:

"(3)(A) In this paragraph—

"(i) the term 'economic injury' means an economic harm to a business concern that results in the inability of the business concern—

"(I) to meet its obligations as they mature;

"(II) to pay its ordinary and necessary operating expenses; or

"(III) to market, produce, or provide a product or service ordinarily marketed, produced, or provided by the business concern;

"(ii) the term 'owner, manager, or key employee' means an individual who—

"(I) has not less than a 20 percent ownership in the small business concern;

"(II) is a manager responsible for the day-to-day operations of such small business concern; or

"(III) is a key employee (as defined by the Administration) of such small business concern; and

"(iii) the term 'period of military conflict' has the meaning given the term in subsection (n)(1).

"(B) The Administration may make such disaster loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) to assist a small business concern (including a small business concern engaged in the lease or rental of real or personal property) that has suffered or that is likely to suffer economic injury as the result of the owner, manager, or key employee of such small business concern being ordered to active military duty during a period of military conflict.

"(C) A small business concern described in subparagraph (B) shall be eligible to apply for assistance under this paragraph during the period beginning on the date on which the owner, manager, or key employee is ordered to active duty and ending on the date that is 180 days after the date on which such

owner, manager, or key employee is discharged or released from active duty.

“(D) Any loan or guarantee extended pursuant to this paragraph shall be made at an annual interest rate of 4 percent, without regard to the ability of the small business concern to secure credit elsewhere.

“(E) No loan may be made under this paragraph, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under this subsection would exceed \$1,500,000, unless such applicant constitutes a major source of employment in its surrounding area, as determined by the Administration, in which case the Administration, in its discretion, may waive the \$1,500,000 limitation.

“(F) For purposes of assistance under this paragraph, no declaration of a disaster area shall be required.”.

(b) CONFORMING AMENDMENTS.—Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended—

(1) in paragraph (1), by striking “7(b)(4).”; and

(2) in paragraph (2), by striking “7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8).”.

#### SEC. 4. BUSINESS DEVELOPMENT AND MANAGEMENT ASSISTANCE FOR MILITARY RESERVISTS' SMALL BUSINESSES.

(a) IN GENERAL.—Section 8 of the Small Business Act (15 U.S.C. 637) is amended by adding at the end the following:

“(I) MANAGEMENT ASSISTANCE FOR SMALL BUSINESSES AFFECTED BY MILITARY OPERATIONS.—The Administration shall utilize, as appropriate, its entrepreneurial development and management assistance programs, including programs involving State or private sector partners, to provide business counseling and training to any small business concern adversely affected by the deployment of units of the Armed Forces of the United States in support of a period of military conflict (as defined in section 7(n)(1)).

(b) ENHANCED PUBLICITY DURING OPERATION ALLIED FORCE.—For the duration of Operation Allied Force and for 120 days thereafter, the Administration shall enhance its publicity of the availability of assistance provided pursuant to the amendments made by this Act, including information regarding the appropriate local office at which affected small businesses may seek such assistance.

#### SEC. 5. GUIDELINES.

Not later than 30 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall issue such guidelines as the Administrator determines to be necessary to carry out this Act and the amendments made by this Act.

#### SEC. 6. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) DISASTER LOANS.—The amendments made by section 3 shall apply to economic injury suffered or likely to be suffered as the result of a period of military conflict occurring on or after March 24, 1999.

Mr. KOHL. Mr. President, more than 2,000 reservists were called up Tuesday to participate in NATO Operation Allied Force. These men and women who may serve for as long as nine months are making a great sacrifice, as are their family members and co-workers who are left behind.

It is incumbent upon us to find ways to ease the burden of this service for our reservists, their families and their employers. Two weeks ago the Senate

passed tax relief for those serving in Operation Allied Force. The legislation we are introducing today addresses the economic impact of taking reservists away from small businesses, whether the reservist is the owner, a manager or a key employee.

The Military Reservists Small Business Relief Act allows small businessmen and women to defer loan payments on any direct loan from the Small Business Administration (SBA), including disaster loans. The bill directs SBA to come up with a policy for payment deferrals for the microloan program and loans guaranteed under one of SBA's financial assistance programs. Deferrals on loan payments would extend 180 days after the reservist's release from active duty.

The bill also establishes a low interest economic injury loan program to provide interim operating capital to any small business experiencing economic harm because a military reservist has been called to active duty. The bill defines economic harm as being unable to provide goods or services that the business usually provides. SBA will administer the loan program through its disaster loan program.

Recognizing the disruptions that may occur as a result of the recent call up, the Military Reservists Small Business Relief Act directs SBA and its private sector partners to mobilize their resources to offer business counseling and training to inexperienced employees or family members who are left behind to run businesses on their own when a reservist is called up.

This legislation is modeled on similar legislation adopted during Operation Desert Storm. It is a practical response to the real and often overlooked impact of calling up military reservists. Wisconsin has some marvelous employers who are tremendously supportive of their employees who serve in the reserves. Several years ago, Schneider Truck of Green Bay, WI, was recognized as the Reserves Employer of the year by the Defense Department. Companies like Schneider do all they can to make it easier for reservists and their families to manage while the service member is on active duty. It is my hope that this legislation will help smaller companies and encourage them to provide reservists and their families with this kind of support.

The men and women of the reserves are far more than “weekend warriors,” they are the backbone of our military. We are grateful for their willingness to serve. We thank the men and women of the reserves, their families, and their employers for their sacrifices and this service.

Mr. LEVIN. Mr. President, the President has approved the call-up of up to 33,000 Reservists to support NATO operations over Kosovo. Reserve forces are playing an ever-increasing role in military operations. With the downsizing of our Active forces and the increased number of missions, our Armed Forces cannot operate successfully without

use of our Reserve component resources. For example, of the 540,000 service members deployed to Saudi Arabia for Desert Shield/Desert Storm, 228,000, or 42%, were reservists. Reservists have also answered the call for service in Operation RESTORE HOPE in Somalia, Operation UPHOLD DEMOCRACY in Haiti, and Operation JOINT ENDEAVOR/JOINT GUARD in Bosnia.

National Guard and Reserve forces are involved in helping Central America recover from the devastation of Hurricane Mitch, and they are routinely called upon to respond to disasters in the United States. As the Reserve components are relied on more and more, even during normal times they are called away from their civilian jobs more and more.

The absence of these men and women from their families, jobs and businesses while they are serving their country on active duty will clearly present some hardships. We should do everything we can do to try to minimize any economic hardships that might arise from their absence on their businesses and places of employment. That is why I have co-sponsored the Military Reservists Small Business Relief Act that Mr. KERRY has introduced today to provide financial and business development assistance to military reservists' small businesses.

This legislation will help military reservists who are called away from their jobs and businesses to serve the United States in any military operation with respect to Kosovo by allowing them to defer existing government guaranteed small business loans and giving them access to low interest rate government guaranteed loans to bridge any financial gap that might arise out of their absence. These Reservists will be eligible for assistance if they are an owner, manager or key employee of a small business.

This legislation provides more generous loan repayment terms for small business reservists who have SBA loans. It does this by authorizing a deferral of loan repayments for small business reservists on any direct loan from the Small Business Administration (SBA), including disaster loans. Interest will not accrue during the time that the loan is deferred. The legislation also directs SBA to develop policies such as extending repayments of its government guaranteed loans such as micro loans or 7(a) loans for reservists who are called up for active duty. The deferrals will be available from the date the reservist is called to active duty until 180 days after his or her release from active duty.

The legislation also establishes a low interest economic injury loan program to be administered by SBA through its disaster loan program. Such loans would be made available to provide interim operating capital to any small business when the departure of a military reservist to active duty causes economic harm.

The legislation also directs the SBA and its private sector partners to make every effort to reach out to those businesses affected by the absence of key employees who are Reservists and provide assistance such as businesses counseling and training for how to run the business in the absence of these key employees.

I am pleased to be a cosponsor of this important legislation designed to reduce any economic hardship created by the absence of active duty reservists from their jobs and businesses and I hope the Senate will act on it quickly.

Mr. JEFFORDS. Mr. President, it is widely known that our nation can no longer commit military force to conflicts, national emergencies and contingency operations without the participation of our National Guard and Reserves. This is expressly provided in our national military strategy. It is confirmed by the 300% increase in the pace of operations for our National Guard alone since Operation Desert Storm.

While I enthusiastically support the full integration of our reserve components into a seamless Total Force, I recognize its potential to seriously affect our nation's small businesses. In most communities across this nation small businesses sustain the local economy, yet many of these businesses rely upon key employees, owners or managers who are also Guard members or Reservists subject to being called away to active duty. On Tuesday, the President approved the call-up of 33,102 members of the Selected Reserve to active duty in support of NATO operations in Yugoslavia. We cannot ignore the impact of this on our small businesses. The challenge is upon us. That is why I am happy to join Senator KERRY in introducing the Military Reservists Small Business Relief Act.

For eligible reservists called to active duty in support of a declared war, national emergency or contingency operation, the bill provides in part:

1. An authorization to defer loan repayments on any direct loan from the Small Business Administration (SBA), including disaster loans, to borrowers who are members of the Guard and Reserves called to active duty.

2. A low interest economic injury loan program, administered by SBA, which would provide interim operating capital to any small business likely to suffer economic harm caused by the departure of an employee, who is a member of the Guard or Reserves called to active duty.

3. Direction to the SBA and all of its private sector partners, such as the Small Business Development Centers, to offer business training and counseling to small business affected by a loss of an employee who is a member of the Guard or Reserves called to active duty.

Given that our Guard and Reserve are shouldering an increasing share of our worldwide missions, we cannot overlook the effects of these operations

on our civilian workforce and their civilian employers. This legislation ensures that we keep their interests in mind during periods of military conflict.

By Mr. DODD (for himself, Mr. LIEBERMAN, Mr. KERRY, and Mr. KENNEDY):

S. 919. A bill to amend the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994 to expand the boundaries of the corridor; to the Committee on Energy and Natural Resources.

QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR REAUTHORIZATION ACT OF 1999

Mr. DODD. Mr. President, I am pleased to join with my colleagues, Senator LIEBERMAN, Senator KERRY, and Senator KENNEDY, to introduce legislation to reauthorize the Quinebaug and Shetucket Rivers Valley National Heritage Corridor (Corridor). Congressman GEJDENSON from Connecticut and Congressman NEAL from Massachusetts will be introducing companion legislation today in other body.

The 25-town area in eastern Connecticut was originally designated a Corridor in 1994, when the U.S. Congress passed and the President signed Public Law 103-449. The purpose of the Corridor is to encourage grassroots efforts to preserve historic and environmental treasures while promoting economic development. Today's legislation builds upon the success of the Corridor and extends it by including nine towns from Massachusetts and one additional town from Connecticut. The towns affected include Union, Connecticut, and the following towns in Massachusetts—Brimfield, Charlton, Dudley, East Brookfield, Holland, Oxford, Southbridge, Sturbridge, and Webster.

Because this is an established Corridor which has been developing and implementing cultural, economic and environmental programs to preserve this beautiful and historic region of Connecticut, the legislation we are introducing increases the Corridor authorization level to \$1.5 million. This level of funding is consistent with recent new Corridor authorization levels of \$1 million. Our Corridor has been significantly underfunded each year; I can only imagine the further great works that can be undertaken with adequate funding.

Unfortunately, Connecticut ranks near the bottom among States in the amount of Federal land within its borders, such as National Parks, Recreation Areas, and Forests. That is why I joined with Congressman GEJDENSON back in 1993 to introduce the original bill designating the Quinebaug and Shetucket Heritage Corridor and why I am advocating an increase in the size and scope of it. Extending through eastern Connecticut and soon southeastern Massachusetts, the Corridor is within a two hour's drive from the major metropolitan areas of Boston, New Haven, Hartford and New York.

The Quinebaug and Shetucket Rivers Valley saw a rebirth with the dawn of the industrial age. Hundreds of mills were built along the banks of the rivers and this region became a leader in the textile industry. Today, the mills are quiet, many of them abandoned, and the valley is a picturesque area of rolling hills and beautiful farms. It offers landscapes for hiking and biking, rivers for canoeing and fishing, and abandoned mills which offer a glimpse at history. It is the birthplace of Revolutionary War hero Nathan Hale and the Prudence Crandall School, the site of the first teacher-training school for African-American women established in 1833. There are also many Native American and archaeological sites.

The area is rich in history and those groups and individuals involved with the Corridor have developed a management plan to preserve local resources, enhance recreational potential and promote appropriate development. By joining forces with the people of Massachusetts, a more integrated system can be undertaken. The important historic and cultural resources do not stop at the border.

In the few short years that the Corridor has been in place, its stewards have provided grants and technical assistance to towns and nonprofits embarking on historic preservation and research, economic development, tourism, natural resource conservation and recreation.

The Corridor has public and private support throughout Connecticut and the regions in Massachusetts look forward to working with the existing partnerships to enhance their quality of life. It is the goal of the Corridor to ensure a healthy environment and robust economy compatible with the character of the region.

Mr. President, I urge my colleagues to look favorably on this effort and I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 919

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Quinebaug and Shetucket Rivers Valley National Heritage Corridor Reauthorization Act of 1999".

(b) REFERENCES.—Except as otherwise expressly provided, wherever in this Act 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 Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994 (16 U.S.C. 461 note; title I of Public Law 103-449).

#### SEC. 2. FINDINGS.

Section 102 is amended—

(1) in paragraph (1), by inserting "and the Commonwealth of Massachusetts" after "State of Connecticut";

(2) by striking paragraph (2);

(3) by redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively;

(4) in paragraph (3) (as so redesignated), by inserting "New Haven," after "Hartford,"; and

(5) in paragraph (8) (as so redesignated), by striking "regional and State agencies" and inserting "regional, and State agencies,".

**SEC. 3. ESTABLISHMENT OF QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR; PURPOSE.**

Section 103 is amended—

(1) in subsection (a), by inserting "and the Commonwealth of Massachusetts" after "State of Connecticut"; and

(2) by striking subsection (b) and inserting the following:

"(b) PURPOSE.—The purpose of this title is to provide assistance to the State of Connecticut and the Commonwealth of Massachusetts, and their units of local and regional government and citizens, in the development and implementation of integrated natural, cultural, historic, scenic, recreational, land, and other resource management programs in order to retain, enhance, and interpret the significant features of the land, water, structures, and history of the Quinebaug and Shetucket Rivers Valley."

**SEC. 4. BOUNDARIES AND ADMINISTRATION.**

Section 104 is amended—

(1) in the first sentence of subsection (a)—

(A) by inserting "Union," after "Thompson,"; and

(B) by inserting before the period at the end the following: "in the State of Connecticut, and the towns of Brimfield, Charlton, Dudley, East Brookfield, Holland, Oxford, Southbridge, Sturbridge, and Webster in the Commonwealth of Massachusetts, which are contiguous areas in the Quinebaug and Shetucket Rivers Valley, related by shared natural, cultural, historic, and scenic resources"; and

(2) by adding at the end the following:

"(b) ADMINISTRATION.—The Corridor shall be managed by Quinebaug-Shetucket Heritage Corridor, Inc., in accordance with the management plan and in consultation with the Governors."

**SEC. 5. MANAGEMENT PLAN.**

Section 105 is amended—

(1) by striking the section heading and inserting the following:

**"SEC. 105. MANAGEMENT PLAN.";**

(2) by striking subsections (a) and (b);

(3) by redesignating subsection (c) as subsection (a);

(4) in subsection (a) (as so redesignated)—

(A) in the subsection heading, by inserting "MANAGEMENT" before "PLAN";

(B) by striking the first sentence and inserting the following: "The management entity shall implement the management plan.";

(C) in paragraph (5), by striking "identified pursuant to the inventory required in section 5(a)(1)"; and

(D) in paragraphs (6) and (7), by striking "plan" each place it appears and inserting "management plan"; and

(5) by adding at the end the following:

"(b) GRANTS AND LOANS.—The management entity may, for the purposes of implementing the management plan, make grants or loans to the States, their political subdivisions, nonprofit organizations, and other persons to further the goals set forth in the management plan."

**SEC. 6. DUTIES OF THE SECRETARY.**

Section 106 is amended to read as follows:

**"SEC. 106. DUTIES OF THE SECRETARY.**

"(a) IN GENERAL.—Upon request of the management entity, the Secretary and the heads of other Federal agencies shall assist the management entity in the implementation of the management plan.

"(b) FORMS OF ASSISTANCE.—Assistance under subsection (a) shall include provision

of funds authorized under section 109 and technical assistance necessary to carry out this Act."

**SEC. 7. DUTIES OF OTHER FEDERAL AGENCIES.**

Section 107 is amended by striking "Governor" and inserting "management entity".

**SEC. 8. DEFINITIONS.**

Section 108 is amended—

(1) in paragraph (1), by inserting before the period at the end the following: "and the Commonwealth of Massachusetts";

(2) in paragraph (3), by inserting before the period at the end the following: "and the Governor of the Commonwealth of Massachusetts";

(3) in paragraph (5), by striking "means each of" and all that follows and inserting the following: "means—

"(A) the Northeastern Connecticut Council of Governments, the Windham Regional Council of Governments, and the Southeastern Connecticut Council of Governments in Connecticut (or any successor council); and

"(B) the Pioneer Valley Regional Planning Commission and the Southern Worcester County Regional Planning Commission in Massachusetts (or any successor commission)."; and

(4) by adding at the end the following:

"(6) MANAGEMENT ENTITY.—The term 'management entity' means Quinebaug-Shetucket Heritage Corridor, Inc., a not-for-profit corporation incorporated under the law of the State of Connecticut (or a successor entity).

"(7) MANAGEMENT PLAN.—The term 'management plan' means the document approved by the Governor of the State of Connecticut on February 16, 1999, and adopted by the management entity, entitled 'Vision to Reality: A Management Plan', comprising the management plan for the Corridor, as the document may be amended or replaced from time to time."

**SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

Section 109 is amended to read as follows:

**"SEC. 109. AUTHORIZATION OF APPROPRIATIONS.**

"(a) IN GENERAL.—There is authorized to be appropriated to carry out this title—

"(1) \$1,500,000 for any fiscal year; but

"(2) not more than a total of \$15,000,000.

"(b) COST SHARING.—Federal funding provided under this title may not exceed 50 percent of the total cost of any assistance provided under this title."

**SEC. 10. CONFORMING AMENDMENT.**

Section 110 is amended in the section heading by striking "SERVICE" and inserting "SYSTEM".

By Mrs. HUTCHISON (for herself,  
Mr. MCCAIN, Mr. HOLLINGS, and  
Mr. INOUE):

S. 920. A bill to authorize appropriations for the Federal Maritime Commission for fiscal years 2000 and 2001; to the Committee on Commerce, Science, and Transportation.

FEDERAL MARITIME COMMISSION  
AUTHORIZATION ACT OF 1999

• Mrs. HUTCHISON. Mr. President, today I, with Senator MCCAIN, Chairman of the Commerce Committee; Senator HOLLINGS, the ranking member of the Commerce Committee; and Senator INOUE, ranking member of the Surface Transportation and Merchant Marine Subcommittee are introducing a bill to authorize appropriations for fiscal years 2000 and 2001 for the Federal Maritime Commission (FMC).

The Federal Maritime Commission is an independent agency composed of five commissioners. The Commission's

primary responsibility is administering the Shipping Act of 1984 and enforcing the Foreign Shipping Practices Act and Section 19 of the Merchant Marine Act of 1920. By doing so, the FMC protects shippers and carriers from restrictive or unfair practices of foreign-flag carriers. Currently, the Commission is engaged in the implementation of the Ocean Shipping Reform Act of 1998. The Act, which takes effect on May 1 of this year is the first major deregulation of international ocean shipping. This bill authorizes funding for the Commission to continue its important work.

Specifically, the bill authorizes \$15.6 million for the FMC for fiscal year 2000 and \$16.3 million for fiscal year 2001. The fiscal year 2000 funding is \$385,000 above the amount requested by the President in order to fund the appointment of the fifth commissioner and his or her staff.

I look forward to working on this important legislation and hope my colleagues will join me and the other sponsors in expeditiously moving this authorization through the legislative process.●

• Mr. MCCAIN. Mr. President, I am pleased to join Senator HUTCHISON, Chairman of the Surface Transportation and Merchant Marine Subcommittee in introducing this bill.

The Federal Maritime Commission has done a commendable job in its implementation of the Ocean Shipping Reform Act that takes effect on May 1, 1999. This measure will insure that the Commission can complete their implementation efforts and continue their other duties, administering the Shipping Act of 1984 and enforcing the Foreign Shipping Practices Act and Section 19 of the Merchant Marine Act of 1920.

I am pleased that the subcommittee is taking this action today and will join Senator HUTCHISON and the other sponsors in expeditiously moving this authorization through the legislative process.●

Mr. HOLLINGS. Mr. President, I rise in support of the Federal Maritime Commission Authorization Act of 1999, which would authorize appropriations for the Federal Maritime Commission (FMC) for fiscal years 2000 and 2001. With the recent passage of the Ocean Shipping Reform Act of 1998 ("OSRA") the Commission's role in overseeing the ocean transportation industry has changed dramatically and increased in importance. The Commission must have the necessary funding to ensure that Congress' intentions with OSRA are met, and that all segments of the industry are fully protected from potential abuses.

I am particularly pleased with the effort made by the Commission to adopt regulations to implement OSRA. OSRA, which was signed into law on October 14, 1998, and will go into effect on May 1, 1999, significantly altered the Commission's primary underlying statute—the Shipping Act of 1984. Nevertheless, the Commission was only given

until March 1, 1999, to adopt final regulations to implement the changes made to the Act. The Commission met this deadline while fully complying with all notice and comment requirements of the Administrative Procedure Act. The Commission solicited and received comment from the entire industry and, based on those comments, arrived at final rules that are fully consistent with the Congressional intent. The Commission should be applauded for accomplishing this difficult task in such a timely and responsive manner.

I would also note that under OSRA the Commission will continue to exercise its vital role in addressing unfair foreign trade practices under section 19 of the Merchant Marine Act, 1920 and the Foreign Shipping Practices Act of 1988. The Commission has proven time and again—most recently with the Japan port controversy and several restrictive practices in Brazil—that it can effectively address such practices and, if adequately funded, will be able to continue to do its fine job. I am a firm proponent of aggressive policies that promote fair and open trades, and I commend the FMC for their role in opening markets for our ocean carrier and ocean shipper communities.

The amounts authorized for the FMC take into account the fact that the Commission will soon be fully staffed with five Commissioners. The President recently nominated a fifth Commissioner and his nomination is pending before the Commerce Committee. The Commission needs full funding to bring the agency up to its full complement of members and to meet its new responsibilities under OSRA.

By Mr. ABRAHAM (for himself, Mr. MCCAIN, and Mr. LOTT):

S. 921. A bill to facilitate and promote electronic commerce in securities transactions involving broker-dealers, transfer agents, and investment advisers; to the Committee on Banking, Housing, and Urban Affairs.

#### ELECTRONIC SECURITIES TRANSACTIONS ACT

Mr. ABRAHAM. Mr. President, I rise today with Senator MCCAIN and Senator LOTT to introduce legislation designed to modernize the manner in which registered securities broker-dealers, transfer agents, and investment advisers serve millions of American investors every day.

Only a few years ago, a few pioneering brokerage firms, utilizing the vast potential of the Internet, began to revolutionize the securities industry by offering individual investors the opportunity to buy and sell stocks online. Because of the lower costs of electronic transactions, investors have found they can place trades online at a mere fraction of the price they were paying for services at traditional brokerage firms. They have also found that online brokerage firms offer them access to a wide array of information, investing assistance, and research that previously was available only to institutional investors. Almost overnight,

many investors have demonstrated their preference for the savings and the empowerment that online brokerage services give them.

For example, today Charles Schwab, which has been at the forefront of offering electronic services, reports that it has approximately 2.5 million active online accounts and that more than 50 percent of its customer trades are placed online. Since Schwab offers its customers multiple channels of access to its trading services, the fact that more than half of its customer trades are placed online is a dramatic illustration of the investing public's enthusiasm for and acceptance of online services. The dramatic emergence of online-only brokerage firms, such as E\*Trade, Discover and Ameritrade, and the continued migration of traditional brokerage firms to the Web is further evidence of this. Soon, millions of securities transactions will be conducted electronically every day.

Unfortunately, the full potential of online investing has been impeded because of antiquated laws that do not yet take account of electronic commerce. These laws act as barriers to the efficiencies and investor empowerment opportunities that the online brokerage industry offers. Now, once again, it is time for the government to catch up to the market developments spurred by the technology sector. It is time for the government to remove impediments to online investing.

Today, when a person wishes to become a customer of an online broker, he can visit the web-sites of various brokerage firms to compare the value and services those firms offer. He may even provide some information about himself and the type of account he wishes to establish. However, because of traditional principles of contract law and certain recordkeeping requirements, an investor cannot open the account online with any legal certainty. Instead, he must print the application and physically sign and send it by regular mail. The technology gap demonstrated here must be bridged. Investors who, once their accounts are opened, may access investment tools and research and quickly submit trade orders online, should not have to wait days or perhaps even weeks to complete the process for opening an account. This system can and should be changed.

Continuing to require pen-and-ink signatures on account applications and other documents, when secure electronic signature technology exists, imposes unnecessary costs and inefficiencies on brokerage firms and customers alike. Similar costs and inefficiencies have been recognized and removed in other areas of securities regulation, such as recordkeeping and document delivery. Today, brokerage firms can store documents in electronic rather than paper format and are allowed to deliver many documents, such as prospectuses, to customers electronically. There is no reason why the ad-

vantages of technology cannot and should not be extended to documents that require a signature.

The legislation my colleagues and I introduce today would do just that by facilitating and enabling the use of electronic signatures by registered broker-dealers and others in the securities industry in their business dealings with customers and other transactional parties. The legislation would make clear that individuals can open a brokerage account and conduct business with a brokerage firm using an electronic signature as proof of identification and intent. It would also give both brokerage firms and their customers the assurance that they can rely on electronic signatures in their business dealings and that the validity of those dealings will not be challenged merely because a pen-and-ink signature was not used.

At this point I think it is important to stress to my colleagues that the online brokerage industry is different from the day-trading industry, which has received a lot of negative attention in the past year. Day-trading firms offer a specialized service that enables their customers to enter orders and trade directly with the market. And while I am sure that most of these businesses are legitimate and sound, in recent months reports of abusive or questionable practices have emerged in relation to this type of trading. Anecdotal accounts tell of investors losing many times the amount of money they originally brought to the market.

The online investing services provided by brokerage firms are quite different from the services provided by day-trading firms. For example, brokerage firms such as Charles Schwab, E\*Trade, DLJ Direct, Discover, among others, set strict limits on the extent to which investors are permitted access to margin and option accounts. These firms empower their customers and are not the problem, and it is important that my colleagues and the public understand the differences.

It is that simple. Frankly, I am surprised that the SEC does not require the use of electronic signatures, because unless a physical signature is witnessed, electronic signatures are a far more reliable means of guaranteeing a person is who they say they are. Electronic signatures may result from a variety of technological means that allow users to confirm the authenticity of an electronic documents author, location or content. These technologies are designed to allow contracts to be reviewed and agreed to electronically, to permit individuals and businesses to safely purchase goods online, and to enable government agencies to verify the authenticity of information submitted to them. It is a natural fit for transactions between online brokerage firms and investors.

Despite the changes being made in the investor-brokerage relationship, we recognize that the Securities and Exchange Commission must retain full

regulatory authority in this industry. This legislation therefore authorizes the SEC to provide guidance on the use of electronic signatures by broker-dealers and others in the securities industry. The SEC's active involvement in the move from physical to electronic signatures is important. If the change is to be orderly, the Commission must be familiar with the various types of electronic signatures available. The Commission, as the expert regulator of the securities industry, may determine that some forms of signature are superior to others for certain types of records.

Mr. President, the securities industry is experiencing explosive growth in electronic transactions, and this bill's response is necessary and appropriate. The industry and the investors who utilize this medium need the efficiencies and certainty this bill would provide. I believe that the more efficient transaction procedures that will result from the bill will translate into cost savings for customers and industry alike. And that should be the ultimate purpose of any securities legislation relating to electronic commerce.

Again, I would like to thank Senator MCCAIN and the majority leader for joining me in introducing this legislation. I hope the Senate Banking Committee can move on this legislation in the near future.

I ask unanimous consent that a copy of this legislation be printed into the RECORD.

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

S. 921

*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 "Electronics Securities Transactions Act."

#### SEC. 2. FINDINGS.

Congress finds that—

1. the growth of electronic commerce and electronic transactions represents a powerful force for economic growth, consumer choice and creation of wealth;
2. inefficient transaction procedures impose unnecessary costs on investors and persons who facilitate transactions on their behalf;
3. new techniques in electronic commerce create opportunities for more efficient and safe procedures for effecting securities transactions; and
4. because the securities markets are an important national asset which must be preserved and strengthened, it is in the national interest to establish a framework to facilitate the economically efficient execution of securities transactions.

#### SEC. 3. PURPOSES.

The purposes of this act are—

1. to permit and encourage the continued expansion of electronic commerce in securities transactions; and
2. to facilitate and promote electronic commerce in securities transactions by clarifying the legal status of electronic signatures for signed documents and records used in relation to securities transactions involving broker-dealers, transfer agents and investment advisers.

#### SEC. 4. DEFINITIONS.

For purposes of this subsection—

(1) "document" means any record, including without limitation any notification, consent, acknowledgement or written direction, intended, either by law or by custom, to be signed by a person.

(2) "electronic" means of or relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) "electronic record" means a record created, stored, generated, received, or communicated by electronic means.

(4) "electronic signature" means an electronic identifying sound, symbol or process attached to or logically connected with an electronic record.

(5) "record" or "records" means the same information or documents defined or identified as "records" under the Securities Exchange Act of 1934 and the Investment Advisers Act of 1940, respectively.

(6) "transaction" means an action or set of actions relating to the conduct of business affairs that involve or concern activities conducted pursuant to or regulated under the Securities Exchange Act of 1934 or the Investment Advisers Act of 1940 and occurring between two or more persons.

(7) Signature.—The term "signature" means any symbol, sound, or process executed or adopted by a person or entity, with intent to authenticate or accept a record.

#### SEC. 5. SECURITIES MODERNIZATION PROVISIONS.

(1) Section 15 of the Securities Exchange Act of 1934 (15 USC 78o) is amended by adding the following new subsections thereto:

(i) Reliance on Electronic Signatures

(i) A registered broker or registered dealer may accept and rely upon an electronic signature on any application to open an account or on any other document submitted to it by a customer or counterparty, and such electronic signature shall not be denied legal effect, validity, or enforceability solely because it is an electronic signature, except as the Commission shall otherwise determine pursuant to Section 23 of this Act (15 USC 78w) or Section 36 of this Act (15 USC 78mm).

(ii) Where any provision of this Act or any regulation, rule, or interpretation promulgated by the Commission thereunder, including any rules of a self-regulatory organization approved by the Commission, requires a signature to be provided on any record such requirement shall be satisfied by an electronic record containing an electronic signature, except as the Commission shall otherwise determine pursuant to Section 23 of this Act (15 USC 78w) or Section 36 of this Act (15 USC 78mm).

(iii) A registered broker or registered dealer may use electronic signatures in the conduct of its business with any customer or counterparty, and such electronic signature shall not be denied legal effect, validity or enforceability solely because it is an electronic signature.

(iv) With regard to the use of or reliance on electronic signatures, no registered broker or registered dealer shall be regulated by, be required to register with, or be certified, licensed, or approved by, or be limited by or required to act or operate under standards, rules, or regulations promulgated by, a State government or agency or instrumentality thereof.

(2) Section 17A of the Securities Exchange Act of 1934 (15 USC 78q-1) is amended by adding the following new subsections thereto:

(g) Reliance on Electronic Signatures

(i) A registered transfer agent may accept and rely upon an electronic signature on any application to open an account or on any other document submitted to it by a cus-

tomor or counterparty, and such electronic signature shall not be denied legal effect, validity or enforceability solely because it is an electronic signature, except as the Commission shall otherwise determine pursuant to Section 23 of this Act (15 USC 78w) or Section 36 of this Act (15 USC 78mm).

(ii) Where any provision of this Act or any regulation or rule promulgated by the Commission thereunder, including any rule of a self-regulatory organization approved by the Commission, requires a signature to be provided on any record such requirement shall be satisfied by an electronic record containing an electronic signature, except as the Commission shall otherwise determine pursuant to Section 23 of this Act (15 USC 78w) or Section 36 of this Act (15 USC 78mm).

(iii) A registered transfer agent may use electronic signatures in the conduct of its business with any customer or counterparty, and such electronic signature shall not be denied legal effect, validity or enforceability solely because it is an electronic signature.

(iv) With regard to the use of or reliance on electronic signatures, no registered transfer agent shall be regulated by, be required to register with, or be certified, licensed, or approved by, or be limited by or required to act or operate under standards, rules, or regulations promulgated by, a State government or agency or instrumentality thereof.

(3) Section 215 of the Investment Advisers Act of 1940 (15 USC 80b-15) is amended by adding the following new subsections thereto:

(c) Reliance on Electronic Signatures

(i) A registered investment adviser may accept and rely upon an electronic signature on any investment advisory contract or on any other document submitted to it by a customer or counterparty, and such signature shall not be denied legal effect, validity or enforceability solely because it is an electronic signature, except as the Commission shall determine pursuant to 206A of this Act (15 USC 806-6a) or Section 211 of this Act (15 USC 80b-11).

(ii) Where any provision of this Act or any regulation or rule promulgated by the Commission thereunder, including any rule of a self-regulatory organization approved by the Commission, requires a signature to be provided on any record such requirement shall be satisfied by an electronic record containing an electronic signature, except as the Commission shall otherwise determine pursuant to Section 206A of this Act (15 USC 806-6a) or Section 211 of this Act (15 USC 80b-11).

(iii) A registered investment adviser may use electronic signatures in the conduct of its business with any customer or counterparty, and such electronic signature shall not be denied legal effect, validity or enforceability solely because it is an electronic signature.

(iv) With regard to the use or reliance on electronic signatures no registered investment adviser shall be regulated by, be required to register with, or be certified, licensed, or approved by, or be limited by or required to act or operate under standards, rules, or regulations promulgated by, a State government or agency or instrumentality thereof.

#### SEC. 6. RULEMAKING AUTHORITY.

The Commission is authorized to provide guidance on the acceptance of, reliance on and use of electronic signatures by any registered broker, dealer, transfer agent or investment adviser, as provided in section 5 above.

By Mr. ABRAHAM (for himself and Mr. HOLLINGS):

S. 922. A bill to prohibit the use of the "Made in the USA" label on products of the Commonwealth of the



Northern Mariana Islands and to deny such products duty-free and quota-free treatment; to the Committee on Finance.

THE "MADE IN USA" LABEL DEFENSE ACT OF 1999

Mr. ABRAHAM. Mr. President, I am very pleased today to join my distinguished colleague Senator HOLLINGS in introducing legislation to defend the truth and the integrity of the "Made in USA" label.

This is the second time, Mr. President, that the Senator from South Carolina and I have worked together to defend the "Made in USA" label.

Last Congress, when the Federal Trade Commission proposed to dilute the meaning of the "Made in USA" label by allowing that label on products with substantial foreign content, Senator HOLLINGS and I introduced a bipartisan resolution opposing this plan.

Our resolution urged the FTC to restore the traditional and honest standard for the use of the "Made in USA" label. That standard, which has been in existence for more than 50 years, is that products must be "all or virtually all" made in the U.S.A. in order to earn the label "Made in USA."

Mr. President, there was an overwhelming outpouring of grassroots support from the American people for this straightforward and honest standard and for our Resolution. In just a few months, a total of 256 Members of Congress, including the Majority and Minority Leaders of the U.S. Senate, joined us as cosponsors of our Senate Resolution and its companion bill in the House.

We were extremely pleased to see the FTC reverse its decision to dilute the "Made in USA" label and return to the traditional and time-tested standard for the use of the label. Frankly, this is the only standard that makes sense to the American consumers. If it says "Made in USA" the U.S. consumer has a right to expect that the entire product and all of its components was made by U.S. citizens.

This standard is honest. It is clear. It provides value for all those who look for the label and for those who have earned the use of it.

But in order to retain that value, the integrity of the "Made in USA" label must be defended. We cannot and will not permit the "Made in USA" label to be used misleadingly. It belongs to those American businesses and workers who follow the rules, pay the taxes, and work hard—often against the odds presented by unfair foreign competition—to continue to manufacture products here in America.

These workers are correct to insist that Congress protect this cherished symbol of American pride and workmanship from abuse and misuse.

That is why Senator HOLLINGS and I recently informed our colleagues of our intention to introduce "The 'Made in USA' Label Defense Act of 1999."

This legislation is necessary to close loopholes that currently allow the

"Made in USA" label to be misused. These loopholes must be closed to prevent the inappropriate and misleading use of this label at the expense of American consumers, taxpayers, and U.S. workers.

The particular misuse of the "Made in USA" label which we seek to address involves a U.S. territory, the Commonwealth of the Northern Mariana Islands, or as it is sometimes referred to, Saipan.

To understand how this situation arose, some history is in order.

Saipan was the site of an important battle in World War II which cost America 15,000 casualties. Following the end of the war, it was administered by the U.S. on behalf of the United Nations as a district of the Trust Territory of the Pacific Islands from 1947 to 1986. In 1986, Saipan came under U.S. sovereignty pursuant to a Covenant that was approved by popular vote in Saipan and by the U.S. Congress (Public Law 94-241.) At that point, Saipan, now known as the Commonwealth of the Northern Mariana Islands, or CNMI, became an insular possession of the United States.

CNMI negotiators for this Covenant sought an exemption from U.S. immigration laws. This exemption was granted, but it came with a clear warning from the Reagan Administration: the exemption was not to be used to bring in a permanent alien labor force in order to evade duties and quotas on Asian textile products and to provide unfair competition to domestic textile industry. The duty free and quota free treatment provided to Headnote 3(a) industries such as textiles was to benefit local U.S. citizens living and working in the CNMI.

In a letter to the Governor of the CNMI in May of 1986, the year in which the Covenant was adopted, the Assistant Secretary for Territorial and International Affairs of Interior Department in the Reagan Administration, Richard R. Montoya, issued the following clear warnings to the Government of the CNMI:

The recent news reports on the tremendous growth in alien labor in the Northern Mariana Islands are extremely disturbing. . . . I would be remiss if I did not speak frankly to you on the possible consequences of the NMI's alien labor policy.

As I have often stated, the intent of the Congress in providing the privilege of Headnote 3(a) to the territories is to benefit local and not alien job and business growth. The extensive and permanent use of alien labor in Headnote 3(a) industries is an abuse which cannot be tolerated by the [Reagan] Administration.

The objectives of the recently negotiated Covenant financial agreement could be derailed as the wholesale transfer of U.S. tax, trade and social benefits to non-U.S. citizens occurs under the CNMI's alien labor promotion policies.

Mr. President, I ask unanimous consent to insert the full text of this letter, dated May 7, 1986, from then-Assistant Secretary Richard Montoya to the then-Governor of the CNMI, Pedro Tenorio, at this point in my remarks.

At the time of the concerns raised in this letter, the total number of aliens in the CNMI was a mere 6,600 people. Today, the number of alien workers in the textile industry alone greatly exceeds this number. The number of non-U.S. citizens in the CNMI now tops 35,000, and actually exceeds the number of U.S. citizens in the territory. In fact, 91 percent of the entire private sector workforce is composed of alien labor.

Even more alarming, Mr. President, we are now told by U.S. Government officials and news media investigations that the People's Republic of China itself may actually be involved in running some of these garment factories in Saipan. According to the February 8, 1998 Philadelphia Inquirer: "One of the biggest island factories is Marianas Garment Manufacturing, Inc.—indirectly owned by the China National Textiles Import and Export Corp. (Chinatech), a behemoth that handles \$1.2 billion in Chinese textile exports to the world, much of it to the United States." If this is true, then companies owned by the communist Chinese government have succeeded in deceiving U.S. consumers and evading U.S. trade laws. Clearly, this is a situation that demands the immediate attention of and a firm response by both parties in the Congress.

But what concerns Senator HOLLINGS and myself and what directly prompted us to introduce this legislation is the direct effect of the CNMI situation on American consumers.

First, American consumers are deceived by the fact that, due to a loophole in U.S. law, the more than \$1 billion worth of textile products that are now shipped each year from the CNMI to the U.S. can be legally labeled as "Made in USA"—even though they are made with nearly all foreign labor and foreign materials.

This deceives American consumers, who have a right to expect that products labeled as "Made in USA" are made by U.S. workers with U.S. materials.

Second, American taxpayers are harmed because these foreign goods are allowed to be imported into the U.S. duty-free—as if they were made by U.S. workers. As the CNMI was so clearly warned by the Reagan Administration, duty free treatment for textiles from the insular possessions was designed to help local U.S. citizens in these territories.

This abuse of our duty-free laws is costing American taxpayers an estimated \$200 million annually. This \$200 million could be used to fund a tax cut to the American people or could be used to reduce other duties.

Mr. President, let me say that I am a strong believer in free trade. I believe the U.S. and the whole world benefits from the unfettered movement of goods and services.

But the fact that foreign garment exports to the U.S. are laundered in Saipan to escape duties and quotas has

nothing to do with free trade and everything to do with a form of subterfuge. We cannot allow those nations whose imports are subject to lawful duties and quotas to evade these laws at the expense of American taxpayers.

Third, American workers also are being harmed by this situation because the \$200 million which these foreign imports escape paying to the U.S. Treasury acts as a subsidy for these misleadingly labeled products.

Mr. President, in order to address these concerns, I am proud to join today with my colleague from South Carolina in introducing a tightly crafted and narrowly drawn piece of legislation that will address these concerns.

Our bill is designed to protect Americans from the deleterious effects of the current situation by closing what we believe our colleagues will agree are two indefensible loopholes in current law:

(1) The loophole that allows these factories in the CNMI to use the "Made in USA" label on their products or in any way imply that they were produced or assembled in the United States.

(2) The loophole that allows foreign exports from the CNMI to masquerade as U.S.-made products for duty and quota purposes. Further, I will work to ensure that the estimated \$200 million derived from eliminating the duty-free treatment of these products is rebated to the American taxpayer through tax cuts or tariff reductions.

If in the future the CNMI feels that the domestic content of its products has increased to the extent that a use of the "Made in USA" label on these products would no longer be deceptive to the consumer, then it can petition Congress for a change in the covenant. Given its history of ignoring warnings from both Republican and Democratic Administrations on this matter, Senator HOLLINGS and I believe that the burden should be on the CNMI to prove to Congress and the American people that products coming from the CNMI deserve to be labeled "Made in USA."

At the same time, Mr. President, we are currently engaged in the long and arduous process of bringing China into the World Trading Organization. I support China's admission into the WTO as long as they meet the same criteria which all member nations must meet and as long as they are truly dedicated to working to reduce and eliminate such trade barriers as quotas and tariffs. Our long-term objective must be to create a global trading regime where all nations conduct trade and commerce on a level playing field. However, until countries such as China demonstrate that they are prepared to adhere to such principles, we must continue to take certain steps to protect our own domestic industries and workers from the unfair trade practices utilized by some of our trading partners, such as those currently ongoing in the CNMI.

This legislation is a bipartisan compromise measure that I hope avoids the

political pitfalls of previous measures. Mindful of Members who wish not to interfere in the domestic laws of the CNMI, our bill merely takes those minimal steps necessary to defend the "Made in USA" label from misuse and to enforce U.S. trade laws for the benefit of the American taxpayer. It simply prevents the substantive equivalent of foreign textile products from evading U.S. trade laws.

There will be those who argue that more is necessary, and this may be true. But Senator HOLLINGS and I are committed to doing that which can be done on a bipartisan basis and achieved in this Congress.

We urge our colleagues on both sides of the aisle to cosponsor this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 922

*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 "Equality for Israel at the United Nation Act of 1999."

#### SEC. 2. EFFORT TO PROMOTE FULL QUALITY AT THE UNITED NATIONS FOR ISRAEL.

(a) CONGRESSIONAL STATEMENT.—It is the sense of the Congress that—

(1) the United States should help promote an end of the inequity experienced by Israel in the United Nations whereby Israel is the only longstanding member of the organization to be denied acceptance into any of the United Nations region blocs, which serve as the basis for participation in important activities of the United Nations, including rotating membership on the United Nations Security Council; and

(2) the United States Ambassador to the United Nations should take all steps necessary to ensure Israel's acceptance in the Western Europe and Others Group (WEOG) regional bloc, whose membership includes the non-European countries of Canada, Australia, and the United States.

(b) REPORTS TO CONGRESS.—Not later than 60 days after the date of the enactment of this Act and on a quarterly basis thereafter, the Secretary of State shall submit to the appropriate congressional committees a report which includes the following information (in classified or unclassified form as appropriate):

(1) actions taken by representatives of the United States, including the United States Ambassador to the United Nations, to encourage the nations of the Western Europe and Others Group (WEOG) to accept Israel into their regional bloc;

(2) efforts undertaken by the Secretary General of the United Nations to secure Israel's full and equal participation in that body;

(3) specific responses solicited and received by the Secretary of State from each of the nations of Western Europe and Others Group (WEOG) on their position concerning Israel's acceptance into their organization; and

(4) other measures being undertaken, and which will be undertaken, to ensure and promote Israel's full and equal participation in the United Nations.

By Mr. SMITH of Oregon (for himself, Mr. THOMAS, and Mr. BROWNBACK):

S. 923. A bill to promote full equality at the United Nations for Israel; to the Committee on Foreign Relations.

#### INTERNATIONAL AFFAIRS LEGISLATION

Mr. SMITH of Oregon. Mr. President, I rise today to introduce legislation requiring the Secretary of State to report on actions taken by our Ambassador to the United Nations to push the nations of the Western Europe and Others Group (WEOG) to accept Israel into their group.

As you may know, Israel is the only nation among the 185 member states that does not hold membership in a regional group. Membership in a regional group is the prerequisite for any nation to serve on key United Nations bodies such as the Security Council. In order to correct this inequality, I am introducing "The Equality for Israel at the United Nations Act of 1999." I believe that this legislation will prompt our United Nations Representative to make equality for Israel at the United Nations a high priority.

I am proud to be joined by Senators BROWNBACK and THOMAS as original cosponsors of this important legislation.

Mr. President, Israel has been a member of the United Nations since 1949, yet it has been continuously precluded from membership in any regional bloc. Most member states from the Middle East would block Israel's membership in any relevant regional group. The Western Europe and Others Group, however, has accepted countries from other geographical areas—the United States and Australia for example.

Last year, United Nations Secretary General Kofi Annan announced that "It's time to usher in a new era of relations between Israel and the United Nations \* \* \*. One way to rectify that new chapter would be to rectify an anomaly: Israel's position as the only Member State that is not a member of one of the regional groups, which means it has no chance of being elected to serve on main organs such as the Security Council or the Economic and Social Council. This anomaly would be corrected."

I believe it is time to back Secretary General Annan's idea with strong support from the United States Senate and I ask all my colleagues to join me in sending this message to the UN to stop this discrimination against Israel.

By Mr. NICKLES (for himself, Ms. LANDRIEU, Mr. MURKOWSKI, Mr. DOMENICI, and Mrs. HUTCHISON):

S. 924. A bill entitled the "Federal Royalty Certainty Act"; to the Committee on Energy and Natural Resources.

#### FEDERAL ROYALTY CERTAINTY ACT

Mr. NICKLES. Mr. President, I rise today to introduce the Federal Royalty Certainty Act. The domestic oil and gas industry is an essential element of the United States economy. The Administration needs to acknowledge the critical importance of this industry

and stop hindering it with regulatory obstacles. Right now, our domestic oil and gas procedures are reeling from low oil prices. In Oklahoma alone, 50,000 jobs are dependent on the oil industry. Last year, we had over 350 producing oil rigs in the country, now we have slightly over 100. The industry is in a state of depression, not a decline, and these conditions pose a threat to our national security and our economy.

The Administration's policies have failed domestic producers. What is needed is a comprehensive plan to maintain the viability of the domestic oil and gas industry. Part of that plan should be to eliminate or greatly reduce the administrative costs of the current royalty program with simple, clear and certain guidelines. We need to eliminate rules that are burdensome and excessively costly. The Nation cannot afford to allow the devastation of our domestic oil and gas industry to continue.

We should be taking action to encourage growth in the industry. Instead, the Administration has advocated policies that undermine it. We must raise our country's awareness and reverse this course of action by providing relief from big government and burdensome regulations. We must provide this critical segment of our economy fairness and efficiency in their contracts with the federal government.

Several years ago, I began taking a closer look at oil and gas produced from federal leases and the Department of the Interior's administration of those lease contracts. I was pleased when Congress passed the Royalty Simplification and Fairness Act which I introduced and which became law in August of 1996. What that Act accomplished was to streamline the accounting processes for federal royalties. While that Act made significant steps forward in simplifying the payment of federal royalties, the heart of the issue is still before us—what royalty does a lessee owe to the government under its lease contract for oil and gas produced from a federal lease? When a person or company contracts with the federal government, it should know exactly what is owed under the contract.

While this should be a simple question with a simple and unambiguous answer, that is unfortunately not the case today. There appears to be multiple answers, changing answers and a morass of regulatory interpretations that change over time. Such regulatory obstacles prevent industry from knowing what they owe and being able to make business decisions with that knowledge. It also prevents the collection of royalties easily and efficiently. Having a clear understanding of the correct amount due is the central and critical element of any successful royalty management program. Without it, the program cannot operate fairly, efficiently or cost effectively.

In January 1997, MMS issued a Notice of Proposed Rulemaking for a new oil valuation rule. The proposed rule was

met with a firestorm of protests and thousands of pages of comments have ensued. Despite serious problems that have been raised with the proposal, its workability and its fairness, the Department has repeatedly stated that it will publish its rule as final. As a result, this Congress has imposed two moratoriums on the proposed rule and is in the process of imposing another. Congress and Industry have repeatedly attempted to initiate negotiations with DOI/MMS to no avail. The current moratorium continues until June 1, 1999. Secretary Babbitt has stated that the MMS would publish a final rule on June 1, 1999 and in Congressional briefings the MMS has stated that "MMS does not believe that further dialogue on the rule would be productive." DOI Communications Director Michael Gaulding stated to Inside Energy that "we're sticking to the position we've taken. It gives us an issue to demagogue for another year." Rather than perpetuate the moratoria I believe Congressional action is needed. I am therefore today introducing the "Federal Royalty Certainty Act." This Act addresses and resolves issues related to royalties both when they are paid in value and in amount.

This bill amends the Outer Continental Shelf Lands Act and the Minerals Lands Leasing Act and provides that when payment of royalties is made in value, the royalty due is based on oil or gas production at the lease in marketable condition. When royalty is paid in kind, the royalty due is based on the royalty share of production at the lease. If the payment (in value or kind) is calculated from a point away from the lease, the payment is adjusted for quality and location differentials, and the lessee is allowed reimbursements at a reasonable commercial rate for transportation, marketing, and processing services beyond the lease through the point of sale, other disposition, or delivery.

My bill will codify the fundamental, longstanding principle that royalty is due on the value of production at the lease. The Department of the Interior recognizes this principle and very recently has said "royalty payments [should be] based on no more than the value of production at the lease" (News Release, MMS 2/5/98), there should be agreement on this codification. This legislation provides proper adjustments when sales are made downstream of the lease to arrive at values that equal the value of production at the lease. In addition, this legislation includes a consistent basis for valuation of royalty both onshore and offshore. Importantly, this legislation also resolves many of the core issues related to the proposed rule on oil valuation in a manner that is fair and equitable to the people of the United States and the producers who have entered into contracts with the federal government. These provisions will reduce the costs of a complicated system that spawns disputes, while preserving

the taxpayer's right to a fair return for its resources. As I have said on many occasions, we need to reduce unnecessary, burdensome and excessively costly regulations. We need a little common sense.

In summary, all interested parties need to work together to arrive at a workable, permanent solution—a system whereby the government can collect what is due in a manner that is simple, certain, consistent with lease agreements and fair to all parties involved. The Royalty Fairness bill was a significant first step to simplify and eliminate regulatory obstacles in the Department's accounting procedures. I believe that the Federal Royalty Certainty Act is an important next step.

Mr. DOMENICI. Mr. President, I want to commend Senator NICKLES for developing this legislation. Simply stated, it stands for the proposition that there has never been, is not now, nor ever shall be a "duty to market."

If you read a federal oil and gas lease there is no mention of a duty to market. It has been Mineral Management Services' (MMS) position that the duty to market is an implied covenant in the lease. And this legislation says that MMS is wrong.

Let me back up, and explain the issue and why this legislation is needed.

Oil and gas producers doing business on federal leases pay royalties to the federal government based on "fair market value." Under the Clinton Administration, this is easier said than done. One of the long standing disputes between the Congress and the Mineral Management Service (MMS) has been the development of workable oil royalty valuation regulations that can articulate just exactly what fair market value is.

Cynthia Quarterman, the former director of the MMs, set out the Interior Department's position that fair market value includes a "duty to market the lease production for the mutual benefit of the lessee and the lessor," but without the federal government paying its share of the costs. Many of these costs are transportation costs and they are significant. MMS calls it a duty to market, I call it federal government mooching.

This bill states Congressional intent: No duty to market, no federal government mooching. And let me be clear, whether there is a duty to market is a matter exclusively within the jurisdiction of Congress. It is not the job of lawyers at the MMS to raise the Congressionally set royalty rate through the back door.

And, the so-called "duty to market" is a back door royalty increase—make no mistake about it.

The MMS has been unable to develop workable royalty valuation rules and Congress has had to impose a moratorium on these regulations. The core issue has been duty to market.

For this reason, I hope the Senate Energy and Natural Resources Committee will act expeditiously on this

legislation. In this period of hard economic times for the oil and gas industry, the oil royalty valuation issue should be resolved with certainty, fairness and without a hidden royalty rate increase.

By Mr. DOMENICI:

S. 925. A bill to require the Secretary of the military department concerned to reimburse a member of the Armed Forces for expenses of travel in connection with leave canceled to meet an exigency in connection with United States participation in Operation Allied Force; to the Committee on Armed Services.

REIMBURSEMENT FOR U.S. PERSONNEL  
INVOLVED IN KOSOVO

Mr. DOMENICI. Mr. President, I rise today to offer a bill to reimburse U.S. military personnel for costs incurred due to cancellation of travel plans. This bill would authorize DoD to reimburse the men and women involved in Kosovo operations in any instance where they are forced to pay a fee to the airlines for changes in travel plans or purchased non-refundable tickets.

In those instances where military personnel are recalled from leave or forced to cancel their leave plans due to the current crisis in Kosovo, the Defense Department is not authorized to reimburse them for costs incurred to change or cancel their personal travel plans.

Military legal offices only pay the claims that Congress has authorized them to pay through legislation. Currently, DoD is only authorized to pay very specific claims. These claims usually involve damage to government property. Personal property is only covered if the damage or loss is related to official duty. There is no statutory authority to reimburse a member who incurs additional costs related to their leave, even if these costs are a direct result of performing their duty as members of the U.S. military.

I find this situation preposterous. These men and women are being asked to cover expenses incurred through no fault of their own. In response to their commitment to an international security crisis, we tell them to foot the bill for any vacation plans they might have had.

In light of earlier legislation we passed this year to signal to our military personnel that Congress will not short-change them for their service to this country, this measure offers one additional token of our appreciation and pride.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 925

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. REIMBURSEMENT OF TRAVEL EXPENSES INCURRED BY MEMBERS OF THE ARMED FORCES IN CONNECTION WITH LEAVE CANCELED FOR INVOLVEMENT IN KOSOVO-RELATED ACTIVITIES.

(a) REQUIREMENT FOR REIMBURSEMENT.—The Secretary of the military department concerned shall reimburse a member of the Armed Forces under the jurisdiction of the Secretary for expenses of travel (to the extent not otherwise reimbursable under law) that have been incurred by the member in connection with approved leave canceled to meet an exigency in connection with United States participation in Operation Allied Force.

(b) ADMINISTRATIVE PROVISIONS.—The Secretary of Defense shall prescribe the procedures and documentation required for application for, and payment of, reimbursements to members of the Armed Forces under subsection (a).

By Mr. DODD (for himself, Mr. HAGEL, Mr. GRAMS, Mr. LUGAR, Mr. CHAFEE, Mr. LEAHY, Mr. KERREY, Mr. KERRY, Mr. LEVIN, Mr. KENNEDY, Mr. JEFFORDS, Mrs. LINCOLN, and Mrs. MURRAY):

S. 926. A bill to provide the people of Cuba with access to food and medicines from the United States, and for other purposes; to the Committee on Foreign Relations.

THE CUBAN FOOD AND MEDICINE SECURITY ACT  
OF 1999

• Mr. DODD. Mr. President, today Senator JOHN WARNER and twelve of our colleagues in the Senate are introducing a bill to end restrictions on the sale of food and medicine to Cuba—the so-called Cuban Food and Medicine Security Act of 1999. Our House colleagues JOSÉ SERRANO and JIM LEACH are introducing the House companion bill today as well.

Yesterday the Clinton Administration took some long overdue steps to end the practice of using food and medicine as foreign policy weapons. President Clinton has decided to reverse existing U.S. policy of prohibiting sales of such items to Iran, Libya, and Sudan. We applaud that decision. Joe Lockhart, the White House spokesman said President Clinton had decided that, “food should not be used as a tool of foreign policy, except under the most compelling circumstances.”

In announcing the change in policy yesterday, Under Secretary of State Stuart Eizenstat stated that President Clinton had approved the policy after a two-year review concluded that the sale of food and medicine “doesn’t encourage a nation’s military capability or its ability to support terrorism.”

I am gratified that the administration has finally recognized what we determined some time ago, namely that “sales of food, medicine and other human necessities do not generally enhance a nation’s military capacities or support terrorism.” On the contrary, funds spent on agricultural commodities and products are not available for other, less desirable uses.

Regrettably, the Administration did not include Cuba in its announced pol-

icy changes. It seems to me terribly inconsistent to say that it is wrong to deny the children of Iran, Sudan and Libya access to food and medicine, but it is all right to deny Cuban children, living ninety miles from our shores, similar access. The administration’s rationale for not including Cuba was rather confused. The best I can discern from the conflicting rationale for not including Cuba in the announced policy changes was that policy toward Cuba has been established by legislation rather than executive order, and therefore should be changed through legislative action.

I disagree with that judgment. However, in order to facilitate the lifting of such restrictions on such sales to Cuba, Senator WARNER, myself, and twelve of our Senate colleagues have decided to move forward with this legislation today.

It is our assumption that the Clinton Administration will support this legislation, since it does legislatively for Cuba what it has just instituted by Executive order for Sudan, Libya and Iran.

What about those who say that it is already possible to sell food and medicine to Cuba? To those people I would say, “If that is what you think, then you should have no problem supporting this legislation.”

However, I must tell you, Mr. President, that the people who say that are not members of the U.S. agricultural or pharmaceutical industries. Ask any representative of a major drug or grain company about selling to Cuba and they will tell you it is virtually impossible.

The Administration’s own statistics speak for themselves. Department of Commerce licensing statistics prove our point:

Between 1992 and mid-1997, the Commerce Department approved only 28 licenses for such sales, valued at less than \$1 million, for the entire period. To give you some perspective: prior to the passage of the 1992 Cuba Democracy Act which shut down U.S. food and medicine exports, Cuba was importing roughly \$700 million of such products on an annual basis from U.S. subsidiaries.

Moreover, since Commerce Department officials do no follow up on whether proposed licenses culminate in actual sales, the high water mark for the export of U.S. medicines to Cuba over a four and one half year period doesn’t even represent roughly 0.1% of the exports of U.S. food and medicines that took place prior to 1992.

For these reasons we feel strongly that the complexities of the U.S. licensing process, coupled with on-site verification requirements, serve as de facto prohibitions on U.S. pharmaceutical companies doing business with Cuba. Food sales are virtually impossible to undertake as well.

Let me be clear—I am not defending the Cuban government for its human rights practices or some of its other

policy decisions. I believe that we should speak out strongly on such matters as respect for human rights and the treatment of political dissidents. But U.S. policy with respect to Cuba goes far beyond that—it denies eleven million innocent Cuban men, women and children access to U.S. food and medicine.

The highly respected human rights organization, Human Rights Watch—a severe critic of the Cuban government's human rights practices—recently concluded, that the "(U.S.) embargo has not only failed to bring about human rights improvements in Cuba," it has actually "become counterproductive" to achieving that goal.

America is not about denying medicine or food to the people in Sudan, in Libya, or in Iran, and it shouldn't be about denying food and medicine to the Cuban people either, certainly not my America.

That is why I hope my colleagues will support this legislation when it comes to a vote later this year.●

● Mr. WARNER. Mr. President, I rise today as chief co-sponsor of the Cuban Food and Medicine Security Act of 1999. I am pleased to join my good friend and colleague Senator DODD and many of our colleagues in introducing this important legislation.

The goal of this bill is simple—alleviate the suffering of the Cuban people created by the inadequate supplies of food, medicine and medical supplies on that island nation less than 100 miles from our shore. If enacted, this legislation would authorize the President to permit the sale of food, medicine and medical equipment to the Cuban people.

The Cuban Food and Medicine Security Act of 1999 also mandates that a study be carried out on how to promote the consumption of U.S. agricultural commodities in Cuba through existing U.S. agricultural export promotion and credit programs and requires a report to Congress assessing the impact of the bill six months after its enactment.

Yesterday, President Clinton announced an important change in U.S. economic sanctions policy which will enable U.S. firms to sell food and medicine to Iran, Sudan and Libya. In making the announcement, Under Secretary of State Stuart Eizenstat stated "Sales of food, medicine and other human necessities do not generally enhance a nation's military capabilities or support terrorism. On the contrary, funds spent on agricultural commodities and products are not available for other, less desirable uses. Our purpose in applying sanctions is to influence the behavior of regimes, not to deny people their basic humanitarian needs."

This major change in the Administration's sanctions policy, however, will not affect Cuba because restrictions on the sale of food and medicine to that country are statutory. The legislation we are introducing today, however, would remove those restrictions

on the sale of food and other agricultural products, medicine and medical supplies with regards to Cuba.

The time has come to stop using food and medicine as a foreign policy tool. I hope my colleagues will join us in supporting this important and timely legislation.●

By Mr. DODD (for himself and Mr. HAGEL):

S. 927. A bill to authorize the President to delay, suspend, or terminate economic sanctions if it is in the important national interest of the United States to do so; to the Committee on Foreign Relations.

THE SANCTIONS RATIONALIZATION ACT OF 1999

● Mr. DODD. Mr. President, I rise today to introduce a bill on behalf of myself and Senator HAGEL, which we hope will bring desperately needed reform to the process by which the United States imposes sanctions on other nations.

Eighty years ago, President Wilson formally added economic sanctions to America's foreign policy arsenal for the first time, saying that with sanctions as a weapon, "there will be no need for force." In the intervening decades, we have taken a greater liking to sanctions than President Wilson ever could have imagined. I doubt very much, however, that he would approve of the way in which we employ that tool today nor of the results accomplished by sanctions.

When President Wilson described his idea of sanctions as a diplomatic tool, he was trying to convince the Senate to ratify American membership in the League of Nations. The sanctions he envisioned were broad, multi-national efforts designed to affect specific results under limited circumstances. He also intended sanctions to serve as one component of multi-stage escalation of diplomatic pressure, rather than a complete response.

Our method for imposing sanctions today bears almost no resemblance to President Wilson's original concept. Sanctions have become the first response to actions which are objectionable to the United States. Very often, they are also a response in and of themselves, rather than part of a coherent escalation of pressure. In addition, the vast majority of American sanctions are not the multilateral efforts President Wilson envisioned. Rather, Mr. President, they are unilateral efforts which anger our allies, damage our global standing, and hurt our own businesses and people. And lest we excuse the drawbacks of unilateral sanctions with the argument that the benefits for American foreign policy outweigh the harm, let me be very clear: there are very rarely such benefits.

For far too long we have subscribed to the mistaken view that sanctions represent concrete steps more powerful than mere condemnation and more speedy than diplomacy. Unilateral sanctions, Mr. President may make us

feel good by severing access to American know-how, markets, ideas, and products. They may help us demonstrate that we are willing to be tough on governments with unacceptable policies or even allow us to appease a particular constituency that has clamored for action against a particular rogue nation.

What unilateral sanctions do not do, however, is work. We are blindfolded by our own rhetoric, Mr. President, if we think that sanctions are the key to correcting the behavior of targeted nations. A recent study found that perhaps one out of every five unilateral sanctions has any desired effect at all. And in those few cases where our goal was met, such as a change in the President of Colombia, sanctions were only one of many factors.

When we mention successes, we all too often ignore the much longer list of countries—including Haiti, Cuba, Libya, Iran, Iraq, China, Panama, and North Korea—where sanctions have failed. In fact, sanctions may even allow some authoritarian regimes to consolidate their control by providing them with a convenient scapegoat to blame for their domestic failures.

In addition, we must not lose sight of the unintended consequences of sanctions. They hurt our economy. They hurt our allies. They hurt our ability to achieve our foreign policy goals. Perhaps most of all, they hurt our own citizens. Mr. President, it is imperative that we move expeditiously to correct the deep flaws in our system for imposing sanctions. In recent years, Congress has imposed sanctions intended to discourage the proliferation of weapons of mass destruction and the ballistic missiles to deliver them, advance human rights and end genocide, end state-supported terrorism, discourage armed aggression, thwart drug trafficking, protect the environment and even, in a few cases, oust governments that are anathema to the United States.

Since President Wilson proposed the use of sanctions to realize American foreign policy goals, we have imposed them more than 110 times. Today, however, the situation is growing more acute. In just the past six years, Congress passed more than 70 sanctions. That is more than 11 per year. Last year, we had sanctions in place against 26 different countries which included more than half of the world's population.

When Congress passes these sanctions, however, it often takes a second congressional action to repeal them. This onerous process robs our nation of the ability to react to changing circumstances, interferes with the President and Secretary of State's mandate to negotiate with foreign governments and leaders and prevents the lifting of sanctions which have little chance of success while bringing harm on the United States' national interests. The bill that I am proposing today will correct these deficiencies by giving the

President the authority to delay, suspend or terminate any sanction that he determines is not in the United States' national interest.

We often think of sanctions as costless actions since they require no governmental appropriation. As business leaders and workers across the country will tell you, however, that perception is simply erroneous. In 1998, the United States had sanctions, of some sort, in place against 26 different nations including China and India, the two most populous nations in the world. Those sanctions covered well over half of the world's population, cutting American firms off from billions of potential customers. According to the Institute for International Economics here in Washington, the economic sanctions currently in effect cost American businesses \$20 billion annually in lost export sales and cost America's workers 200,000 high-wage jobs.

Those figures, however, tell only part of the story. The cost to businesses does not end when the sanctions are repealed. Rather, the absence of American companies allows foreign competitors to make inroads leaving the American businesses to try battle the entrenched competition, along with any lingering popular resentment toward the United States, when the barriers fall. Needless to say, our allies think that American unilateral sanctions, while affording them a rather pleasant competitive advantage, lack a degree of rationality.

It would be shortsighted, Mr. President, to consider the cost merely in terms of the monetary loss. Rather, our wholesale use of unilateral sanctions damages our standing in the world community. Our diplomats have to spend an inordinate amount of time and effort trying to assuage the concerns of our allies who find themselves on the receiving end of some of our secondary sanctions. Meanwhile, when dealing with target nations, they are deprived of the ability to offer a carrot in exchange for policy changes. Moreover, the fact that more than half of the world's population is now on the receiving end of American sanctions and our willingness to impose sanctions when the rest of the world finds them unnecessary degrades our ability to convince other nations to follow our leadership.

Congress' current infatuation with sanctions also hampers our nation's ability to conduct diplomacy. The Constitution gives Congress a powerful role in foreign policy, from the power to declare war to the power to regulate commerce. Clearly, Congress is within its Constitutional mandate when it imposes sanctions on foreign governments. What Congress cannot do, however, is micro-manage our foreign policy on a day to day basis. The power to negotiate with foreign governments and leaders rests solely with the President. Anything which detracts from his ability to negotiate, including sanctions over which he has no control

over, damages his ability to exact concessions and come to an agreement acceptable to the United States.

I am not arguing, Mr. President, that sanctions are not a legitimate foreign policy tool nor that, if used appropriately, they can be efficacious. Nor am I arguing that all sanctions currently in place should be removed. To the contrary, I strongly support sanctions against countries such as Iraq and Yugoslavia.

Sanctions, however, should be part of a comprehensive foreign policy with clear goals. They should be imposed for a finite period of time with an option to extend if the situation warrants continued pressure. Finally, sanctions must allow the President and Secretary of State the room they need to maneuver in order to effectively negotiate foreign governments.

It is also essential that we strive for multinational support of our sanctions. Board sanctions, either global or at least in concert with the other industrialized countries, not only have a far greater chance of affecting the desired result but minimize the threat to our international leadership, and domestic economy in both the short and long term.

Occasionally, other nations take actions so offensive to American policy that the United States must act regardless of foreign cooperation. In those cases, we must endeavor to minimize the negative effects our sanctions have on third countries and on our own economy. We must also carefully target our sanctions at the offending government officials rather than the general population—people who often have little or no ability to affect meaningful change.

Sanctions deserve a place, even a prominent place, in our foreign policy tool kit. Working with our allies, they can have the power President Wilson described shortly after witnessing the horrors of World War I. At the same time, Mr. President, we must not be so infatuated with sanctions as to replace tools which have stood us in such good stead for more than two centuries, such as diplomacy.

The legislation that my colleagues and I are introducing today will make the sanctions we do impose more powerful and improve the results while simultaneously reducing the costs to Americans and our allies. In fact, Mr. President, these reforms will lead to a stronger American foreign policy capable of realizing our foreign policy goals more quickly and with less effort. This bill will allow us to finally reach the goal Congress held when it began imposing sanctions at this alarming pace. Mr. President, I urge my colleagues to join me in supporting this bipartisan resolution and enacting these overdue reforms.

• Mr. HAGEL. Mr. President, I am pleased to join with Senator DODD in introducing the Sanctions Rationalization Act. This bill would grant broad authority to the President to waive

unilateral sanctions that no longer make sense and that he determines harm U.S. national interests.

Sanctions must remain a policy tool. But sanctions are only effective when they are multilateral.

This bill will complete the package of three sanctions reform bills that have been introduced this Congress. Senator DODD and I are sponsors or cosponsors of each of these three bills.

The first of these three sanctions reform bills is S. 757, the Sanctions Policy Reform Act. This legislation, introduced by Senator LUGAR would establish a sensible process for the enactment of future unilateral economic sanctions by either the President or the Congress. Among its safeguards, the Lugar bill would require a cost/benefit analysis and would require a study on the likelihood that the proposed sanctions would achieve their policy goals. It would also sunset all unilateral sanctions after two years unless reauthorized by Congress. The Lugar bill does not undo any existing sanctions, with one exception. It would make permanent the President's ability to waive the Glenn amendment for U.S. national security reasons. The Glenn amendment as originally drafted puts permanent unilateral sanctions on any country that tests a nuclear device.

I introduced the second bill, which is S. 327, the Food and Medicine Sanctions Relief Act. Senator DODD is the lead cosponsor on that bill. Food and medicine are basic humanitarian needs. As a matter of policy, food and medicine should not be included in unilateral sanctions. The President made a good first step in addressing this issue yesterday when he removed most, but not all, food and humanitarian goods from sanctions on Iran, Sudan and Libya. He did not lift restrictions on financing for agricultural sales, nor did he lift food and medicine sanctions on several other nations. He could not take these two additional steps because he is restricted from doing so by other legislation. My bill, S. 327, would enable him to adopt a comprehensive policy of exempting food and medicine from unilateral sanctions.

The bill Senator DODD and I are introducing today would also grant the President much broader authority to protect U.S. interests by waiving unilateral sanctions.

The Sanctions Rationalization Act allows the President, with Congressional review, to "delay, suspend or terminate" any unilateral economic sanction if he determines that it "does not serve U.S. national interests." A Presidential waiver under the Act cannot go into effect for 30 days. This gives the Congress ample time to consider the Presidential action. The bill establishes expedited procedures to ensure that Congress would have a chance to disapprove the Presidential waiver if the action is unwise.

Finally, the legislation restricts the use of this Presidential waiver authority in specific cases. The President



cannot waive sanctions that are multi-lateral rather than unilateral. He is also restricted from waiving sanctions based on health or safety concerns, treaty obligations, and specific trade laws enacted to remedy unfair trade practices or market disruptions.

As a nation, we are letting unilateral sanctions isolate ourselves. Let me demonstrate why:

A CRS report on January 22, 1998 listed a total of 97 unilateral sanctions now in place.

A study by the National Association of Manufacturers found that from 1993–1996, the U.S. imposed unilateral sanctions 61 times against 35 countries. These 35 nations make up 42% of world population and 19% of world's \$790 billion export market.

A study by the International Institute of Economics estimates that in 1995 alone unilateral sanctions cost Americans \$15–20 billion in lost exports . . . which resulted in 200,000 lost jobs.

The National Foreign Trade Council has identified 41 separate legislative statutes on the books that either require or authorize the imposition of unilateral sanctions.

Repeated use of sanctions undermines confidence in America as a reliable supplier. Even after sanctions are lifted, Americans find it difficult or impossible to regain export markets.

Mr. President, each of the three bills I mentioned addresses an important feature of ending the overuse of unilateral economic sanctions. The Lugar bill would create a process for producing more effective sanctions policies for the future. The Hagel bill would exempt food and medicine from all unilateral economic sanctions. The Dodd bill is a final, critical reform. It would allow the President, with congressional review, to waive those sanctions laws that have become outdated and no longer serve U.S. national interests.

Again, I congratulate my colleague from Connecticut for his leadership on this issue. I am pleased to join him in introducing the Sanctions Rationalization Act.●

By Mr. SANTORUM (for himself, Mr. SMITH of New Hampshire, Mr. LOTT, Mr. ABRAHAM, Mr. ALLARD, Mr. ASHCROFT, Mr. BOND, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. COCHRAN, Mr. CRAIG, Mr. CRAPO, Mr. DEWINE, Mr. DOMENICI, Mr. ENZI, Mr. FITZGERALD, Mr. Frist, Mr. GORTON, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mr. HUTCHINSON, Mr. INHOFE, Mr. KYL, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. ROBERTS, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of Oregon, Mr. THOMAS, Mr. THURMOND, Mr. VOINOVICH, and Mr. WARNER):

S. 928, A bill to amend title 18, United States Code, to ban partial-

birth abortions; to the Committee on the Judiciary.

THE PARTIAL BIRTH ABORTION BAN ACT OF 1999

Mr. SANTORUM. Mr. President, I rise today to introduce the Partial Birth Abortion Ban Act. This bill is identical to the legislation endorsed by the American Medical Association (AMA) and vetoed by President Clinton in October, 1997. This bill is narrowly written to prohibit one particularly gruesome, inhumane, and medically unaccepted late term abortion method, except when the procedure is necessary to save the life of the mother.

Also known as Intact Dilation Evacuation or Intrauterine Cranial Decompression, a partial birth abortion is performed over a three day period during the second or third trimester. After the cervix is dilated over a two-day period, the doctor begins the actual abortion on the third day. Once the doctor turns the baby into the breech position, he delivers all but the head through the birth canal. At this point the child is still alive. Then, the doctor stabs the baby in the base of its skull with curved scissors and uses a suction catheter to remove the child's brain. This procedure kills the baby. After the skull collapses, the doctor completes the delivery.

Partial birth abortions are performed as outpatient procedures in clinics. They are usually done on healthy 20–25 week olds with healthy mothers. Estimates suggest as many as 5000 are performed annually in the U.S. We know of 1500 per year in one New Jersey clinic.

The American public finds this procedure repugnant. A growing consensus in the medical community considers it unnecessary and even unethical. Yet the reason this horrific procedure is still legal in the United States is because President Clinton has twice vetoed legislation that would have outlawed partial birth abortion, except in cases of maternal life endangerment.

The lies propagated by proponents of partial birth abortion have taken on a life of their own. First, we were told—and by we I mean Congress—there was no such thing as partial birth abortion. Three years after Dr. Martin Haskell, a pioneer of this technique, described it to the National Abortion Federation (NAF), the NAF sent a letter to Congress denying its existence. Then Congress was assured the fetus feels no pain during the procedure because anesthesia given to the mother induced “neurological fetal demise.” Such was the testimony of Dr. James McMahon, another pioneer of the partial birth abortion, to the House Judiciary Subcommittee on the Constitution. After pregnant women across the country started refusing necessary surgery, Dr. Norig Ellison, President of the American Society of Anesthesiologists, testified before the Senate Judiciary Committee to set the record straight. He told the Committee women would have to be anesthetized to the point where their own health was endangered to

achieve “neurological demise” of the fetus. By the way, “neurological demise” refers to the “brain death,” not literal death. Not to be deterred, proponents of partial birth abortion circulated a third lie—anesthesia kills the fetus. Yet we know from Dr. Ellison's testimony and Dr. Haskell's own statements that the baby is alive during the procedure. Lie number four asserted partial birth abortions were “rare.” Then, a small newspaper in New Jersey discovered that 1500 of these “rare” procedures were performed each year in one clinic. This one clinic was performing three times the supposed national rate of partial birth abortions. Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, suggested as many as 5000 could be performed annually. Another egregious lie asserted this technique was only used in cases where the mother's life or health were at risk, or when the fetus was deformed. Ron Fitzsimmons helped spread this misinformation. He would later admit that he “lied through my teeth.”

The last lie, which the President continues citing in defense of this procedure, proports that partial birth abortion is necessary to protect women's health. A group of more than 600 doctors, most of whom are OB-GYNs or perinatologists, call this lie the “most serious distortion.” In reality, partial birth is never medically necessary. That is the opinion of doctors across this country. The AMA says it is “not medically indicated,” “is not good medicine,” is “ethically wrong” and “is not an accepted ‘medical practice’”. Former Surgeon General C. Everett Koop, who has 30 years of experience in pediatric surgery, has publicly denounced this procedure. Dr. Warren Hern, who wrote the most widely used textbook on performing abortions admitted he “\* \* \* would dispute any statement that this is the safest procedure to use.” The Physicians Ad Hoc Coalition for Truth (PHACT), a group of over 600 doctors, emphatically states that partial birth abortion is never medically necessary and “should be banned in the interests of women, their children, and the proper practice of medicine.”

There is absolutely no evidence that partial birth abortion is a safe procedure. There are no peer reviewed scientific studies. It is not mentioned in medical textbooks or taught in medical schools. The facts, as reviewed by doctors, suggest this technique is in fact dangerous for women. Because of the deliberate breech positioning and the blind procedure of stabbing the baby at the base of its skull, partial birth abortion subjects women to risks beyond those normally encountered in conventional late term abortions. Furthermore, it could not be used in the two most common life endangering conditions during pregnancy, infection and hemorrhage, because it puts women at greater risk for both.

Conditions such as hydrocephaly, trisomy, Downs Syndrome, and development of the organs or brain outside the body have been cited as instances in which partial birth abortion was recommended to preserve a woman's life, health, or future fertility. There are tragic situations that require separation of the child from the mother. But it is never necessary to kill the child during that separation to preserve maternal health.

I have met families who were advised to have a partial birth abortion after their child was diagnosed with a disability. These mothers faced many of the same struggles, such as concerns for their other children, concerns about whether they would be able to care for a handicapped baby, and finding a doctor who was willing to deliver the child. As the Senate considers the Partial Birth Abortion Ban Act, I will tell the stories of these families and the children.

In closing, I ask my colleagues to examine this issue with their hearts. We know of two baby girls, one born in Phoenix and the other in Ohio, who survived this brutal procedure. Baby Phoenix overcame cuts and a skull fracture sustained during a partial birth abortion procedure. Today, she lives with her adopted parents in Texas. Baby Hope lived only three hours and eight minutes. She was born prematurely during the first dilation stage of a partial birth abortion. Her life was short, but she personalized this issue for the hospital staff who gently nursed her for those few hours. I ask that my colleagues consider whether these little girls deserved to be subjected to partial birth abortions. I ask them to consider that these children were not catch phrases, slogans, or concepts. These babies, and other candidates for partial birth abortions, are human beings. They are being killed with a procedure that would not be legal for use on animals. I ask my colleagues to do the right thing and vote to outlaw this horrific procedure.

Mr. President, I ask unanimous consent that the text of the Partial Birth Abortion Ban Act of 1999 be inserted into the RECORD.

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

S. 928

*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 "Partial-Birth Abortion Ban Act of 1999".

#### SEC. 2. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

##### "CHAPTER 74—PARTIAL-BIRTH ABORTIONS

"Sec.

"1531. Partial-birth abortions prohibited.

##### "§ 1531. Partial-birth abortions prohibited

"(a) Any physician who, in or affecting interstate or foreign commerce, knowingly

performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than two years, or both. This paragraph shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury. This paragraph shall become effective one day after enactment.

"(b)(1) As used in this section, the term 'partial-birth abortion' means an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.

"(2) As used in this section, the term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions: *Provided, however,* That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

"(3) As used in this section, the term 'vaginally delivers a living fetus before killing the fetus' means deliberately and intentionally delivers into the vagina a living fetus, or a substantial portion thereof, for the purpose of performing a procedure the physician knows will kill the fetus, and kills the fetus.

"(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

"(2) Such relief shall include—

"(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

"(B) statutory damages equal to three times the cost of the partial-birth abortion.

"(d)(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness or injury.

"(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

"(e) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 of this title based on a violation of this section."

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

##### "74. Partial-birth abortions ..... 1531".

• Mr. DEWINE. Mr. President, I am very proud to join my distinguished colleague, Senator SANTORUM, in introducing this legislation to ban one of the most barbaric practices ever tolerated in a civilized society. The Partial Birth Abortion Ban Act is a measure we have already passed twice, only to see it overturned by Presidential vetoes. Enactment of this bill into law is long overdue.

A recent tragic event in my own home state of Ohio brings home yet again the need for this ban.

On April 6, a young woman went into the Dayton Medical Center in Montgomery County, Ohio, to undergo a partial-birth abortion. This is a procedure that usually takes place behind closed doors, where it can be ignored, its moral status left unquestioned.

But this particular procedure was different. In this procedure, on April 6, things did not go as planned. Here's what happened.

The Dayton abortionist, Dr. Martin Haskell, started a procedure to dilate her cervix, so the child could eventually be removed and killed. He applied seaweed to start the procedure. He then sent her home—because this procedure usually takes two or three days. In fact, the patient is supposed to return on the second day for a further application of seaweed—and then come back a third time for the actual partial-birth abortion.

So the woman went home to Cincinnati, expecting to return to Dayton and complete the procedure in two or three days. But her cervix dilated far too quickly. Shortly after midnight in the first day, after experiencing severe stomach pains, she was admitted to Bethesda North Hospital in Cincinnati.

The child was born. After three hours and eight minutes, the child died.

The cause of death was listed on the death certificate as "prematurity secondary to induced abortion."

True enough, Mr. President. But also on the death certificate is a space for "Method of death." And it says, in the case of this child, quote, "Method of death: natural."

Now that, Mr. President, may well be true in the technical sense. But if you look at the events that led up to her death, you'll see that there was really nothing natural about them about them at all.

The medical technician who held that little girl for the three hours and eight minutes of her short life named her Baby Hope. Baby Hope did not die of natural causes. She was the victim of a barbaric procedure that is opposed by the vast majority of the American people. A procedure that has twice been banned by act of Congress—only to see the ban repeatedly overturned by a Presidential veto.

The death of Baby Hope did not take place behind the closed doors of an abortion clinic. It took place in public—in a hospital dedicated to saving lives, not taking them. It reminds us of the brutal reality and tragedy of what partial birth abortion really is.

When we voted to ban partial-birth abortions, we talked about this procedure in graphic detail. The public reaction to this disclosure—the disclosure of what partial-birth abortion really is—was loud and it was decisive. And there is a very good reason for this. The procedure is barbaric.

One of the first questions people ask is "why?"

"Why do they do this procedure? Is it really necessary? Why do we allow this to happen?"

Dr. C. Everett Koop speaks for the consensus of the medical profession when he says this is never a medically necessary procedure. Even Martin Haskell—the abortionist in the Baby Hope case—has admitted that at least eighty percent of the partial-birth abortions he performs are elective.

The facts are clear. Partial-birth abortion is not that rare a procedure. What is rare is that we—as a society—saw it happen. It happened by surprise, at a regular hospital, where it wasn't supposed to.

Baby Hope was not supposed to die in the arms of a medical technician. But she did. And she cannot easily be ignored.

This procedure is not limited to mothers and fetuses who are in danger. It's performed on healthy women—and healthy babies—all the time.

The goal of a partial birth abortion is not to protect somebody's health but to kill a child. That is what the doctor wants to do.

Dr. Haskell himself has said as much. In an interview with the American Medical News, he said—and I quote—"you could dilate further and deliver the baby alive but that's really not the point. The point is you are attempting to do an abortion. And that's the goal of your work, is to complete an abortion. Not to see how do I manipulate the situation so that I get a live birth instead." Unquote.

Dr. Haskell admitted it. Why don't we?

Again, let's hear Dr. Haskell describe this procedure. Quote: "I just kept on doing D&Es (dilation and extractions) because that was what I was comfortable with, up until 24 weeks. But they were very tough. Sometimes it was a 45-minute operation. I noticed that some of the later D&Es were very, very easy. So I asked myself why can't they all happen this way. You see the easy ones would have a foot length presentation, you'd reach up and grab the foot of the fetus, pull the fetus down and the head would hang up and then you would collapse the head and take it out. It was easy."

It was easy, Mr. President. Easy for him. He doesn't say it was easy for the mother, and I suspect he doesn't care. His goal is to perform abortions. Is he the person we're going to trust to decide when abortions are necessary? He's got a production line going—and nothing's going to stop him from meeting his quota.

Dr. Haskell continues: "At first, I would reach around trying to identify a lower extremity blindly with the tip of my instrument. I'd get it right about 30-50 percent of the time. Then I said, 'Well gee, if I just put the ultrasound up there I could see it all and I wouldn't have to feel around for it.' I did that and sure enough, I found it 99 percent of the time. Kind of serendipity." End of quote.

Serendipity, Mr. President.

Let me conclude.

We need to ask ourselves, what does our toleration of this procedure say about us, as a nation?

Where do we draw the line? At what point do we finally stop saying, "I don't really like this, but it doesn't really matter to me, so I'll put up with it?"

At what point do we say, unless we stop this from happening, we cannot justly call ourselves a civilized nation?

Mr. President, when you come right down to it, America's moral anesthetic is wearing off. We know what's going on behind the curtain—and we can't wish that knowledge away. We have to face it—and do what's right.

We have to make the Partial Birth Abortion Ban Act the law of the land. Twice in the last three years, Congress has passed this legislation with strong, bipartisan support, only to see it fall victim to a Presidential veto. Once again, I am confident Congress will do the right thing and pass this very important bill.

But that's not enough, Mr. President. Passing this legislation in Congress is not enough. It will not save any lives. For lives to be saved, the bill must become law.

If something happens behind the iron curtain of an abortion clinic it's easier to pretend that it doesn't happen. But the death of Baby Hope has torn that curtain, revealing the truth of this barbaric procedure. Let people not ask about us fifty years from now, "How can they not have known?" and "Why didn't they do anything?"

Because, Mr. President, the fact is: We do know. And we must take action.●

By Mr. ROBB (for himself, Mrs. HUTCHISON, Mr. KERREY, Mr. HAGEL, Mr. REED, Mr. SMITH of New Hampshire, Mr. CLELAND, Mr. ABRAHAM, and Mr. HUTCHINSON):

S. 929. A bill to provide for the establishment of a National Military Museum, and for other purposes; to the Committee on Armed Services.

#### NATIONAL MILITARY MUSEUM ACT

Mr. ROBB. Mr. President, when future generations search for "lessons learned" from America's 18th, 19th and 20th century military experiences, they no doubt will be accessible through dusty texts, dated documentary videos, or long-forgotten Congressional transcripts.

I am concerned, however, that these lessons will not carry forward into the next century as an enduring reminder of the true costs, and the true benefits, of waging wars, on behalf of freedom and democracy.

Increasingly, we have seen the gap between the military, and the rest of society, widen.

Early in the next century, for example, we expect that less than four percent of the population will be veterans, down from over 11 percent in 1980.

This means that fewer and fewer civilians will have a personal understanding of the military, making it more and more difficult to pass on to successive generations, one of our most powerful military assets—our experience.

How then do we ensure that we don't "repeat" our past mistakes—and that we build on our past successes?

Mr. President, I am joined by Senators HUTCHISON, of Texas, KERREY of Nebraska, HAGEL, REED of Rhode Island, SMITH of New Hampshire, CLELAND, ABRAHAM, and HUTCHINSON of Arkansas in introducing the National Military Museum Act.

It will teach visitors about each of the major wars in which America has fought.

Finally, it will help build pride, in our military, and the nation.

The United States, through the fine stewardship of the Smithsonian Institution, operates over a score of excellent national museums—from the National Portrait Gallery, to the National Postal Museum, yet none of these are dedicated to the armed forces.

In fact, the individual military services have many museums—the Army alone, has over 60.

We also have military artifacts and battles represented in sections of some of the Smithsonian museums.

Yet we do not have a single, prestigious, integrated national museum to tell America's military story and to honor our armed forces.

This is an extraordinary shortcoming in the telling of our national heritage.

By contrast, many of our key allies have national military museums.

The British Imperial War Museum, and the Australian War Memorial, are two fine examples.

The United States is a nation that has influenced world events decisively over the last century and will continue to do so for centuries to come.

And it is a military power that has sought not to conquer other lands, but to bring freedom, and democracy to the entire world.

History shows few if any nations, with such disproportionate means, employing force for such consistently altruistic ends.

Yet we have no national place to tell, this extraordinary story.

Mr. President, where, would a teenager interested in World War I, World War II, Korea, or Vietnam, go, to learn more about these wars? There really is no museum displaying artifacts from these wars, in a comprehensive fashion.

We do in fact have several fine Civil War museums, but the lack of representations of so many other wars is remarkable.

The idea of a National Military Museum goes back to the late 1800s.

Several attempts to build this museum, (including a concerted effort by President Truman) failed, for various reasons: inadequate funding, post-war disillusionment, or blueprints that were too ambitious.

Now, as we enter the 21st century, the time is right to display the enormous inventories of artifacts, that have been accumulated from this century—especially from conflicts since World War II.

As now envisioned, the National Military Museum would include display sections for each of the military services as well as separate sections for each of the country's major wars.

A spectacular atrium would house large items, from: missiles to ship sections to aircraft.

Based on a review of numerous potential sites, this legislation authorizes that the new museum be located on the Navy Annex property just west of the Pentagon.

Bounded symbolically, by Arlington National Cemetery, to the north, and offering a commanding view of the capital area, this location is ideal, and one of the last available parcels, in the area, suitable for a museum of this scope and importance.

The museum would share a large 55-acre tract of land with an expansion of Arlington National Cemetery and possibly other veterans' memorials.

The buildings currently on this land, are slated for demolition around 2015.

The National Military Museum Act establishes a National Military Museum Foundation, which will be responsible for the design construction, and operation, of the museum.

The Foundation's Board, will consist of 10 members, and their first action will be to conduct a study on the siting, design, environmental impact, and governing of the museum.

The Foundation may recommend that the museum, become part, of the Smithsonian Institution.

Assuming no Congressional action, upon receipt of both this study, and a General Accounting Office evaluation, the Foundation will proceed with final design preparations, and pursue fund-raising.

Construction would begin after demolition of the existing Navy Annex buildings.

Mr. President, I am very pleased to introduce this legislative cornerstone, for building, one of the most important, and—I would anticipate—most visited museums, in the world.

Let us honor our nation's military with this long overdue museum.

Let us safeguard our past, so that future generations will know what has been done before—and what may have to be done again, in the future—to push back the forces of tyranny, and to preserve the freedoms, we are so fortunate to enjoy.

By Mr. REID (for himself and Mr. BRYAN):

S. 930. A bill to provide for the sale of certain public land in the Ivanpah Valley, Nevada, to the Clark County, Nevada, Department of Aviation; to the Committee on Energy and Natural Resources.

# IVANPAH VALLEY AIRPORT PUBLIC LAND TRANSFER ACT

Mr. REID. Mr. President, I rise today to introduce the Ivanpah Valley Airport Public Land Transfer Act. This act authorizes the Secretary of Interior to convey, at fair market value, certain lands in the Ivanpah Valley to the Clark County Department of Aviation. Authorization of this conveyance will allow the Department to proceed with the proposed development of a new airport to serve Southern Nevada.

As you are aware, growth in both the general population and the tourism industry in Southern Nevada has been and is expected to continue to be very strong. Statistics show that over half the people who come to Southern Nevada now come by air. From 1985 to 1998, operations at McCarran Airport increased at an annual rate of approximately five percent. Even if this growth rate slows to two percent, activities at McCarran will be at or exceed capacity by the year 2014. At this level, the traveling public will also experience significant delays. It is obvious we must begin to plan now for the future.

The Department of Aviation has completed an extensive review of options available for meeting the growing needs for air traffic in Southern Nevada. These options included construction of a new runway at McCarran and the building of an entirely new airport at any one of four different sites. Analysis of these options shows that for a variety of technical, safety-related, and economic reasons, the Ivanpah site is the only option that can accommodate the growing air traffic needs of the region.

The bill Senator BRYAN and I introduce today is based on similar legislation that was introduced in both the House and Senate in the 105th Congress. However, this bill incorporates changes from the prior legislation to address environmental concerns and issues that were raised by the Bureau of Land Management in testimony before the House Resources Subcommittee on National Parks and Public Lands last year. Some of those concerns were related to endangered species habitat, potential conflicts with existing uses, and determination of fair market value for the lands to be conveyed.

Congress should be aware that this is not a giveaway. Clark County will pay fair market value for the land and the airport will be publicly owned and operated. The bill also provides that the revenues collected by the government for the sale will be available for other use by the BLM under the terms of the Southern Nevada Public Land Management Act of 1998.

The Clark County Department of Aviation is committed to the preparation of necessary environmental documentation for airport construction once Congressional approval for the land sale is granted. The County cannot, however, invest the substantial

amounts of time, dollars, and resources an environmental study demands without assurance the site will be available for purchase should an airport be deemed to have no significant negative impacts. The bill also provides for return of the land to the Department of Interior, should airport development prove to be infeasible.

I thank my fellow Senator from Nevada, Mr. BRYAN, for his support on this issue and urge my colleagues to vote for passage of this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 930

*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 "Ivanpah Valley Airport Public Land Transfer Act".

## SEC. 2. CONVEYANCE TO CLARK COUNTY, NEVADA, DEPARTMENT OF AVIATION.

### (a) IN GENERAL.—

(1) CONVEYANCE.—Notwithstanding the land use planning requirements contained in sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711, 1712), on occurrence of the conditions specified in subsection (b), the Secretary of the Interior (referred to in this section as the "Secretary") shall convey to Clark County, Nevada, on behalf of the Department of Aviation (referred to in this section as the "Department"), all right, title, and interest of the United States in and to the public land identified for disposition on the map entitled "Ivanpah Valley, Nevada-Airport Selections" numbered 01 and dated April 1999, for the purpose of developing an airport facility and related infrastructure.

(2) MAP.—The map described in paragraph (1) shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management and the Las Vegas District of the Bureau of Land Management.

(b) CONDITIONS.—The Secretary shall make the conveyance under subsection (a) if—

(1) the Department conducts an airspace assessment to identify any potential adverse effect on access to the Las Vegas basin under visual flight rules that would result from the construction and operation of a commercial or primary airport, or both, on the land to be conveyed;

(2) the Administrator of the Federal Aviation Administration certifies to the Secretary that—

(A) the assessment under paragraph (1) is thorough; and

(B) alternatives have been developed to address each adverse effect identified in the assessment, including alternatives that ensure access to the Las Vegas basin under visual flight rules at a level that is equal to or better than the access in existence as of the date of enactment of this Act; and

(3) the Department enters into an agreement with the Secretary to retain ownership of Jean Airport and to maintain and develop Jean Airport as a general aviation airport.

(c) PHASED CONVEYANCES.—At the option of the Department, the Secretary shall convey the land described in subsection (a) in parcels over a period of up to 20 years, as may be required to carry out the phased construction and development of the airport facility and infrastructure on the land.

## (d) CONSIDERATION.—

(1) IN GENERAL.—As consideration for the conveyance of each parcel, the Department shall pay the United States an amount equal to the fair market value of the parcel.

## (2) DETERMINATION OF FAIR MARKET VALUE.—

(A) INITIAL 3-YEAR PERIOD.—During the 3-year period beginning on the date of enactment of this Act, the fair market value of a parcel to be conveyed under subsection (a) shall be based on an appraisal of the fair market value of the parcel as of a date not later than 180 days after the date of enactment of this Act.

## (B) SUBSEQUENT APPRAISALS.—

(i) IN GENERAL.—The fair market value of each parcel conveyed after the end of the 3-year period referred to in subparagraph (A) shall be based on a subsequent appraisal.

(ii) FACTORS.—An appraisal conducted after that 3-year period—

(I) shall take into consideration the parcel in its unimproved state; and

(II) shall not reflect any enhancement in the value of the parcel based on the existence or planned construction of infrastructure on or near the parcel.

(3) USE OF PROCEEDS.—The proceeds of the sale of each parcel—

(A) shall be deposited in the special account established under section 4(e)(1)(C) of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2345); and

(B) shall be disposed of by the Secretary as provided in section 4(e)(3) of that Act (112 Stat. 2346).

## (e) REVERSIONARY INTEREST.—

(1) IN GENERAL.—During the 5-year period beginning 20 years after the date on which the Secretary conveys the first parcel under subsection (a), if the Secretary determines that the Department is not developing or progressing toward the development of the parcel as part of an airport facility, the Secretary may exercise a right to reenter the parcel.

(2) PROCEDURE.—Any determination of the Secretary under paragraph (1) shall be made on the record after an opportunity for a hearing.

(3) REFUND.—If the Secretary exercises a right to reenter a parcel under paragraph (1), the Secretary shall refund to the Department an amount that is equal to the amount paid for the parcel by the Department.

(f) WITHDRAWAL.—The public land described in subsection (a) is withdrawn from mineral entry under—

(1) sections 910, 2318 through 2340, and 2343 through 2346 of the Revised Statutes (commonly known as the “General Mining Law of 1872”) (30 U.S.C. 21, 22, 23, 24, 26 through 30, 33 through 43, 46 through 48, 50 through 53); and

(2) the Act of February 25, 1920 (commonly known as the “Mineral Lands Leasing Act of 1920”) (41 Stat. 437, chapter 85; 30 U.S.C. 181 et seq.).

(g) MOJAVE NATIONAL PRESERVE.—The Secretary of Transportation shall consult with the Secretary in the development of an airspace management plan for the Ivanpah Valley Airport that, to the extent practicable and without adversely affecting safety considerations, restricts aircraft arrivals and departures over the Mojave National Preserve, California.

By Mr. MCCAIN (for himself, Mr. LIEBERMAN, and Mr. CONRAD):

S.J. Res. 23. A joint resolution expressing the sense of the Congress regarding the need for a Surgeon General’s report on media and violence; to the Committee on Health, Education, Labor, and Pensions.

SURGEON GENERAL’S MEDIA VIOLENCE REPORT  
ACT

Mr. MCCAIN. Mr. President, an entire nation was stunned this past week with the shocking violence that unfolded in Littleton, Colorado. Perhaps, if this had been an isolated incident, we could have written it off as two crazed individuals. However, the tragic reality is that it was not an isolated incident, but another in an increasing pattern of violence in our schools. Even more disturbing is that these schoolyard shootings are occurring against the backdrop of ever-escalating youth violence, and suicide.

This is an extraordinarily complex problem, with many contributing factors. However, what this comes down to is responsibility, and the most basic and profound responsibility that our culture—any culture—has, is raising its children. We are failing that responsibility, and the extent of our failure is being measured in the deaths, and injuries of our kids in the schoolyard and on the streets of our neighborhoods and communities.

Primary responsibility lies with families. As a country, we are not parenting our children. We are not adequately involving ourselves in our children’s lives, the friends they hang out with, what they do with their time, the problems they are struggling with. This is our job, our paramount responsibility, and most unfortunately, we are failing. We must get our priorities straight, and that means putting our kids first.

However, parents need help. They need help because our homes and our families—our children’s minds, are being flooded by a tide of violence. This dehumanizing violence pervades our society: our movies depict graphic violence; our children are taught to kill and maim by interactive video games; the Internet, which holds such tremendous potential in so many ways, is tragically used by some to communicate unimaginable hatred, images and descriptions of violence, and “how-to” manuals on everything from bomb construction to drugs. Our culture is dominated by media, and our children, more-so than any generation before them, is vulnerable to the images of violence and hate that, unfortunately, are dominant themes in so much of what they see, and hear.

Thus, today I rise to introduce, calling upon the Surgeon General to conduct a comprehensive study of media violence, in all its forms, and to issue a report on its effects, and recommendations on how we can turn this tragic tide of youth violence.

As I have said, this is a complex challenge. Certainly, working with the media industry, we can come to some consensus on immediate measures that can be taken to curb our children’s access to the types of excessive and gratuitous violence that is currently flooding our homes and families. However, the crisis we are currently facing did not occur overnight, and we must

take time to achieve a comprehensive understanding of how media violence affects childhood development, and what children are most at risk to its impact.

Again, I urge all Americans to get involved in their kids’ lives. Ask questions, listen to their fears and concerns, their hopes and their dreams. Children are not simply small adults.

Childhood is a time of innocence, a time to teach discipline and values. Our children are our most precious gift, they are full of innocence and hope. We must work together to preserve the sanctity of childhood.

## ADDITIONAL COSPONSORS

S. 51

At the request of Mr. BIDEN, the names of the Senator from North Carolina (Mr. EDWARDS) and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 51, a bill to reauthorize the Federal programs to prevent violence against women, and for other purposes.

S. 58

At the request of Ms. COLLINS, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 58, a bill to amend the Communications Act of 1934 to improve protections against telephone service “slamming” and provide protections against telephone billing “cramming”, to provide the Federal Trade Commission jurisdiction over unfair and deceptive trade practices of telecommunications carriers, and for other purposes.

S. 218

At the request of Mr. MOYNIHAN, the name of the Senator from Illinois (Mr. FITZGERALD) 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. 344

At the request of Mr. BOND, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 344, a bill to amend the Internal Revenue Code of 1986 to provide a safe harbor for determining that certain individuals are not employees.

S. 443

At the request of Mr. LAUTENBERG, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 443, a bill to regulate the sale of firearms at gun shows.

S. 459

At the request of Mr. BREAUX, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 459, a bill to amend the Internal Revenue Code of 1986 to increase the State ceiling on private activity bonds.

S. 487

At the request of Mr. GRAMS, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of

S. 487, a bill to amend the Internal Revenue Code of 1986 to provide additional retirement savings opportunities for small employers, including self-employed individuals.

S. 514

At the request of Mr. COCHRAN, the names of the Senator from Georgia (Mr. CLELAND), the Senator from Nebraska (Mr. HAGEL), and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 514, a bill to improve the National Writing Project.

S. 517

At the request of Mr. GRAHAM, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 517, a bill to assure access under group health plans and health insurance coverage to covered emergency medical services.

S. 564

At the request of Mrs. MURRAY, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Iowa (Mr. HARKIN), the Senator from New Jersey (Mr. TORRICELLI), the Senator from Massachusetts (Mr. KERRY), the Senator from Michigan (Mr. LEVIN), the Senator from California (Mrs. BOXER), the Senator from Maryland (Ms. MIKULSKI), the Senator from Connecticut (Mr. DODD), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Virginia (Mr. ROBB), the Senator from Maryland (Mr. SARBANES), the Senator from Rhode Island (Mr. REED), the Senator from Hawaii (Mr. AKAKA), the Senator from Minnesota (Mr. WELLSTONE), the Senator from Nebraska (Mr. KERREY), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Nevada (Mr. BRYAN), the Senator from Delaware (Mr. BIDEN), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Montana (Mr. BAUCUS), the Senator from New York (Mr. SCHUMER), and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 564, a bill to reduce class size, and for other purposes.

S. 594

At the request of Mrs. FEINSTEIN, the names of the Senator from New York (Mr. SCHUMER), the Senator from New Jersey (Mr. TORRICELLI), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Maryland (Ms. MIKULSKI), and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 594, a bill to ban the importation of large capacity ammunition feeding devices.

S. 632

At the request of Mr. DEWINE, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 632, a bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers.

S. 636

At the request of Mr. REED, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor

of S. 636, a bill to amend title XXVII of the Public Health Service Act and part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 to establish standards for the health quality improvement of children in managed care plans and other health plans.

S. 638

At the request of Mr. BINGAMAN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 638, a bill to provide for the establishment of a School Security Technology Center and to authorize grants for local school security programs, and for other purposes.

S. 648

At the request of Mr. KERRY, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 648, a bill to provide for the protection of employees providing air safety information.

S. 676

At the request of Mr. CAMPBELL, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 676, a bill to locate and secure the return of Zachary Baumel, a citizen of the United States, and other Israeli soldiers missing in action.

S. 678

At the request of Mrs. FEINSTEIN, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 678, a bill to establish certain safeguards for the protection of purchasers in the sale of motor vehicles that are salvage or have been damaged, to require certain safeguards concerning the handling of salvage and nonrebuildable vehicles, to support the flow of important vehicle information to the National Motor Vehicle Title Information System, and for other purposes.

S. 704

At the request of Mr. DEWINE, his name was added as a cosponsor of S. 704, a bill to amend title 18, United States Code, to combat the overutilization of prison health care services and control rising prisoner health care costs.

S. 708

At the request of Mr. DEWINE, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 708, a bill to improve the administrative efficiency and effectiveness of the Nation's abuse and neglect courts and the quality and availability of training for judges, attorneys, and volunteers working in such courts, and for other purposes consistent with the Adoption and Safe Families Act of 1997.

S. 735

At the request of Mr. TORRICELLI, his name was added as a cosponsor of S. 735, a bill to protect children from firearms violence.

At the request of Mr. WELLSTONE, his name was added as a cosponsor of S. 735, *supra*.

S. 757

At the request of Mr. LUGAR, the names of the Senator from Virginia

(Mr. WARNER) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 757, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions in order to ensure coordination of United States policy with respect to trade, security, and human rights.

S. 764

At the request of Mr. THURMOND, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 764, a bill to amend section 1951 of title 18, United States Code (commonly known as the Hobbs Act), and for other purposes.

S. 839

At the request of Mr. WELLSTONE, his name was added as a cosponsor of S. 839, a bill to restore and improve the farmer owned reserve program.

S. 881

At the request of Mr. BENNETT, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 881, a bill to ensure confidentiality with respect to medical records and health care-related information, and for other purposes.

S. 882

At the request of Mr. MURKOWSKI, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 882, a bill to strengthen provisions in the Energy Policy Act of 1992 and the Federal Nonnuclear Energy Research and Development Act of 1974 with respect to potential Climate Change.

SENATE JOINT RESOLUTION 20

At the request of Mr. MCCAIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of Senate Joint Resolution 20, a joint resolution concerning the deployment of the United States Armed Forces to the Kosovo region in Yugoslavia.

SENATE RESOLUTION 22

At the request of Mr. CAMPBELL, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of Senate Resolution 22, a resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives serving as law enforcement officers.

SENATE RESOLUTION 27

At the request of Mr. DEWINE, his name was added as a cosponsor of Senate Resolution 27, a resolution expressing the sense of the Senate regarding the human rights situation in the People's Republic of China.

SENATE RESOLUTION 29

At the request of Mr. ROBB, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of Senate Resolution 29, a resolution to designate the week of May 2, 1999, as "National Correctional Officers and Employees Week."

SENATE RESOLUTION 72

At the request of Mr. TORRICELLI, the names of the Senator from Rhode Island (Mr. REED), the Senator from



Michigan (Mr. LEVIN), the Senator from Wyoming (Mr. ENZI), the Senator from Maine (Ms. COLLINS), the Senator from Ohio (Mr. VOINOVICH), the Senator from Kansas (Mr. ROBERTS), the Senator from Texas (Mr. GRAMM), and the Senator from Colorado (Mr. ALLARD) were added as cosponsors of Senate Resolution 72, a resolution designating the month of May in 1999 and 2000 as "National ALS Awareness Month."

**SENATE RESOLUTION 90—DESIGNATING THE 30TH DAY OF APRIL 2000 AS "DÍA DE LOS NIÑOS: CELEBRATING YOUNG AMERICANS"**

Mr. HATCH (for himself, Mr. BINGAMAN, Mr. MCCAIN, Mr. REID, Mr. DOMENICI, Mr. LAUTENBERG, Mr. ABRAHAM, Mrs. FEINSTEIN, Mr. BOND, Mrs. MURRAY, and Mrs. HUTCHISON) submitted the following resolutions; which was referred to the Committee on the Judiciary:

**S. RES. 90**

Whereas many of the nations throughout the world, and especially within the Western hemisphere, celebrate "Día de los Niños" on the 30th of April, in recognition and celebration of their country's future—their children;

Whereas children represent the hopes and dreams of the citizens of the United States;

Whereas children are the center of American families;

Whereas children should be nurtured and invested in to preserve and enhance economic prosperity, democracy, and the American spirit;

Whereas Latinos in the United States, the youngest and fastest growing ethnic community in the nation, continue the tradition of honoring their children on this day, and wish to share this custom with the rest of the nation;

Whereas one in four Americans is projected to be of Hispanic descent by the year 2050, and there are now 10.5 million Latino children;

Whereas traditional Latino family life centers largely on its children;

Whereas the primary teachers of family values, morality, and culture are parents and family members, and we rely on children to pass on these family values, morals, and culture to future generations;

Whereas more than 500,000 children drop out of school each year and hispanic dropout rates are unacceptably high;

Whereas the importance of literacy and education are more often communicated to children through family members;

Whereas families should be encouraged to engage in family and community activities that include extended and elderly family members and encourage children to explore, develop confidence, and pursue their dreams;

Whereas the designation of a day to honor the children of the Nation will help affirm for the people of the United States the significance of family, education, and community;

Whereas the designation of a day of special recognition of children of the United States will provide an opportunity to children to reflect on their future, to articulate their dreams and aspirations, and find comfort and security in the support of their family members and communities;

Whereas the National Latino Children's Institute, serving as a voice for children, has worked with cities throughout the country

to declare April 30 as "Día de los Niños: Celebrating Young Americans"—a day to bring together Latinos and other communities nationwide to celebrate and uplift children;

Whereas the children of a nation are the responsibility of all its citizens, and citizens should be encouraged to celebrate the gifts of children to society—their curiosity, laughter, faith, energy, spirit, hopes, and dreams: Now, therefore, be it

*Resolved*, That the Senate designates the 30th of April of 2000, as "Día de los Niños: Celebrating Young Americans" and requests that the President issue a proclamation calling on the people of the United States to join with all children, families, organizations, communities, churches, cities, and states across the nation to observe the day with appropriate ceremonies, beginning April 30, 2000, that include:

(1) Activities that center around children, and are free or minimal in cost so as to encourage and facilitate the participation of all our citizens;

(2) Activities that are positive, uplifting, and that help children express their hopes and dreams;

(3) Activities that provide opportunities for children of all backgrounds to learn about one another's cultures and share ideas;

(4) Activities that include all members of the family, and especially extended and elderly family members, so as to promote greater communication among the generations within a family, enabling children to appreciate and benefit from the experiences and wisdom of their elderly family members;

(5) Activities that provide opportunities for families within a community to get acquainted; and

(6) Activities that provide children with the support they need to develop skills and confidence, and find the inner strength—the will and fire of the human spirit—to make their dreams come true.

Mr. HATCH. Mr. President, I am very pleased to announce my submission of a Senate resolution, together with other members of the U.S. Senate Republican Conference Task Force on Hispanic Affairs and the Senate Democrat Working Group on Hispanic Issues, to designate April 30, 2000, as Día de los Niños: Celebrating Young Americans.

Last Congress, the resolution to designate April 30, 1999, as a day to celebrate young Americans passed with overwhelming bipartisan support. As a result, cities and towns throughout the country will host community events to celebrate the nation's children throughout this week.

In fact, in my home state of Utah a very special celebration is planned. Tomorrow, in Salt Lake City, on Día de los Niños: Día de Los Libros [Day of the Children: Day of Books], we will dedicate the first Americas Award Reference and Resource Library to be established at the Centro de la Familia Center. This unique library will house over 1,500 books and will form the central part of a literacy program aimed at encouraging children and young adults to explore the written world by reading books that authentically and engagingly present the experience of individuals in Latin America, the Caribbean, and Latinos in the United States. These wonderful stories will help children learn to read, to expand their universe and dreams, to develop a better understanding of the history of

the Americas, and to enhance their own self-esteem.

Our children are our greatest promise for the preservation and betterment of this country's healthy and competitive global edge. As leaders and purveyors of hope for a better America, we must continue to nurture their development and potential through innovative programs and discussions that encourage and challenge them to become the prime movers and guardians of investments made thus far.

Children's days are celebrated in many other nations, including Japan and Korea on May 5, Canada on November 20, Turkey on April 23, and Mexico on April 30. Local coalitions have formed in 17 states to realize Día de los Niños: Celebrating Young Americans as a special day for all children throughout this country.

I think it is imperative, especially now given the recent tragedy of Columbine, Colorado, that we celebrate, honor, and encourage our youth, in much the same way we honor parents during Mother's Day or Father's Day. Our purpose is strictly to uplift children.

There are no easy solutions for the challenges that face our modern day society. But I do know that we need to make and take the time to listen, to support, to observe, and to accept responsibility as parents for raising children prepared to meet the challenge of living in a complex multicultural society—a society that bestows freedom on its citizens predicated on the acceptance of basic moral values. I believe that calling upon the nation to set aside a day for that purpose can be an important step in building awareness among adults that our children need parental love, care, and guidance. They need positive role models—coaches, teachers, employers—as well as from the entertainment industry and professional sports. They need to know there is satisfaction in doing their best, honor in doing the right things, and consequences for doing the wrong thing.

A day to reflect on what we are teaching our children and the cultural legacy we are leaving them could very well be a turning point for our country. It is my hope that when the sun goes down tomorrow evening we will have rededicated ourselves to this most important purpose of all—to nurture our children.

**AMENDMENTS SUBMITTED**

**Y2K ACT**

**DODD (AND OTHERS) AMENDMENT NO. 298**

(Ordered to lie on the table.)

Mr. DODD (for himself, Mr. MCCAIN, Mr. WYDEN, Mr. HATCH, Mrs. FEINSTEIN, Mr. BENNETT, and Mr. LIEBERMAN) submitted an amendment intended to be

proposed by him to the bill (S. 96) to regulate commerce between and among the several States by providing for the orderly resolution of disputes arising out of computer-based problem related to processing data that includes a 2-digit expression of that year's date; as follows:

At the appropriate place insert the following:

In section 5, strike subsection (b) and insert the following:

(b) CAPS ON PUNITIVE DAMAGES.—

(1) IN GENERAL.—Subject to the evidentiary standard established by subsection (a), punitive damages permitted under applicable law against a defendant described in paragraph (2) in a Y2K action may not exceed the lesser of—

(A) 3 times the amount awarded for compensatory damages; or

(B) \$250,000.

(2) DEFENDANT DESCRIBED.—A defendant described in this paragraph is a defendant—

(A) who—

(i) is sued in his or her capacity as a individual; and

(ii) whose net worth does not exceed \$500,000; or

(B) that is an unincorporated business, a partnership, corporation, association, or organization with fewer than 50 full-time employees.

(3) NO CAP IF INJURY SPECIFICALLY INTENDED.—Paragraph (1) does not apply if the plaintiff establishes by clear and convincing evidence that the defendant acted with specific intent to injure the plaintiff.

In section 13—

(1) in subsection (a), strike “by clear and convincing evidence” and inserting “by the standard of evidence under applicable State law in effect before January 1, 1999”;

(2) in subsection (b)(1), strike “by clear and convincing evidence” and inserting “by the standard of evidence under applicable State law in effect before January 1, 1999”; and

(3) at the end add the following:

(d) PROTECTIONS OF THE YEAR 2000 INFORMATION AND READINESS DISCLOSURE ACT APPLY.—The protections for the exchange of information provided by section 4 of the Year 2000 Information and Readiness Disclosure Act (Public Law 105-271) shall apply to this Act.

Strike section 14.

#### DOMENICI AMENDMENT NO. 299

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill, S. 96, *supra*; as follows:

At the end of amendment 273 insert the following:

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ . WAIVER OF SOVEREIGN IMMUNITY FOR A Y2K ACTION.

(a) IN GENERAL.—Consent is given to join the United States as a necessary party defendant in a Y2K action.

(b) JURISDICTION AND REVIEW.—The United States, when a party to any Y2K action—

(1) shall be deemed to have waived any right to plead that it is not amenable thereto by reason of its sovereignty;

(2) shall be subject to judgments, orders, and decrees of the court having jurisdiction; and

(3) may obtain review thereof, in the same manner and to the same extent as a private individual under like circumstances.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON FINANCE

Mr. GRAMS. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Thursday, April 29, 1999, beginning at 10 a.m. in room 215 Dirksen.

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

##### COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GRAMS. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be permitted to meet on Thursday, April 29, 1999, at 10 a.m. for a hearing on the nominations of Myrta “Chris” Sale to be Controller of the Office of Federal Financial Management at the Office of Management and Budget and John Spotila to be Administrator of the Office of Information and Regulatory Affairs at the Office of Management and Budget.

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

##### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. GRAMS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on “ESEA Reauthorization” during the session of the Senate on Thursday, April 29, 1999, at 10 a.m.

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

##### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. GRAMS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate on Thursday, April 29, 1999, at 4 p.m.

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

##### COMMITTEE ON THE JUDICIARY

Mr. GRAMS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold an Executive Business Meeting during the session of the Senate on Thursday, April 29, 1999, at 10 a.m. in room 226 of the Senate Dirksen Office Building.

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

##### SELECT COMMITTEE ON INTELLIGENCE

Mr. GRAMS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, April 29, 1999, at 10 a.m. to hold a closed hearing on intelligence matters.

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

##### SPECIAL COMMITTEE ON THE YEAR 2000 TECHNOLOGY PROBLEM

Mr. GRAMS. Mr. President, I ask unanimous consent that the Special Committee on the Year 2000 Technology Problem be permitted to meet on April 29, 1999, at 9:30 a.m. for the purpose of conducting a hearing.

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

##### SUBCOMMITTEE ON HOUSING AND TRANSPORTATION

Mr. GRAMS. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, April 29, 1999, to conduct a hearing on “Oversight of HUD’s Grants Management System.”

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

##### SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY

Mr. GRAMS. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Export and Trade Promotion of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 29, 1999, at 10 a.m. to hold a hearing.

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

##### SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. GRAMS. Mr. President, I ask unanimous consent that the Subcommittee on National Parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, April 29, for purposes of conducting a joint hearing with the Subcommittee on Interior Appropriations of the Appropriations Committee which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to review the report of the General Accounting Office on the Everglades National Park Restoration Project.

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

##### SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. GRAMS. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, April 29, 1999, at 10 a.m. on NASA FY/2000 Budget.

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

##### SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. GRAMS. Mr. President, I ask unanimous consent that the Subcommittee on Transportation and Infrastructure be granted permission to conduct a hearing Thursday, April 29, 9:30 a.m., hearing room (SD-406), on project delivery and streamlining of the Transportation Equity Act for the 21st Century.

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

## ADDITIONAL STATEMENTS

## TRIBUTE TO PATRICIA J. KOLL

• Mr. KOHL. Mr. President, I rise today to pay tribute to one of Wisconsin's premier educators, Dr. Patricia J. Koll is retiring this May after a distinguished 31-year career with the University of Wisconsin-Oshkosh.

Born and raised in Wisconsin, Patricia has excelled in the field of education. Working as a professor of education and assistant vice chancellor, she has authored numerous books and received many accolades for her work. She was honored in both 1991 and 1992 with the Wisconsin Teacher Educator of the Year Award. She has also been a recipient of the University of Wisconsin-Oshkosh John McN Rosebush award, the university's highest award for scholarly excellence.

Patricia has been an instrumental part of education development in the state. She has served as president of both the Wisconsin Association for Supervision and Curriculum Development and the Northern Wisconsin chapter of the American Society for Training and Development. In addition, she has worked with many school districts providing invaluable leadership experience and expertise.

Patricia's dedication and talent have been enormous assets to the University of Wisconsin-Oshkosh and the Oshkosh community. Her talents will be sorely missed by her colleagues. However, we wish Patricia all the best for her retirement.●

## RECOGNIZING LIBERTY ELEMENTARY SCHOOL IN MARYSVILLE, WA.

• Mr. GORTON. Mr. President, this week's Innovation in Education Award recipient is a remarkable school, Liberty Elementary, in Marysville, Washington. With help from school staff and led by Principal Paula Jones, Liberty Elementary's students have made outstanding advances in their reading performance.

Historically, this school has not shown great success in student standardized test results. To improve those results, the school's staff researched proven "best practices" for improving student reading. The staff eventually selected a program called "Success For All" that focuses on early intervention and personal attention to promote literacy.

Liberty Elementary's parents and staff recognized that in order for this program to succeed, they needed to be closely involved. So the parents and staff established "Family Fun Night" each month to educate families on the importance of reading, the benefits of education reform, and how to feel more comfortable as active partners in their children's education. Liberty's staff attends these family activities without extra compensation. The staff has also teamed up with local businesses to help

acknowledge outstanding participation and achievement by students and parents.

Two years ago, Liberty teachers, parents, and students decided to refocus their efforts on reading. Now 80% of the students are reading at current grade level and above—a tremendous increase of 58%. Students at Liberty are now proud and successful readers thanks to the hard work of the Liberty staff and the support from their devoted parents and community.

What is noteworthy about Liberty is that the students became better readers because the community became more involved with its children. This Innovation in Education award is another example of how local communities really do know best. Local educators and parents work with our children every day and know what needs improvement. They deserve our support and should have more decision-making authority over how federal education dollars are to be spent. Educators from Washington state and from across the country need and deserve more flexibility and more control over their classrooms. Liberty Elementary and schools like it are the reasons why I will fight to return that power to our local schools where it belongs.●

## MAY 1—GUILLAIN-BARRÉ SYNDROME AWARENESS DAY

• Mr. KENNEDY. Mr. President, communities across America will observe Guillain-Barré Syndrome Awareness Day this Saturday, May 1. Guillain-Barré Syndrome, or GBS, is a paralyzing disorder that can strike any person, regardless of age, gender, or background. Victims often face months of hospital care and long-term disabilities can result.

For many years the GBS Foundation International has been renowned for its worldwide leadership in the battle against GBS, and I welcome this opportunity to commend the Foundation for all it has done. The Foundation, established in 1980, provides an effective support network for patients and their families. It also provides educational materials, funds medical research, and conducts symposia.

GBS Awareness Day is an important part of educating the public about this potentially catastrophic disease. In Massachusetts, for example, the chapter of the Foundation in Boston is coordinating an event for the entire New England area that will include a fundraising walk around the New England Rehabilitation Hospital in Woburn, followed by a video presentation and seminars on the medical and psychological aspects of the disease.

One of the most disturbing developments in the battle against GBS is the recent scientific research linking this disease to infection by a common food-borne pathogen known as *Campylobacter*, which is the most common bacterial cause of food-borne illness in the United States. These bac-

teria frequently contaminate raw chicken.

Unfortunately, *Campylobacter* is also one of a growing number of bacteria that are developing resistance to the antibiotic drugs commonly used to treat the diseases they cause, and these drug-resistant bacteria are now a major public health threat.

The health and safety of the American people is one of our top priorities in Congress. Microbial contamination of food is an increasing problem. The association of GBS with *Campylobacter* infection demonstrates that food-borne illness is a serious national challenge. We need to take more effective action against these threats to families and communities. An important priority of this Congress is to act on legislation that will enhance the nation's ability to deal with contaminated food and antimicrobial-resistant organisms.

We in Congress also need to do more to support research into all aspects of the prevention, treatment, and cure of GBS. I welcome GBS Awareness Day this year as an opportunity for all of us in Congress and across the country to become more actively involved in meeting this important public health challenge.●

## 25TH ANNIVERSARY OF ASSOCIATION OF MAPPING SENIORS

• Ms. MIKULSKI. Mr. President, I rise today to congratulate the Association of Mapping Seniors (AMS) on the 25th Anniversary of their founding.

The AMS is a distinguished organization of former employees at mapping and imagery agencies like the National Imagery and Mapping Agency (NIMA). Their important work has been invaluable to both our national policy makers, and our national security.

Mr. President, the data produced by these dedicated Americans has been key to understanding our world and making it safer. Mapping and imagery not only help us support our men and women in uniform, but also help us develop our cultural understanding of ourselves in terms of population, growth, religious and economic clusters, and more. I want to commend each and every member of the AMS for their indispensable service to our country, our community, and our culture.

I am also proud to note that Maryland has been home to many devoted members of this important organization. As many of my colleagues know, I am a strong and unyielding supporter of federal employees, and these men and women are no exception. I want to thank them, Mr. President, for their outstanding service to our country, and to honor them in celebration of the 25th Anniversary of the Association of Mapping Seniors.●

## RECOGNITION OF FAMILIES FOR HOME EDUCATION

• Mr. BOND. Mr. President, I rise today in recognition of Families for

Home Education (FHE) in observance of Home Education Week, May 2-8, in my home State of Missouri. I join with the Missouri General Assembly in recognizing their commitment not only to excellence in education, but also to the promotion of public policy that strengthens the family.

Home educators make tremendous sacrifices to educate our nation's young people and they are making a difference. Countless studies show that parental involvement positively impacts the education of a child. Home-schooled children, in particular, benefit greatly from the individualized, one-on-one training they receive from dedicated parents and home educators. They are also afforded unique opportunities to participate in apprenticeships, and community and civic organizations. These activities serve to strengthen social skills and enrich their overall educational experience.

In today's challenging society, it is more important than ever that our young people receive a quality education if they are to succeed in the expanding global market. Home educators play a vital part in preparing children, tomorrow's workforce, to successfully compete and prosper in the adult world. I commend these dedicated parents and FHE, and wish them continued success in their endeavors.●

#### TRIBUTE TO MARIANNE BOND WEBSTER

● Mr. CLELAND. Mr. President, I rise today to pay tribute to and honor the many accomplishments of Marianne Bond Webster, of Dunwoody, Georgia. By the age of 43, Marianne was a success by most yardsticks: happily married and the mother of two, tennis champion, gourmet cook, and a popular caterer. However, several events in Marianne's life sparked a midlife change which would cause her to re-examine her life and become more involved in our nation's political system. This realization spurred her to a more active role in WAND—the Women's Action for New Directions.

WAND is a national grassroots peace group emphasizing the role of women—activists, legislators and community leaders—on issues related to the federal budget, the military, violence, and nuclear disarmament and nonproliferation. A nonprofit organization founded in the early 1980s, WAND has grown into a national organization headquartered in Boston, MA, with an advocacy office in Washington, DC, and a field office in Atlanta, GA, with chapters and organizational partners across the country. WAND's educational arm, WAND Education Fund, was started in 1982.

WAND's mission is to empower women to act politically to reduce violence and militarism and redirect excessive military resources to human and environmental needs.

In 1990, WiLL—the Women Legislators' Lobby, a program of WAND—was

formed. WiLL is a powerful and unique membership network of progressive women state legislators. It is the only national bipartisan network of women state legislators from all 50 states working to influence federal policies and budget priorities. One out of three women state legislators is a member.

During the 1990s, it seemed Marianne Bond Webster was everywhere, doing everything for WAND and WiLL: lobby days, media workshops, a session on nuclear waste for junior high school students, a tour of the Savannah River Site, campaigning for Congresswoman CYNTHIA MCKINNEY, arranging benefit concerts with the Indigo Girls, and leading WAND both locally and nationally.

By 1998 Marianne had made two major decisions: to serve as WAND's National president, and to run for an open seat in the Georgia legislature. Caring, smart, honest, brave, and decent, I know she would have made a tremendous difference.

But, tragically, on April 17, 1998 she jumped on her bicycle to deliver her campaign leaflets. The bag holding her literature caught in the spokes, and she flew over the handlebars, breaking her neck when she landed. Marianne never regained consciousness. She died on June 11, 1998.

Family, friends, and WAND members maintained a constant vigil by Marianne's hospital bed and joined hands with those who could not through daily e-mail updates. She touched so many with her special magic. Her spirit lives on in all of us. And her work continues through Marianne's Fund.

Her family and friends developed the idea for a fund shortly after Marianne's death. And in 1999 WAND Education Fund established Marianne's Fund with the Atlanta Women's Foundation. WiLL and the other WAND programs, which had become so central in Marianne's life, will be beneficiaries of the Fund.

Marianne believed wholeheartedly that all women, if offered support and training, would contribute significantly to the political process. She recruited women state legislators to WiLL enthusiastically, and connected WAND activists with WiLL members nationally, to forge powerful alliances. With courage and intelligence, she took on WAND's complex issues, becoming an expert on the subject of nuclear waste. Marianne toured nuclear weapons facilities and test sites. She wrote passionately about the legacy of nuclear weapons, alerting her audience to the dangers and costs of continued nuclear weapons production.

Related programs of peace, justice, and protection of the environment identified by the Webster/Bond family will also be beneficiaries of Marianne's Fund. Marianne worked to increase the women's vote, strongly supported affirmative action for women in business and the professions, donated gener-

ously to battered women and children's causes, and contributed much to other grassroots organizations.

Mr. President, I ask that you and my colleagues join me in recognizing and honoring the life of Marianne Bond Webster. Marianne was a wonderful and amazing person who positively touched the lives, and bettered the lives, of many Georgians and many Americans. Although her life was unfortunately too short, her memory and her work on behalf of our country and our political system will last forever.●

#### TRIBUTE TO HIS HIGHNESS SHAIKH ESSA BIN SALMAN AL-KHALIFA

● Mr. ABRAHAM. Mr. President, I rise today to pay tribute to His Highness Shaikh Essa Bin Salman Al-Khalifa, the late Amir of the State of Bahrain. The people of Bahrain recently commemorated the 40th day of mourning for their great leader who passed away on the 6th of March. Shaikh Essa was known for his kindness and compassion and will be dearly missed by both the people of Bahrain and his friends around the world.

Shaikh Essa was a visionary leader who helped transform the Bahraini economy from an oil-based economy to an economy of trade, investment, banking, and service. These improvements led to Bahrain achieving one of the highest standards of living among the Arab countries.

Under Shaikh Essa, Bahrain strengthened its relationship with the West. In 1903, Mason Memorial, the first American hospital in the region, was established. It has since become a landmark. In 1932, when Bahrain became the first country in the southern Gulf region to discover oil, American expertise backed the exploration. This year Bahrain is celebrating the 50th Anniversary of the strong friendship it has with the United States and our Navy. The Bahraini Ambassador to the United States, His Excellency Mohammad Abdul Ghaffar Abdulla, continues to do a wonderful job in keeping this strong friendship alive.

My condolences go out to the people of Bahrain and Shaikh Essa's family. I wish to extend my warmest regards to His Highness Shaikh Hamad Bin Essa Al-Khalifa, who has succeeded his father as the new Amir of Bahrain. I am certain he will follow his father's path and continue to keep allied relations between Bahrain and the United States.

Mr. President, I ask that the Amir's tribute to his father be printed in the RECORD.

The tribute follows.

SPEECH OF HIS HIGHNESS SHAIKH HAMAD BIN ESSA AL-KHALIFA, AMIR OF THE STATE OF BAHRAIN

In The Name of God, Most Gracious, Most Merciful

Our Dear People, Peace, And God Blessings Be Upon You

God most high said "among the believers are men who have been true to their covenant with God, of them some have completed their vow, and some still wait, but they have never changed their determination in the least." Trust said God almighty.

At this historical circumstances, we share with you the great tragic of the sad demise and great loss of our father, the leader.

At the same time we are all united with prospect of confidence to shoulder the responsibility of continuing the pursuance of the path and the course he laid down through his sagacity, devotion and tolerance.

In line with this, we need to meet the demands and changes of the future, in a world rife with volatility, by means of Bahrain's potentialities comprising the ability to develop and revitalize since the start of process of modern progress and development.

For that, Bahrain has been leading the drive among brotherly states and closely working with them in this vital region, of the Arab nation and the whole world.

The Respected Citizens, with the loss of our father, late Shaikh Essa Bin Salman Al-Khalifa, we have lost an Amir who was a caring beloved leader, a close friend to every individual of his people and a great man whom the whole world loved and respected.

His human legacy shall remain the guide of this nation and over next generations, reflecting the true image of Bahrain in devotion, tolerance and civilization.

Prevailed by this great tragic loss, and satisfied by the creed of God almighty, we pray that his mercy and blessing bestow our beloved who granted his country, people and nation all the goodness of action which shall remain the guide we follow in the nation and which will be preserved as a path we pursue enabling us to shoulder and assume the tremendous responsibility, we all are charged with for the sake of the pride, prosperity of Bahrain and for the future of the generations.

The great late beloved left for us a well-developed, flourished and secured nation and he turned Bahrain into an oasis of civilization, prosperity and a landmark of knowledge and progress in an Arabian Gulf and the pan Arab nation.

We ought to carry the standard, should the responsibility and continue the drive to serve this nation which is characterized by good nature and manner of the people, and by the competence and the civilized standard of the sons of this country.

Our dear people, Our great late man shall be recorded by history for his leading role, high status and great decency.

From this rich testimony, having great respect for the great late father, and at this adieu position with a forward look towards future, we recall that Essa Bin Salman was for us and his people in Bahrain, the man of national independence, of the constitution and consultation and the man who accomplished the state of institutions, law and order.

He was the man of development, pan-progress and national economy.

He was the man of Gulf unity and Arab solidarity in most difficult situations and circumstances.

He was the man of peace and international cooperation and genuine friendship among the peoples of the world.

All these guiding features shall remain before us while we pursue national path, our Gulf unity and our Arab solidarity and in all domains of our regional approach with the neighbors and our global cooperation.

We shall remain the solid course at various levels, with all of you in the drive of the national work, with the brothers in the Gulf and the Arab world and with every sincere friend of Bahrain, in this region and in the whole world.

With the blessings of God almighty, we shall adhere to the track forged by the great late, we shall share love, brace and cooperation with all who seek goodness for Bahrain, inside and outside, and we shall protect and safeguard Bahrain against any harm through the determination and sacrifices.

As we pay tribute to the great late man and accolade his achievements, we ought to applaud with gratitude and for the sake of truth and history, the leading role of his brother and his right hand our uncle His Highness Shaikh Khalifa Bin Salman Al-Khalifa, the Prime Minister, who and since the beginning till the last minute, spared no effort in serving the nation, developing the country, leading the government through his deep vision, sagacity and hard work resulting in the fruits of wisdom, experience and well organized systems.

He was and shall remain a source of richness and a source of vision and inspiration to face the tasks of national work and future challenges.

Every thanks and appreciation are extended to His Highness for the honorable and leading stances he played for the sake of this nation and at all stages of development. We have the confidence that through gifted traits of deep perception and solid resolve, His Highness will continue the path of devotion we expect from him and from the generation of the fathers who accompanied him in quest for development and progress.

On other respect, witnessing this historical turning point, we call on and urge the young generation of Bahrain to shoulder their responsibilities and prepare for their tasks, starting from our Crown Prince His Highness Shaikh Salman Bin Hamad Al-Khalifa, whom we wish every success in discharging his new constitutional mission.

We take this opportunity to express our appreciation for the unanimity and the support we gained from the members of the ruling family, led by our uncle His Highness Shaikh Khalifa Bin Salman Al-Khalifa and our uncle His Highness Shaikh Mohammed Bin Salman Al-Khalifa who commended his appointing as the Crown Prince in accordance with the constitution.

Our dear people, It would be necessary to express to all of you every gratitude over the cohesion and sincere loyalty you have demonstrated at this historical situation, representing your sustained allegiance which reflects true unity between the people and their leadership in this cherished country.

I would like to say it clearly that as a son of Essa and as an adherent to the duty, I shall raise the standard of his path which does not differentiate between the people of the single nation, regardless of their beliefs and origin, and which only consider the honesty of national association, and which consider the true citizenship which seeks every goodness for Bahrain and her people.

On the Gulf, Arab and Islamic domains, we are pleased to express, on your behalf, the deep appreciation for the sentiments of heartfelt condolences and over the stances of sincere support we received from all brothers, leaders and people in the Gulf and Arab states, affirming the reality of unity which binds us all and to whom our late great leader was one of its prominent figures.

We are also in the position to convey appreciation and thanks to the Islamic countries which embraced us with truly sincere feelings, and to all friendly states of the world with whom we share the keenness for a stable, secure and prosperous international community.

To conclude, witnessing this historical point, and as we consider our assessment of all the institutions, the Consultative Council and various bodies of Bahrain national community for their constructive contribution,

we have the pleasure to extend a message of applaud to those who safeguarded the soil of this nation and protected the achievements, and to express, on your behalf, every encouragement and support to the personnel of Bahrain Defense Force, who are shouldering the tremendous responsibilities in protecting the country, safeguarding its territories and securing the security and tranquility of citizens and residents.

This is achieved by means of joining forces with exerted efforts of security forces, police and the national guard.

At this moment, we recall the saying of our great late leader who addressed the personnel of Bahrain Defense Force and said "our solid belief of Bahrain Defense Force is an integral part of the forces of Gulf Cooperation Council providing with further confidence and determination to achieve the security and stability of our region. You have presented a true example in accomplishing the mission of honor and duty."

Such belief will remain our solid conviction at all times and circumstances.

Our dear people, We pledge to remain with you at every step and stage of our national work, for we are strong through the support of God almighty and your backing.

Cohesion and unity will continue to exist between us for the sake of Bahrain image and pride and for the sake of her prosperity.

We shall present before you our views and perspective on the future of the national action, and it would be our concern to perceive your expectations and aspirations for the goodness of Bahrain based on the formula of cohesion between the leadership and the citizen.

We are greatly confident that our Bahraini civilized society is blessed with many potentials of real progress upon which we can build in the path of political, administrative and economic development.

Such path we highly believe in and consider it as a source of richness for our traditions of consultation, and as a pattern for governmental development and for accomplishing the comprehensive progress and diversifying of the national economy in the interest of the people of this nation and every piece of this soil.

Finally, we have but to pray for God almighty to bestow our great loss and our leader with the mercy and rest him unto the heaven.

We are consoled by the fact that we shall remain adherent to his spirit and keep his path, to protect the soil of this nation, by every means of determination, dedication and resolve.

And say work righteousness, soon will God observe your work and his Apostle and the believers. Peace and God's blessings be upon you.●

#### HONORS FOR STAN AND IRIS OVSHINSKY

● Mr. LEVIN. Mr. President, this weekend, two very special people, Stan and Iris Ovshinsky, will be honored by the Workmen's Circle/Arbeter Ring, a non-profit organization dedicated to preserving Jewish heritage and Yiddish culture, and to pursuing social and economic justice.

The organization's selection of Stan and Iris is most fitting. Their work on behalf of social causes and their love of Yiddish culture has been a constant part of their lives. But what makes Stan and Iris so special is that theirs is also a great love story. Stan and Iris met, fell very much in love, married

and dedicated themselves to "Tikkun Olam," the Jewish belief in the responsibility to "repair the world" and leave it a better place for future generations. Their steadfast commitment to Tikkun Olam is nowhere more evident than in their work together at Energy Conversion Devices (ECD), the materials technology company they founded in Troy, Michigan in 1960 when they joined their lives together.

Stan, a self-taught inventor/scientist who never attended college, began working in the field of amorphous and disordered materials in 1955, when the scientific community regarded them as of little scientific interest. Iris, who has a PhD in biochemistry, joined him in his work after they met. Stan and Iris proved that these materials were of great value scientifically and technologically. Stan's initial paper describing their properties has become one of the five most cited publications in the history of the prestigious Physical Review Letters. That and subsequent papers, some co-authored with Iris, led to a new field of scientific study.

From the beginning, Stan and Iris understood the significance of their discoveries. They saw a future in which new engineered materials could be used to improve people's lives, solve societal problems and build new industries. They committed themselves and ECD to that vision and never wavered from it. Always on the cutting edge, often ahead of their time, they have stayed the course. Today, ECD holds over 350 active U.S. patents and over 800 corresponding foreign patents. Amorphous semiconductors and other engineered amorphous and disordered materials are now widely used in an array of products, many of which have been developed and commercialized at ECD.

Three technologies exemplify the Ovshinskys' ingenuity and commitment to their vision:

**Amorphous Silicon Photovoltaics (PV):** The Ovshinskys were determined to develop a practical and affordable method of generating electric power from the sun, and pioneered the use of amorphous silicon materials to reduce materials costs and energy used in a highly innovative roll-to-roll solar cell production process. Award winning products using their technologies are already in the marketplace.

**Ovonuc Nickel Metal Hydride Batteries:** The "Ovonuc" battery is a high performing, nontoxic rechargeable nickel metal hydride (NiMH) battery. NiMH batteries are replacing nickel cadmium batteries used in portable electronic devices. Determined to develop products of benefit to society, the Ovshinskys led their company into developing the battery for advanced vehicle technologies to ease growing concerns over air pollution. NiMH batteries are the advanced electric vehicle battery of choice of major auto manufacturers.

**Computer Information Storage Materials and Devices:** The phase change erasable semiconductor materials de-

veloped by the Ovshinskys have become the standard in rewritable optical discs. Similar materials employing the same physics show the potential for use in electronic devices that can help the United States recapture its former dominant position in semiconductor memories.

The totality of Stan and Iris's achievements is remarkable. They pioneered a new branch of science and then successfully applied this science to develop new technologies and commercial products having significant impacts on the energy and information industries. Because of their efforts to solve major problems through science and technology, the world will be a better place. Now in their 70s, their work and their commitment continue unabated, as does their obvious love for and delight in one another.●

#### WHEN HISTORY ASKS WHO STOOD UP TO EVIL IN KOSOVO, THE ANSWER WILL BE: NATO

● Mr. DODD. Mr. President, sixty years ago, as Europe moved increasingly close to war, a number of philanthropic organizations came to the aid of those desperately trying to escape the Holocaust. Today, many of those same organizations have turned their attention to helping the latest victims of genocide. The American Jewish Committee, for example, has raised over \$800,000 in humanitarian aid for the Kosovar refugees.

As in World War II, these organizations recognize that they cannot stop the genocide without support from the world community. In the case of Kosovo, that means that NATO has had to bring its military might to bear on Slobodan Milosevic. This sentiment was poignantly expressed in a recent statement by the American Jewish Committee, one of the organizations actively worked to alleviate both the European genocide of today and that of a generation ago.

Mr. President, I therefore ask that their statement in support of NATO's ongoing efforts be printed in the RECORD.

The statement follows.

#### STATEMENT BY THE AMERICAN JEWISH COMMITTEE

When history asks who stood up to evil in Kosovo, the answer will be: NATO. The world could see the slaughter coming. Diplomats worked furiously to prevent it—and, for a time, succeeded.

But when Yugoslavia's Slobodan Milosevic, in the name of a nationalism run amok, set his army and police at the throat of the ethnic Albanian citizens of Kosovo defying appeals to end the terror and withdraw, one international force had the resolve to stand up to Belgrade's policy of barbarism.

NATO, the guarantor of European security for half a century, rose to the challenge of defending the Kosovo Albanians. Nineteen countries acted in unison to stop the violence against the Kosovars and seek their safe return under international protection.

In this noble mission, NATO must prevail. What is at stake in Kosovo isn't oil or commerce or trading routes. What is at stake are

basic principles: human rights, human dignity, the credibility of deterrence, collective security. With determination and courage, NATO weighed the difficult choices and chose to act—because it was right, because the alternative would give tyrants a green light to terrorize civilian populations and destroy the fabric of international order. We recognize the sacrifice made by each NATO member to arrest evil in Kosovo. In this dark century, witness to unspeakable acts of inhumanity, we applaud the alliance for taking a principled stand.●

#### TRIBUTE TO CHIEF THOMAS C. O'REILLY

● Mr. LAUTENBERG. Mr. President, throughout my career in the Senate I have made the fight against crime one of my top legislative priorities. Consequently, it gives me great pleasure to recognize the career and accomplishments of one of New Jersey's most distinguished public servants, Chief Thomas C. O'Reilly of the Newark Police Department.

For years, the City of Newark has faced many challenges. But I am proud to say today Newark is now a city on the rise. There are many people to thank and recognize for the rebirth of New Jersey's largest city. Today, I would like to thank Chief Thomas C. O'Reilly in particular. Chief O'Reilly has devoted more than four decades of his life to serving the city of Newark as a police officer. His service to the city began on December 10, 1956, when he joined the Police Department. He started as a patrol officer and rose through the ranks to Detective, Sergeant, Lieutenant, Captain, Inspector, Deputy Chief, Chief-of-Staff and finally Police Chief.

Tonight, April 29, 1999, Chief Thomas C. O'Reilly will be honored by the city of Newark and I am happy to join the many voices who will thank him for his career on the front lines of law enforcement. We are indebted to him for his service. Those who follow him as Police Chief have a splendid model of leadership to follow. Chief Thomas O'Reilly's level of commitment and dedication to the safety of Newark's residents represents our nation's finest traditions of community service.●

#### APPOINTMENT

The PRESIDING OFFICER. The Chair announces on behalf of the majority leader, pursuant to Public Law 105-277, the appointment of Delna Jones of Oregon, Representative of Local Government, as a member of the Advisory Commission on Electronic Commerce, vice James Barksdale.

Mr. LOTT. Mr. President, the Internet is nearly a ubiquitous aspect of American life. It goes without saying "electronic commerce"—e-commerce—has become a central aspect for buying products and services. Only two years ago five million households shopped for some product on the Internet. Last year that number doubled. Now the forecast for this year is that



nearly 15 million households will let their keyboards do the work. This is a threefold increase of shoppers in only two years. One can also look at the dollar volume affected, which is predicted to double to \$31B this year.

Mr. President, city, county and state officials are understandably overwhelmed by this Internet Tsunami—15 million homes spending \$31 billion. I have spent time talking with these public officials. I have listened to their views. They are frightened, and they have legitimate concerns about their sales tax base. However, electronic commerce will not end Main Street as we now know it. I am confident public policy will evolve to deal with the new electronic marketplace in a fair and balanced manner.

Although the Internet is currently accessed by almost 40 million American homes, less than half are using the Internet for commerce purposes. This tells me there are issues that need to be addressed beyond how the sales tax is treated—issues like encryption, privacy and digital signatures—all necessary components for vibrant Internet commerce. I hope Congress will examine and act on these issues during the 106th Congress, while the Advisory Commission on Electronic Commerce works on the tax implications.

The Advisory Commission on Electronic Commerce must complete its report promptly so the information is available to Congress before the moratorium on new Internet taxes ends. Mr. President, the report date does not need to be extended. I am very impressed with Governor Jim Gilmore's leadership of the Commission and his aggressive technology agenda. I commend him for his progress thus far, and I know he will deliver on time a fair and balanced report.

Mr. President, let me back up and say a few words about the Commission. This provision was part of the compromise Representative CHRIS COX worked out with state and local government associations. His efforts precipitated the legislative process and culminated in the bill becoming law. I want to thank Representative COX for proposing and fine tuning the Commission. I consulted with him as Congress worked to get this Commission up and running and appreciate his diligence and insight throughout the process.

Mr. President, today I also want to commend my friend Jimmy Barksdale for graciously volunteering to step down from the Commission. He and I both agree that the issues surrounding the Internet are too important to let individuals and personal agendas get in the way. Jimmy decided to step aside so the Commission can get beyond the disruptive law suit. Let me say a few words about why I selected Jimmy in the first place—I wanted a Mississippian who could bring Southern common sense and wisdom to the evolving public policy for the Internet. Jimmy knows what it takes to create a new marketplace and he understands the

interplay and context for each facet of the telecommunications sector, especially since the Telecommunications Act of 1996 empowered many sectors to compete with each other.

I have selected Ms. Delna Jones to fill the vacancy. Ms. Jones is a public official who brings the Commission into a balance between public and private sector interests. Ms. Jones is a county official from Washington County, Oregon, thus ensuring that each layer of local government is now represented. Ms. Jones is from a non-sales tax state which now means all state configurations for income and sales tax approaches are present. Ms. Jones also worked for a telecommunications company and is no stranger to this aspect of the communication world. Ms. Jones will provide the Commission a voice for the 46% of all Internet users who are female. Ms. Jones has been recognized by the National Federation of Independent Business which tells me she is sensitive to the needs of small business—a key component of our economy. Her background brings a valuable professional richness to the Commission. Senator GORDON SMITH both knows and has served with Ms. Jones in Oregon's state legislature. He believes she has the right mix of professional and personal skills to make a meaningful and significant contribution to the Commission.

Mr. President, I want the record to be clear. The Commission's imbalance was not created by me, and it is unfortunate that those who did not fulfill the law's mandate were paralyzed and unable to offer a real fix. I have stepped up to the problem and changed one of my selections. Evolving Internet public policy is just too important to be held hostage. I want America to have a vibrant electronic communication and commerce medium for the 21st Century.

I also want to challenge the members of the Advisory Commission on Electronic Commerce to focus and produce recommendations that will assist Congress in making the right public policy for the Internet.

Mr. President, today 37 million Americans will click on the Internet for something, perhaps a purchase. They need and deserve the right public policy—a policy this Commission can and will influence. We should not be afraid of this technology shift—the Internet's Tsunami, e-commerce—nor should we ignore the consequences of how America's commerce is or should be structured to ensure the prosperity and vitality of America's 21st Century electronic economy.

The PRESIDING OFFICER. The Senator from Oklahoma.

#### COMMEMORATING MEN AND WOMEN WHO HAVE LOST THEIR LIVES SERVING AS LAW ENFORCEMENT OFFICERS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate

now proceed to immediate consideration of Senate Resolution 22, reported today by the Judiciary Committee.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 22) commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

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

Mr. NICKLES. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 22) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 22

Whereas the well-being of all citizens of this country is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement personnel;

Whereas more than 700,000 men and women, at great risk to their personal safety, presently serve their fellow citizens in their capacity as guardians of peace;

Whereas peace officers are the front line in preserving our children's right to receive an education in a crime-free environment that is all too often threatened by the insidious fear caused by violence in schools;

Whereas 158 peace officers lost their lives in the performance of their duty in 1998, and a total of nearly 15,000 men and women have now made that supreme sacrifice;

Whereas every year 1 in 9 officers is assaulted, 1 in 25 officers is injured, and 1 in 4,400 officers is killed in the line of duty; and

Whereas, on May 15, 1999, more than 15,000 peace officers are expected to gather in our Nation's Capital to join with the families of their recently fallen comrades to honor them and all others before them: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes May 15, 1999, as Peace Officers Memorial Day, in honor of Federal, State, and local officers killed or disabled in the line of duty; and

(2) calls upon the people of the United States to observe this day with the appropriate ceremonies and respect.

#### NATIONAL CORRECTIONAL OFFICERS AND EMPLOYEES WEEK

Mr. NICKLES. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 100, Senate Resolution 29.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 29) designating the week of May 2, 1999, as "National Correctional Officers and Employees Week."

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

Mr. NICKLES. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 29) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 29

Whereas the operation of correctional facilities represents a crucial component of our criminal justice system;

Whereas correctional personnel play a vital role in protecting the rights of the public to be safeguarded from criminal activity;

Whereas correctional personnel are responsible for the care, custody, and dignity of the human beings charged to their care; and

Whereas correctional personnel work under demanding circumstances and face danger in their daily work lives: Now, therefore, be it

*Resolved*, That the Senate designates the week of May 2, 1999, as "National Correctional Officers and Employees Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

#### NATIONAL ALS AWARENESS MONTH

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 102, Senate Resolution 72.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 72) designating the month of May in 1999 and 2000 as "National ALS Awareness Month."

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

Mr. NICKLES. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 72) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 72

Whereas Amyotrophic Lateral Sclerosis (ALS), commonly known as Lou Gehrig's Disease, is a progressive neuromuscular disease characterized by a degeneration of the nerve cells of the brain and spinal cord leading to the wasting of muscles, paralysis, and eventual death;

Whereas approximately 30,000 individuals in the United States are afflicted with ALS at any time, with approximately 5,000 new cases appearing each year;

Whereas ALS usually strikes individuals that are 50 years of age or older;

Whereas the life expectancy of an individual with ALS is 3 to 5 years from the time of diagnosis;

Whereas there is no known cause or cure for ALS;

Whereas aggressive treatment of the symptoms of ALS can extend the lives of individuals with the disease; and

Whereas recent advances in ALS research have produced promising leads, many related to shared disease processes that appear to

operate in many neurodegenerative diseases: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the month of May in 1999 and 2000 as "National ALS Awareness Month"; and

(2) requests the President to issue a proclamation calling on the people of the United States to observe the month with appropriate ceremonies and activities.

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

Mr. NICKLES. I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations: Executive Calendar No. 44 and all nominations reported by the Armed Services Committee today with the exception of Lt. Gen. Ronald T. Kadish.

I further ask unanimous consent the nominations be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

#### DEPARTMENT OF THE TREASURY

David C. Williams, of Maryland, to be Inspector General for Tax Administration, Department of the Treasury. (New Position)

#### DEPARTMENT OF DEFENSE

Brian E. Sheridan, of Virginia, to be an Assistant Secretary of Defense.

Lawrence J. Delaney, of Maryland, to be an Assistant Secretary of the Air Force.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

#### IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

#### To be lieutenant general

Maj. Gen. Donald G. Cook, 0000.

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

#### To be lieutenant general

Lt. Gen. Lance W. Lord, 0000.

#### IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated title 10, U.S.C., section 624:

#### To be brigadier general, Dental Corps

Col. Kenneth L. Farmer, Jr., 0000.

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

#### To be general

Lt. Gen. John G. Coburn, 0000.

The following named officer for appointment in the United States Army to the grade indicated title 10, U.S.C., section 624:

#### To be brigadier general, Medical Corps

Col. Joseph G. Webb, Jr., 0000.

#### IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

#### To be lieutenant general

Maj. Gen. Leslie F. Kenne, 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 general

Gen. Ralph E. Eberhart, 0000.

The following named officer for appointment as Vice Chief of Staff, United States Air Force, and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601 and 8034:

#### To be general

Lt. Gen. Lester L. Lyles, 0000.

#### IN THE ARMY

The following named officer for appointment as Assistant Surgeon General and Chief of the Dental Corps, United States Army, and for appointment to the grade indicated under title 10, U.S.C., section 3039:

#### To be major general

Brig. Gen. Patrick D. Sculley, 0000.

#### IN THE NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

#### To be vice admiral

Rear Adm. Thomas R. Wilson, 0000.

#### 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. Ronald J. Bath, 0000.

The following named officer for appointment to the grade indicated in the United States Air Force, under title 10, U.S.C., sections 624 and 1552:

#### To be lieutenant colonel

Jerry A. Cooper, 0000

The following named officer for appointment to the grade indicated in the United States Air Force and appointment as permanent professor, United States Air Force Academy, under title 10, U.S.C., sections 9333(b) and 9336(a):

#### To be colonel

Thomas A. Drohan, 0000

The following named officer for appointment to the grade indicated in the Reserve of the Army under title 10, U.S.C., section 12203:

#### To be colonel

Stephen K. Siegrist, 0000

The following named officer for appointment to the grade indicated in the United States Army in the Judge Advocate General's Corps under title 10, U.S.C., sections 624 and 3064:

#### To be lieutenant colonel

David A. Mayfield, 0000

The following named officer for appointment to the grade indicated in the United States Army Medical Corps under title 10, U.S.C., sections 624, 628, and 3064:

#### To be lieutenant colonel

Francisco J. Dominguez, 0000

The following named officer for appointment to the grade indicated in the United

States Army Medical Service Corps under title 10, U.S.C., sections 531, 624, 628, and 3064:

*To be major*

Japhet C. Rivera, 0000

The following named Army National Guard of the United States officer for appointment to the grade indicated in the Reserve of the Army under title 10, U.S.C., sections 12203 and 12211:

*To be colonel*

Roy T. McCutcheon, III, 0000

IN THE MARINE CORPS

The following named officer for appointment to the grade indicated in the United States Marine Corps under title 10, U.S.C., section 624:

*To be colonel*

Harold E. Poole, Sr., 0000

The following named limited duty officer for appointment to the temporary grade indicated in the United States Marine Corps in accordance with section 6222 of title 10, U.S.C.:

*To be colonel*

Timothy W. Foley, 0000

The following named officer for appointment to the grade indicated in the United States Marine Corps under title 10, U.S.C., section 624:

*To be major*

Kenneth C. Cooper, 0000

IN THE NAVY

The following named officer for appointment to the grade indicated in the United States Navy under title 10, U.S.C., section 624:

*To be commander*

Leo J. Grassilli, 0000

The following named officer for appointment to the grade indicated in the United States Navy under title 10, U.S.C., section 624:

*To be captain*

Melvin D. Newman, 0000

The following named officer for appointment to the grade indicated in the United States Navy under title 10, U.S.C., section 624:

*To be commander*

Scott R. Hendren, 0000

IN THE AIR FORCE

Air Force nominations beginning \*Husam S. Nolan, and ending James H. Walker, which nominations were received by the Senate and appeared in the Congressional Record on March 18, 1999.

Air Force nominations beginning Robert J. Vaughn, and ending Todd B. Silverman, which nominations were received by the Senate and appeared in the Congressional Record on March 22, 1999.

Air Force nominations beginning Gerald F. Bunting Blake, and ending Jeffery A. Renshaw, which nominations were received by the Senate and appeared in the Congressional Record on March 22, 1999.

Air Force nominations beginning Harvey J.U. Adams, Jr., and ending David J. Zupi, which nominations were received by the Senate and appeared in the Congressional Record on April 20, 1999.

Air Force nominations beginning Ronald G. Adams, and ending Walter H. Zimmer, which nominations were received by the Senate and appeared in the Congressional Record on April 20, 1999.

IN THE ARMY

Army nominations beginning Thomas M. Johnson, and ending \*Anthony P. Risi, which nominations were received by the Senate and appeared in the Congressional Record on March 18, 1999.

Army nominations beginning Randall F. Cochran, and ending \*Regina K. Draper, which nominations were received by the Senate and appeared in the Congressional Record on March 18, 1999.

Army nominations beginning Alfred C. Faber, Jr., and ending Edward L. Wright, which nominations were received by the Senate and appeared in the Congressional Record on March 18, 1999.

Army nominations beginning Dale F. Becker, and ending John F. Stoley, which nominations were received by the Senate and appeared in the Congressional Record on March 18, 1999.

Army nominations beginning John D. Knox, and ending David M. Shublak, which nominations were received by the Senate and appeared in the Congressional Record on April 20, 1999.

Army nominations beginning Joseph I. Smith, and ending Sara J. Zimmer, which nominations were received by the Senate and appeared in the Congressional Record on April 20, 1999.

Army nominations beginning Paul C. Proffitt, and ending Michael D. Zabrzski, which nominations were received by the Senate and appeared in the Congressional Record on April 21, 1999.

Marine Corps nominations beginning Francis X. Bergmeister, and ending Kenneth P. Myers, which nominations were received by the Senate and appeared in the Congressional Record on April 20, 1999.

Marine Corps nominations beginning Seth D. Ainspac, and ending James B. Zientek, which nominations were received by the Senate and appeared in the Congressional Record on April 20, 1999.

Marine Corps nominations beginning Robert S. Abbott, and ending Steven M. Zotti, which nominations were received by the Senate and appeared in the Congressional Record on April 20, 1999.

IN THE NAVY

Navy nominations beginning Clifford A. Anderson, and ending Stephen G. Young, which nominations were received by the Senate and appeared in the Congressional Record on March 22, 1999.

Navy nominations beginning Brian L. Kozlik, and ending Stephen M. Wilson, which nominations were received by the Senate and appeared in the Congressional Record on April 20, 1999.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

ORDERS FOR FRIDAY, APRIL 30, 1999

Mr. NICKLES. Mr. President I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 9:30 a.m. on Friday, April 30. I further ask that on Friday immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day.

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

PROGRAM

Mr. NICKLES. Mr. President, for the information of all Senators, the Senate

will convene on Friday at 9:30 a.m. and immediately begin 30 minutes of debate relating to the cloture on the Social Security lockbox issue. Following that debate, the Senate will proceed to two rollcall votes. The first vote will be on the cloture to the Abraham amendment to Senate bill 557. The second vote on Senate Resolution 33, regarding a National Military Appreciation Month, will take place immediately following the first vote. Therefore, Senators can expect two votes at approximately 10 a.m. For the remainder of the day, the Senate may continue to debate the lockbox issue or any other legislation or executive items cleared for action.

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

ORDER FOR ADJOURNMENT

Mr. NICKLES. Mr. President, 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 following the remarks of my colleague, Senator ROBB.

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

The Senator from Virginia is recognized.

Mr. ROBB. I thank my colleague from Oklahoma.

(The remarks of Mr. ROBB pertaining to the introduction of S. 929 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. The Senate, under the previous order, stands adjourned until 9:30 a.m. Friday, April 30, 1999.

Thereupon, the Senate, at 5:44 p.m., adjourned until Friday, April 30, 1999, at 9:30 a.m.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate April 29, 1999:

DEPARTMENT OF THE TREASURY

DAVID C. WILLIAMS, OF MARYLAND, TO BE INSPECTOR GENERAL FOR TAX ADMINISTRATION, DEPARTMENT OF THE TREASURY. (NEW POSITION)

DEPARTMENT OF DEFENSE

BRIAN E. SHERIDAN, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

LAWRENCE J. DELANEY, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. DONALD G. COOK, 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*

L.T. GEN. LANCE W. LORD, 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 brigadier general, Dental Corps*

COL. KENNETH L. FARMER, JR., 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be general*

L.T. GEN. JOHN G. COBURN, 0000.

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 brigadier general, Medical Corps*

COL. JOSEPH G. WEBB, JR., 0000.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. LESLIE F. KENNE, 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 general*

GEN. RALPH E. EBERHART, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS VICE CHIEF OF STAFF, UNITED STATES AIR FORCE, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 8034:

*To be general*

L.T. GEN. LESTER L. LYLES, 0000.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS ASSISTANT SURGEON GENERAL AND CHIEF OF THE DENTAL CORPS, UNITED STATES ARMY, AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 3039:

*To be major general*

BRIG. GEN. PATRICK D. SCULLEY, 0000.

NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM. THOMAS R. WILSON, 0000.

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. RONALD J. BATH, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE, UNDER TITLE 10, U.S.C., SECTIONS 624 AND 1552:

*To be lieutenant colonel*

JERRY A. COOPER, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND APPOINTMENT AS PERMANENT PROFESSOR, UNITED STATES AIR FORCE ACADEMY, UNDER TITLE 10, U.S.C., SECTIONS 9333(B) AND 9336(A):

*To be colonel*

THOMAS A. DROHAN, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

STEPHEN K. SIEGRIST, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN THE JUDGE ADVOCATE GENERAL'S CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

*To be lieutenant colonel*

DAVID A. MAYFIELD, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624, 628, AND 3064:

*To be lieutenant colonel*

FRANCISCO J. DOMINGUEZ, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531, 624, 628, AND 3064:

*To be major*

JAPHET C. RIVERA, 0000.

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be colonel*

ROY T. MCCUTCHEON III, 0000.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

*To be colonel*

HAROLD E. POOLE, SR., 0000.

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE TEMPORARY GRADE INDICATED IN THE UNITED STATES MARINE CORPS IN ACCORDANCE WITH SECTION 6222 OF TITLE 10, U.S.C.:

*To be colonel*

TIMOTHY W. FOLEY, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

*To be major*

KENNETH C. COOPER, 0000.

NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be commander*

LEO J. GRASSILLI, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

MELVIN D. NEWMAN, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE INDICATED IN THE UNITED STATES NAVY UNDER TITLE, 10, U.S.C., SECTION 624:

*To be commander*

SCOTT R. HENDREN, 0000.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING \*HUSAM S. NOLAN, AND ENDING JAMES H. WALKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 18, 1999.

AIR FORCE NOMINATIONS BEGINNING ROBERT J. VAUGHN, AND ENDING TODD B. SILVERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 22, 1999.

AIR FORCE NOMINATIONS BEGINNING GERALD F. BUNTING BLAKE, AND ENDING JEFFERY A. RENSHAW, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 22, 1999.

AIR FORCE NOMINATIONS BEGINNING HARVEY J. U. ADAMS, JR., AND ENDING DAVID J. ZUPI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 20, 1999.

AIR FORCE NOMINATIONS BEGINNING RONALD G. ADAMS, AND ENDING WALTER H. ZIMMER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 20, 1999.

IN THE ARMY

ARMY NOMINATIONS BEGINNING THOMAS M. JOHNSON, AND ENDING \*ANTHONY P. RISI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 18, 1999.

ARMY NOMINATIONS BEGINNING RANDALL F. COCHRAN, AND ENDING \*REGINA K. DRAPER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 18, 1999.

ARMY NOMINATIONS BEGINNING ALFRED C. FABER, JR., AND ENDING EDWARD L. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 18, 1999.

ARMY NOMINATIONS BEGINNING DALE F. BECKER, AND ENDING JOHN F. STOLEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 18, 1999.

ARMY NOMINATIONS BEGINNING JOHN D. KNOX, AND ENDING DAVID M. SHUBLAK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 20, 1999.

ARMY NOMINATIONS BEGINNING JOSEPH J. SMITH, AND ENDING SARA J. ZIMMER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 20, 1999.

ARMY NOMINATIONS BEGINNING PAUL C. PROFFITT, AND ENDING MICHAEL D. ZABRZESKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 21, 1999.

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS BEGINNING FRANCIS X. BERGMEISTER, AND ENDING KENNETH P. MYERS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 20, 1999.

MARINE CORPS NOMINATIONS BEGINNING SETH D. AINSPEC, AND ENDING JAMES B. ZIENTEK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 20, 1999.

MARINE CORPS NOMINATIONS BEGINNING ROBERT S. ABBOTT, AND ENDING STEVEN M. ZOTTI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 20, 1999.

IN THE NAVY

NAVY NOMINATIONS BEGINNING CLIFFORD A. ANDERSON, AND ENDING STEPHEN G. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 22, 1999.

NAVY NOMINATIONS BEGINNING BRIAN L. KOZLIK, AND ENDING STEPHEN M. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 20, 1999.