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## Senate

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

### PRAYER

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

Almighty God, Sovereign of this Nation and Lord of our lives, grant us Your peace in the pressures of this day. May Your peace keep us calm when tension mounts, and serene when the strain causes stress. Remind us that You are in control and there is enough time today to do what You want us to accomplish.

Fill this Senate Chamber with Your presence. May we hear Your whisper in our souls, "Be not afraid; I am with you." Bless the women and men of this Senate with a special measure of Your strength for the demanding schedule ahead for today. Through our Lord and Saviour. Amen.

### RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the distinguished Senator from Texas, is recognized.

Mrs. HUTCHISON. Thank you, Mr. President.

### SCHEDULE

Mrs. HUTCHISON. Mr. President, on behalf of the majority leader I announce this morning the Senate will be in a period of morning business until 10:30 a.m.; following morning business, the leader hopes the Senate will be able to consider Amtrak reform under a short time agreement. In addition, the Senate is close to an agreement on the D.C. appropriations bill. Therefore, Members should be prepared to consider that legislation today.

Also, the leader hopes that the Senate will be able to consider the FDA reform conference report during today's

session. Unfortunately, it is looking like the Senate will need to be in session this weekend to complete work on the pending appropriations bills. Members will be notified as to the possible weekend schedule and necessary votes.

Also, the Senate may consider any additional legislative or executive items that can be cleared for action. Therefore, Members can anticipate rollcall votes throughout today's session of the Senate and possibly into the evening.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call.

Mr. THOMAS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. HUTCHISON). Without objection, it is so ordered.

### NOTICE

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By order of the Joint Committee on Printing.

JOHN WARNER, *Chairman*.

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



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Mr. THOMAS. Madam President, I ask unanimous consent I be allowed to speak for 5 or 6 minutes in morning business.

#### MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 with Senators permitted to speak for up to 10 minutes each. The time until 10 o'clock shall be under the control of the Democratic leader or his designee; in his absence, the Senator from Wyoming may proceed.

#### NOMINATION OF KEVIN GOVER TO BE ASSISTANT SECRETARY OF INTERIOR FOR INDIAN AFFAIRS

Mr. THOMAS. Madam President, I rise today as a member of the Senate Indian Affairs Committee to express some concerns that I have about the nomination of Kevin Gover to be the new Assistant Secretary of Interior for Indian Affairs, the head of the BIA, the Bureau of Indian Affairs.

I have consistently taken the position that in my experience the BIA is an agency that is in dire need of serious reform to make it more effective and more responsive to the needs of the tribes that it is established to serve. I therefore have a certain admiration for anyone who is willing to undertake this task, because it is a tough one. It is one that is difficult. Additionally, in this particular case, Mr. Gover's personal qualifications recommend him very highly for this position. He also has a Wyoming connection, which of course I am interested in. Over several years he has represented the Eastern Shoshone Tribe in several legal and legislative matters.

However, it wouldn't come as any surprise to my colleagues on that committee that given William Safire's recent op-ed piece on the Gover nomination in the New York Times, some questions have to be raised and are raised with respect to his nomination. According to the Safire piece, in private practice and representing the Tesuque Pueblo of New Mexico, Mr. Gover was present at one of President Clinton's infamous White House coffees. Soon therefore, the Pueblo made two contributions to the Democratic National Committee totaling \$50,000. Some time later, Mr. Gover was nominated for this position.

An examination of the nominee's FBI file leads me to conclude that he committed no illegal acts. I believe at the very least they constitute an appearance of impropriety which should make many of us uncomfortable. I have no argument, of course, with the right of individuals to make political contributions to the party of their choice. That is provided by law and should be. I personally believe, however, it is a little unseemly for tribal governments to do so, to either party. It is no secret that

all but two or three tribes in this country have little, if any, extra money to throw around. The overwhelming majority, even with Federal help, can hardly meet the day-to-day needs of their members—needs like shelter, health care, or education. There is a constant press for additional funding for those needs.

When a tribal government can't meet the basic needs of its people, then I seriously question the morality of that government making a political contribution.

Another fact that lends itself to the appearance of impropriety in this case is the special relationship between the tribes and the Federal Government. This relationship is like the relationship between a trustee and beneficiary; the United States has a unique fiduciary responsibility to the tribes and their members. Congress has turned over responsibility for day-to-day regulation of tribal affairs to the executive branch. So I can't think of many circumstances where national campaign contributions—especially to the party of a sitting President—would not carry with them the appearance of impropriety, an appearance of unseemly influence—the idea of a beneficiary influencing the trustee in its work.

And what about the appearance of a government body representing members of different political beliefs—in this case a tribal government—making a monetary contribution to a national political party on behalf of all of its members, whether or not that's their political belief. We prohibit Federal agencies from engaging in any lobbying efforts with taxpayer funds because it would look unseemly. We prohibit unions from making political contributions to one particular party with members' dues. Mr. President, the question might be posed that since it appears that nothing illegal took place in Mr. Gover's case, why all the fuss? My answer, Madam President, is that oftentimes the appearance of impropriety can be just as damning as an actual illegality.

The news these days is full of examples illustrating this conclusion—the subject of Senator THOMPSON's hearings, which just recently ended with credible allegations against Secretary Babbitt that tribal campaign contributions influenced the denial of a gaming license to a Midwestern tribe.

In order to get answers to some of my concerns, I met with Mr. Gover at length on November 4. Our conversation was somewhat reassuring to me, and left me feeling that my argument is not with Mr. Gover, who as far as I can tell at this time did nothing illegal, but with a system that allows tribes to make these kinds of donations.

So, Madam President, should the Gover nomination come to a vote on the floor, I do not plan to object. The BIA has been without leadership for a long time, something that Bureau can ill afford, and Mr. Gover is eminently

qualified to lead it. But he can be sure while I support him, I and other Members will be watching closely to make sure he delivers on his promises to reform the Bureau, to make it more responsible and cost efficient, and to help untangle the present mess in Indian gaming.

Madam President, I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana [Mr. BAUCUS], is recognized.

#### AFTER THE SUMMIT

Mr. BAUCUS. Madam President, I rise to discuss the state visit of Chinese President Jiang Zemin to the United States last week.

##### GOALS OF ASIA POLICY

Let me begin with a reminder of our goals in Asia policy. They are:

A peaceful Pacific, open trade, joint work on problems of mutual concern like environmental problems and international crime, and progress toward respect for internationally recognized human rights.

This morning I would like to discuss my view of the results.

##### ACCOMPLISHMENTS OF SUMMIT

To begin with the positive, I believe this visit will be particularly helpful in the first area—that of ensuring a stable peace in the Pacific. The major elements of our security policy in the region are the United States alliance with Japan; a permanent troop presence in Asia; deterrence of North Korean aggression; a one-China policy coupled with a commitment to help Taiwan ensure its security; and preventing proliferation of nuclear weapons.

We have had a chance to discuss all of these issues in detail with President Jiang and China's senior foreign policy officials. And we have emerged without any serious short-term differences, plus an important agreement on China's part to cease nuclear cooperation with Iran. This will reduce the chances of a crisis in the region, and make peace in the Pacific generally more stable and permanent.

I see this renewed strategic dialogue and understanding of our mutual interest in a peaceful region as the major accomplishment of the visit. I would also note some important specific agreements on a range of issues, including:

In return for China's halt of nuclear cooperation with Iran, we will open up sales of civil nuclear power technology to China; China will enter the Information Technology Agreement, thus eliminating tariffs on a range of high-tech products in which American companies are highly competitive—for example, semiconductors.

The United States will increase our assistance to China's efforts to combat pollution; the United States Justice Department will support efforts to develop the rule of law in China, and the

military services of both countries will make their military-to-military dialogues more intense and frequent.

These are good, constructive agreements that will serve the interest of both countries. It is quite clear, however, that a great deal of work lies ahead. Our goal should not only be to avoid crises and find common ground on areas of concern to both countries, but to solve problems.

Here, we saw relatively little advance in two critical areas, and one is international trade.

#### TASKS AHEAD: TRADE

Last month, China passed Japan as the source of our largest trade deficit—and this in a year when our deficit with Japan has risen substantially over last year's totals. And the main reason for this deficit is the fact United States exports to China have been flat for 3 years: \$11.7 billion last year, \$11.7 billion last year, on track for the same this year. During this period, of course, China's economy has grown by about 30 percent.

Our strategy for change has been to encourage China's membership in the World Trade Organization on commercially acceptable grounds.

That is the right strategy. I believe that China should have permanent MFN status when it occurs. But the progress on WTO membership has been so slow this year—even with the incentive of the first United States-China summit since President Bush visited China nearly 9 years ago—that we need to begin thinking about a fall-back option.

That is, China may well have concluded that the status quo is acceptable for the time being—that the price for entering the WTO in terms of trade reform is higher than the price for remaining outside.

If so, we need to change that calculus. I suggest as one possibility that the administration begin to think about self-initiating a broad section 301 case, as the Bush administration did in 1991. This would tackle some of the main trade problems we are focusing on in the WTO accession talks.

This is obviously a less attractive, less cooperative approach than the WTO accession. But we have already waited 8 years for China to make a good WTO offer, and we cannot afford to wait very much longer. We remain very much open to imports from China, while China keeps out our wheat, our manufactures, our services, and all the rest.

It is not fair, and our legitimate complaints about market access cannot be held hostage forever to WTO entry.

#### HUMAN RIGHTS

The second is human rights.

Since World War II, we have viewed human rights practices within nations as intimately linked to the willingness of governments to use force and coercion outside their borders. We have also seen promotion of human rights as a humanitarian, nonpolitical responsibility that all of us hold.

I agree with both of those considerations. I believe they apply in China as well as in other countries. And I am disappointed by the lack of any significant change in Chinese policy, especially on the political prisoner question, during this summit. As we look to the future, though, I believe we need to remember three things.

First, broad long-term trends in most areas are good. During the past decade, the number of political prisoners in China has fallen from about 5,000 to about 2,500; controls on information in a number of once-sensitive areas like official corruption and workplace abuses have relaxed; and China has taken steps like introducing village elections that have made the political system somewhat more accountable.

Second, we should set limited, achievable goals where we do not see a great deal of progress. These should include freedom for dissidents like Wei Jingsheng and Wang Dan; a clear public accounting of the number of people jailed for strictly political reasons; talks with the Dalai Lama; and so forth. Short of areas like rule of law or parliamentary procedure, in which China is seeking our assistance, human rights policy should not include very broad, ambitious efforts to change the Chinese political system. Such efforts would be seen not as humanitarian in nature, but either as an effort to overthrow the Chinese Government, or more likely a rhetorical policy without much serious content.

And third, human rights is a long-term issue. The keys to success are patience and persistence. We will need to continue raising the cases of individuals held in prison with Chinese officials, continue our work in areas like the U.N. Human Commission on Human Rights next spring. We need to be persistent and don't give up.

#### THE ROAD FORWARD

In the broader sense, with the summit behind us our next steps in China policy are clear.

We have set a good foundation in the political and security arena. We have done a good job in identifying other areas of mutual interest, from environmental protection to nuclear plant sales to the rule of law. We need to keep at these issues; and we need to work harder in areas like market access and human rights, where this summit brought less than we would have hoped for. And we should avoid reckless steps like broad new sanctions laws which are likely to make things worse rather than better.

On the whole, we are on the right course and we should stay there. Step by step, issue by issue, we are getting the results we should seek in China policy—a stable peace in Asia; fairness in trade; respect for international standards of human rights; and cooperation in areas of mutual interest like the environment. This summit has made a very important contribution to the effort, and I look for it to continue.

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

The PRESIDING OFFICER (Ms. COLLINS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SMITH of Oregon. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### RECOGNIZING NATIONAL ADOPTION MONTH AND INTERNATIONAL ADOPTION

Mr. SMITH of Oregon. Madam President, I thank the Chair for this opportunity to recognize the month of November as National Adoption Month and to speak on this very important issue—one that is very close to my heart—and is at the very heart of my own family.

As legislators, we work to enact laws to improve and protect the lives of the American people.

However, there are occasions when our policies can hurt the very people we are trying to protect. In this instance, it is our children.

Last year, in my State of Oregon, 221 parents adopted children from foreign countries, including China, Romania, Korea, India, and Thailand.

During that same year, Congress passed the Immigration and Nationality Act that included a provision which, until now, seemed rather innocuous.

But for parents like Gary and Laurie Hunter from Myrtle Creek, OR, who are adopting a daughter from China, it has become a bitter pill in the adoption process.

Simply, the provision requires that all incoming immigrants receive certain immunizations before entering the United States.

While this may seem like a logical public health law, it raises serious concerns about the health and safety of children receiving vaccinations under substandard conditions in foreign countries.

Many of these countries do not practice the same sanitary health conditions as the United States.

For example, some countries lack adequate medical records for children living in orphanages and do not have access to sufficient supplies of sterile needles, creating an even greater risk to the health of young adoptive children entering the United States.

Today, I am proud to be a part of a Senate which has passed legislation, H.R. 2464, to repeal the provision requiring immunizations prior to entry into the United States, and protect the children who have yet to become citizens of this country.

This bill will exempt internationally adopted children 10 years of age or younger from the immunization requirement, and allow parents 30 days to immunize their children.

Importantly, immunization will not occur overseas in an orphanage, or in

an immigration office, but upon entering the United States, under the supervision of a family physician in a safe environment.

There is a tradition in the Senate, to begin the day with a prayer from the Senate Chaplain.

Today, I would like to take a moment to end my statement with a short phrase from the Common Book of Prayer, a phrase that I hope will encourage and inspire my colleagues in these last few days of the 105th Congress to continue the work which we have been charged to do by the American people:

We have left undone those things which we ought to have done; and we have done those things which we ought not to have done.

Madam President, I am proud to stand before my colleagues today to say that with the passage of this important legislation, we have done those things which we ought to have done. I thank the Chair, and 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. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### ORDER OF PROCEDURE

Mr. BYRD. What is the order of business?

The PRESIDING OFFICER. The Senate is conducting morning business and Senators are permitted to speak up to 10 minutes. There is also an additional order in which the time is controlled by Senator HELMS up until the hour of 10:30.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I ask unanimous consent that the 30 minutes set aside for four Senators be postponed until the Senator from West Virginia completes his remarks.

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

Mr. HELMS. I thank the Chair.

Mr. BYRD. Madam President, I express my gratitude to my friend, JESSE HELMS, for his characteristic courtesy and his gracious request to allow me to proceed at this point. I will try not to be overly long.

#### TRIBUTE TO SENATOR EDWARD KENNEDY

Mr. BYRD. Madam President, William Manchester, writing in the book, "The Glory and the Dream," would call the year 1932 "the cruellest year." I was in the 10th grade at Mark Twain High School at Stotesbury in Raleigh County, southern West Virginia. Living in a coal miner's home, I saw and felt the Great Depression firsthand. School-

teachers often had to reduce their monthly paychecks by several percentage points in order to get the checks cashed. The newspapers frequently carried stories of men who had jumped out of windows or pressed a cocked pistol to their temples, taking their lives because they had lost their lifetime savings, and their economic world had come crashing down around them.

Very few men in and around the coal fields had ever owned an automobile, and those who were fortunate enough to possess an automobile jacked it up off the ground and mounted the axles on railroad crossties to keep the tires from rotting while enough money could be saved to pay for a new license plate. Many children went to bed hungry at night, their families destitute.

The country had hit rock bottom, and West Virginia was one of the "rock bottomest" of the States. It is hard to imagine that things could have gotten much worse in southern West Virginia. There was little left but hope, and there was not much of that, hardly enough to go around.

President Hoover, against whom I would still be campaigning 20 years later, professed to ignore the crisis as a "depression," he being convinced that a "balanced budget" was the most essential factor leading to an economic recovery. He still wore a black tie at dinner in the White House, even when the only other person dining with him was his wife, Lou.

Creature comforts were rare. Air conditioning was unknown, as were automatic dishwashers, electric toothbrushes, cassette recorders, garbage disposal units, electric can openers, vacuum cleaners, power mowers and record players. Phonographs were wound with a crank by hand. The family wash was done by hand on a washboard. Wet clothes were hung on a clothesline with clothespins to dry in the wind, and a refrigerator was simply an icebox kept filled by a man who knew how many pounds of ice a housewife wanted because she notified him by placing on the kitchen screen door a card with the number "100," "75," "50" or "25" turned up. Heavy irons for pressing clothes were heated on the coal-burning kitchen stove. Houseflies were always a summer problem, and the only preventives were spray guns and flypaper.

We were not used to much, and if we had never had much to begin with, we did not miss it.

Most of the coal miners by the year 1932 had a radio in their homes. It was a Majestic, an Atwater Kent or a Philco. At my house, a small Philco radio sat on a wall shelf, and it was there that we gathered on Saturday nights to listen to the Grand Ole Opry that was broadcast from Nashville, TN. I heard the "Solemn Old Judge," the "Fruit Jar Drinkers," DeFord Bailey on his harmonica, the Delmore Brothers, Roy Acuff, Minnie Pearl from "Grinders Switch," Sam and Kirk McGree and Uncle Dave Macon picking the banjo "clawhammer style."

On some Saturday nights, I would play the fiddle at a small but lively square dance held somewhere in a coal camp where I lived or in a neighboring community. Times were bad, but life had to go on, and a Saturday night frolic helped to keep the spirits up.

Madam President, in that year 1932, a writer for the Saturday Evening Post asked John Maynard Keynes, the great British economist, whether there had ever been anything like the Depression before. "Yes," he replied. "It was called the Dark Ages and it lasted four hundred years." This was calamity howling on a cosmic scale, but on at least one point the resemblance seemed valid. In each case the people were victims of forces that they could not understand.

Mr. President, in that same year of 1932, there was born a child in Massachusetts, and his name was EDWARD KENNEDY. In 1932, of course, I knew nothing about EDWARD KENNEDY or EDWARD KENNEDY's birth. But today I rise on this Senate floor to salute one of the outstanding Senators in the history of this great body. He is a man whose expertise, hard work, and courage have set a lofty example to which every fledgling Senator should aspire.

On November 6, 1962, EDWARD KENNEDY was elected to the Senate, and so he is celebrating his 35th anniversary and we are celebrating the 35th anniversary of his arrival in the Senate.

I well remember the arrival of young EDWARD KENNEDY in this Chamber. Having been elected in 1962 at the age of 30, he was one of the youngest Members in Senate history.

While Senator KENNEDY may not have been the youngest Senator ever, he was certainly one of the youngest. Despite his youth, however, much was expected of this young man and I suspect that some may have wondered whether he was really up to the challenge. After all, Senator KENNEDY was representing a State that had provided the Senate with some of its most memorable figures, among them Daniel Webster, Rufus Choate, and Charles Sumner. In addition, Senator KENNEDY was elected to finish the term of the then current President, who was none other than his brother. When one remembers that another Kennedy brother was then Attorney General of the United States, one realizes why Senator KENNEDY was accorded rather more attention than the average freshman Senator.

I am gratified to report that, far from falling short of these grand expectations, Senator KENNEDY has exceeded them. He became an innovative and productive legislator. He also embarked on a path from which he has never varied: championing the interests of the working people, the poor, and the disadvantaged. His tenure as chairman of the Senate Committee on Labor and Human Resources during the 100th Congress was remarkable, both in the sheer volume of legislation that he sponsored and in the dedication that he displayed to improving the education and health of all Americans.

I was the majority leader of the Senate during that 100th Congress. I worked closely with Senator KENNEDY and he worked closely with me.

In just 2 years, Senator KENNEDY pushed through more beneficial social legislation than many Senators produce in a lifetime.

Mr. President, this country has seen remarkable changes over the past 35 years. Not the least of those changes has been a shift in political attitudes from the optimism and compassion that characterized the 1960's to the more hardened and occasionally cynical climate of today. But, throughout those changes, Senator TED KENNEDY has remained faithful to his vision of an America in which the rights of those without money, jobs, health insurance, or education are protected. Others may bow to the vagaries of public opinion but not Senator KENNEDY. Instead, relying on a political and legislative acumen than may owe something to his well-known expertise as a sailor, Senator KENNEDY uses the winds of popular sentiment to achieve his goals. Many times where others meekly follow the course of these powerful winds, Senator KENNEDY calmly lifts a dampened finger aloft to test their force and direction, then he very expertly and patiently tacks back and forth until he reaches, his chosen destination. Even the strongest headwind is not enough to dissuade him, for he knows that hard work and dedication can conquer the most imposing obstacles.

Despite his passionate and unswerving convictions, Senator KENNEDY is also one of the most accommodating Members of the Senate. Throughout his career, he has sought out partnerships with Members regardless of their ideology or party in the interests of passing wise and necessary legislation. Even in these partisan days in which we live, Senator KENNEDY consistently seeks to find common ground with those at all points along the political spectrum. Senator KENNEDY has repeatedly put the national interest ahead of petty partisan squabbles.

Not that he is above partisanship at all. We are all capable of being partisan at times; some of us more than others, perhaps. But this open-minded approach to lawmaking, this brave refusal to succumb to the partisan animosity that permeates Congress today, may well be one of the Senator's greatest legacies.

I said at the beginning of my remarks that I believe Senator KENNEDY to be one of the most outstanding Senators this Chamber has seen. Lest I be accused of hyperbole and exaggeration, or of excessive kindness toward a friend, let me make clear that my words are not motivated by simple kindness. Senator KENNEDY's legislative dexterity and bipartisan approach, are a rare combination indeed. I fear that many of today's politicians will be judged harshly by the historians of tomorrow for their fickleness, their shal-

low rhetoric, their willingness to pander to popular opinion. But not so my good friend and esteemed colleague from Massachusetts.

I have remarked before, and I remark today, that had TED KENNEDY been living in 1789 at the time the first Congress met, he would have been a powerful factor in pressing forward with the legislation that was enacted in that first Congress. A formidable opponent, a knowledgeable and dedicated legislator, TED KENNEDY would have been in the forefront of those who were advocating the Judiciary Act, and I have no doubt that he would have left his imprint upon that legislation.

Had he been living at the time of the Civil War, serving in the U.S. Senate, again, he would have been recognized as a forceful leader.

In the days of reconstruction, again, Senator KENNEDY would have made his mark in the U.S. Senate.

Had he been a Senator during the years of the New Deal, he would have allied himself with Franklin D. Roosevelt and would have been a strong supporter of the landmark legislation that was enacted in those difficult years.

I think that if TED KENNEDY had been living prior to the Revolution, he would have joined men like Samuel Adams and John Adams and John Hancock, from his State of Massachusetts, in resisting the edicts of George III, the King of England.

So, in summation, I say that TED KENNEDY would have been a leader, an outstanding Senator, at any period of the Nation's history.

TED KENNEDY and I have not always been the best of friends. There was a time when we were not. That time has long been relegated to the ashes of the past. When I was majority leader of the Senate, and also when I was minority leader of the Senate, and when I was majority leader again, as I have already indicated, in the 100th Congress, I leaned much on TED KENNEDY's knowledge, his expertise, his support. He was one of my strongest supporters in the Senate. In caucuses or on the Senate floor, I could always count on TED KENNEDY to be there when I needed him.

So, TED KENNEDY and I formed a friendship in the finest sense of that word.

We share a liking for history, a fondness for poetry, and a love for the U.S. Senate. TED KENNEDY does his work well in the committee. When he comes to the floor, he comes with a batch of papers in his hands and with a head full of knowledge in respect to the legislation which he is promoting. I count him as one of the most effective Members of the Senate.

I admire TED's steadfast purpose, his tireless work, his easy humor, and his kind nature. But, most of all, I admire his courage. He has experienced more personal tragedy and deep sorrow than most of us could bear and still retain our sanity. Yet, he goes on. He contrib-

utes. He endures. He laughs. He leads. He inspires. He triumphs.

I have watched him weather and work and grow in wisdom for 35 years. He has an excellent staff. One would have to have an excellent staff to be able to turn out the massive amount of work and to provide the leadership that he has so many times provided in enacting landmark legislation. He is ever on an upward track.

Herman Melville put it this way:

... and there is a Catskill eagle in some souls that can alike dive down into the blackest gorges, and soar out of them again and become invisible in the sunny spaces. And even if he forever flies within the gorge, that gorge is in the mountains; so that even in his lowest swoop the mountain eagle is still higher than other birds upon the plain, even though they soar.

So here is to my friend and colleague as he celebrates his 35th anniversary. May he ever soar.

I close with a verse by one of my favorite poets, Edwin Markham, a verse that I think typifies Senator KENNEDY: Give thanks, O heart, for the high souls That point us to the deathless goals— For all the courage of their cry That echoes down from sky to sky; Thanksgiving for the armed seers And heroes called to mortal years— Souls that have built our faith in man, And lit the ages as they ran.

I again thank my true friend, and he is my friend, has been for all the years that he has been in the Senate, JESSE HELMS, for his kindness in arranging for me to proceed at this moment.

I thank him very much.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Madam President, I can assure the able Senator from West Virginia—I have always described him as a Senator's Senator—it is always a pleasure to cooperate with him any time, and I enjoy listening to him because I learn something every time.

Mr. BYRD. I thank the Senator.

Mr. HELMS. I thank the Senator.

THE PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair.

(The remarks of Mr. HELMS, Mr. DEWINE, and Mr. GLENN pertaining to the introduction of S. 1397 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SPECTER addressed the Chair.

THE PRESIDING OFFICER. The Senator from Pennsylvania.

#### EXTENSION OF MORNING BUSINESS

Mr. SPECTER. Madam President, I ask unanimous consent that morning business be extended by 15 minutes.

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

(The remarks of Mr. SPECTER and Mr. BYRD pertaining to the submission of Senate Resolution 146 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Arkansas is recognized.

(The remarks of Mr. BUMPERS and Mr. GORTON pertaining to the introduction of S. 1401 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Ms. COLLINS. Mr. President, I ask unanimous consent that I be allowed to speak for up to 15 minutes as if in morning business.

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

#### FAST-TRACK LEGISLATION

Ms. COLLINS. Mr. President, in the life of a country, as in the life of an individual, there are times when we must choose between moving forward and standing still. Our trade policy is at just such a crossroads: We must decide whether to help promote freer trade and more open markets or try to preserve the status quo.

As we confront this issue, we must recognize that the world is changing and that even an economic superpower can do no more than postpone the inevitable. Our resolution of this issue will determine whether the United States continues to move forward on a wave of export-driven growth or risks permitting other economies to leave us behind. I believe it is time to stand behind our commitment to free trade and work to bring other countries into open trading relationships that will mean jobs and prosperity for our citizens in the century ahead. That is why, Mr. President, I have decided to support the fast track legislation.

In developing my position on this legislation, I have been guided by one overriding consideration - will its enactment improve the lives of the people of Maine? Will it mean more customers for Maine businesses? Will it mean more opportunities for Maine entrepreneurs? And most important, will it mean more jobs for Maine workers? While free trade is not without problems, I firmly believe that the long-term answer to all of these questions is yes.

International trade is an increasingly critical part of Maine's economy. In 1996, for example, my State exported more than 1.2 billion dollars worth of goods. Considering both the direct and indirect impact, those exports translated into 13,500 Maine jobs.

But this export-led growth is just the beginning. I believe the people of Maine have the ingenuity, the drive, and the work ethic to flourish in a world of freer trade and more open markets for U.S. goods. From successful retailers like L.L. Bean, to manufacturers like Pratt & Whitney, to financial service companies like UNUM, to high-technology companies like Portland's ABB, to paper mills throughout my State, Maine enterprises have proven that they can compete in a global economy. These com-

panies recognize that much of their future revenue and job growth will come from serving customers beyond our borders.

This is well understood in Maine. The United Paperworkers International Union has pressed the administration to negotiate reductions in European tariffs to help open foreign markets to the products its members make in Maine and elsewhere and to generate more export-related jobs. As Prof. Charles Colgan of the University of Southern Maine, a noted trade expert, stated in a recent letter to me, "The . . . vote on Fast Track authority for the President to negotiate additional trade agreements is an important vote for Maine. International trade is an increasingly vital part of the Maine economy. . . ."

Perhaps the clearest reason to support fast-track authority was set forth in a letter from the State of Maine's director of International Trade, who wrote as follows: "I simply feel that our best hopes for long-term economic prosperity here in Maine lie in creating international opportunities for our people, and not in limiting our access to new and emerging economies. However, well-intentioned, restricting our ability to trade will never create new jobs for Maine people."

Mr. President, I said earlier that we face the decision of whether to move forward. But in reality, the world will change with or without us, and thus, the real question is not whether we move forward, but whether we move forward wisely. That is the standard against which we should judge our trade policy, and against which we should judge this legislation. To me, this means that our trade strategy must meet three tests.

First, since some citizens may be temporarily disadvantaged—through no fault of their own—by the changes freer trade can bring, we must assist them to adjust to changed conditions. Second, we must ensure that free trade is genuinely free, for that is what "fair trade" really means: If we do not insist that other countries open their markets to fair competition from U.S. goods, the system will collapse. Third, as we give the President the authority to negotiate trade agreements, we must preserve an appropriate role for Congress in this vital area of national policy.

After weeks of studying this issue, listening to my constituents, and consulting with U.S. trade officials, it has become clear to me that the renewal of fast-track authority meets my three criteria and is very much in the best interests of my country and my State.

First, while the rising economic tide that comes from free trade ultimately lifts all boats, it may impose costs upon some of our citizens in the short run. For this reason, I was greatly encouraged by the President's promise to expand Trade Adjustment Assistance programs—and to expand them to include not only workers directly af-

ected by trade adjustments but also workers in businesses supplying affected companies. This change should prove particularly beneficial to small businesses in Maine and elsewhere.

Second, I am pleased to have received assurances from the office of the U.S. Trade Representative that they share some of the important concerns of Maine's citizens with regard to ensuring that trade is really free. More specifically, Ambassador Barshefsky has made clear to me in writing that she regards Canada's bulk easement rules on potato imports to be an unfair trade barrier that must be pursued with the Canadian Government. Ambassador Barshefsky has committed to me that she will begin bilateral talks with the Canadian Government, beginning no later than March 1998. In addition, Ambassador Barshefsky has assured me that she views Canadian potato subsidies as a very serious matter that also must be addressed. Having established open markets as the norm, our trade officials must work—and, I have been assured, are working—to ensure that foreign governments keep their promises.

Furthermore, I want to emphasize that passage of this legislation will not in any way hinder the ability of an industry to bring challenges under current trade laws against unfair trade practices, such as subsidies provided by foreign governments. Members of the farmed salmon industry in Maine have brought such a case. They seek relief from the adverse effects of dumping and subsidization, and of unequal conditions of competition, which give their Chilean competitors an unfair and illegal advantage.

It was only after I became satisfied that fast track would not negatively affect the Maine salmon industry or its ability to pursue its legitimate grievances under current law that I decided to support this legislation. As a representative of the salmon industry recently advised me, what is most critical to them is "the preservation of effective remedies under existing law and their vigorous enforcement." This legislation not only preserves existing remedies but also has as one of its objectives the pursuit of illegal activities by other nations. Thus, it recognizes that free trade is not achieved by the stroke of a pen on an agreement but rather by a commitment to the vigorous enforcement of our trade laws.

Third, this bill carefully addresses the need to preserve the proper balance of powers and responsibilities within our Government. While it restricts Congress' power to amend the terms of trade agreements, it maintains our right to reject them. Indeed, it goes farther than any prior fast-track legislation to protect Congressional prerogatives. For example, it limits the application of the fast track to agreements which advance specifically enumerated negotiating objectives set out in the bill, which preserves our ultimate authority to set the goals of U.S. trade policy.

Moreover, the Senate version of the legislation contains more elaborate procedures than ever before to ensure that Congress is consulted at every step as the President negotiates trade agreements. The President must consult with or notify the relevant committees—or Congress as a whole—on at least five different occasions during the process, even before Congress begins drafting an agreement's implementing legislation. These requirements guarantee that at all times we will be fully informed of the progress of ongoing trade talks.

Most significantly, unlike past fast-track legislation, S. 1269 permits congressional disapproval of a trade agreement long before the stage of final ratification. After the President notifies Congress of his intent to negotiate a specific agreement, the Senate Finance Committee and the House Ways and Means Committee may vote to "disapprove" the idea—thus removing it from the fast-track process and making it subject to ordinary amendment. Under this legislation, what Congress gives to the President it may also take away. In short, the bill allows America to move more quickly in a rapidly changing world, while making Congress more of a real partner in the negotiation of trade agreements.

The United States is one of the principal engines of the world economy in large part because it has long been one of the most open trading economies in the world. Continued progress in global trade liberalization—bringing other countries up to our high standards of market openness—is vital if we are to remain in the global driver's seat in the next century.

The road to free trade will not be without bumps, but it is a road I believe we must take, for at the end of that road will be a more prosperous Maine, a more prosperous America, and a more prosperous world. For that reason, I intend to vote for the fast-track legislation.

At this point, Mr. President, I ask unanimous consent that letters from Ambassador Barshefsky, the Maine International Trade Center, Unum Insurance Co., Pratt & Whitney, and ABB Environmental Services be printed in the RECORD.

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

EXECUTIVE OFFICE OF THE PRESIDENT,  
THE UNITED STATES TRADE REPRESENTATIVE,

Washington, DC, November 6, 1997.

Hon. SUSAN COLLINS,  
U.S. Senate, Washington, DC.

DEAR SENATOR COLLINS: Thank you for sharing your concerns regarding the need to create a fair and level playing field for potato growers in Maine.

I share your concerns regarding the need to address the difficult trade issues facing potato growers in Maine. As a result, I requested that the International Trade Commission conduct a section 332 investigation on fresh and processed potatoes, on an expedited basis, to provide the necessary information to assess the terms of trade between

U.S. and Canadian growers and processors. The Commission issued its report on July 18. We are now in the process of working with industry to determine the next steps given the information that was provided in the report.

One specific concern you mentioned is Canada's regulations governing interprovincial and import shipments of potatoes for repackaging and processing. It is our understanding that a processor intending to import bulk potatoes must obtain a Ministerial Exemption (Easement) to the Fresh Fruit and Vegetable Regulations under the Canada Agricultural Products Act. Such an easement is only granted for the purposes of importation if a shortage of potatoes exists in Canada. Our exporters object to the apparent discriminatory and arbitrary manner in which this system operates. I agree that this unfair trade barrier should be addressed expeditiously and will engage Canadian officials in bilateral talks on this matter, beginning no later than March 1998. Please be assured that I am committed to pursuing this matter until we reach a fair resolution.

The second concern you raised is Canadian subsidies, and in specific, whether Canada is in compliance with its international obligations with respect to certain programs qualifying as "green box" support programs. I agree that a review should be conducted to determine whether or not certain Canadian subsidy programs now qualify as green box programs. We, together with USDA, will work with industry to determine which Canadian programs should be reviewed and will pursue any exceptions that are found.

It is my hope that this plan to address the trade concerns of Maine's potato growers will indeed level the playing field for Maine's potato growers.

Sincerely,

CHARLENE BARSHEFSKY.

MAINE INTERNATIONAL TRADE CENTER,  
Portland, ME, November 6, 1997.

Hon. SUSAN M. COLLINS,  
U.S. Senator, Washington, DC.

Re Fast-Track Negotiating Authority.

DEAR SENATOR COLLINS: Thank you for your inquiry concerning the potential impact of "fast track" trade pact negotiating authority on Maine and Maine business. As Maine's Director of International Trade, I am pleased to share my thoughts on this important issue with you.

Free trade agreements such as the US-Canada Free Trade Agreement, NAFTA and Mercosur continue to be the subject of considerable debate and, unfortunately, misleading statistical analyses. Proponents and opponents alike are able to point to economic data that supports various aspects of their respective positions. Thus, although I am a strong supporter of free trade, and therefore NAFTA and "fast track" authority, it may be most helpful to provide you with a broader analysis of the issue and impact of Maine than to offer you raw data for which there will doubtless be a flipside analysis.

It is important to note at the outset, however, some incontrovertible facts. US exports to Canada have grown by 118% (from \$60.9 billion to \$132 billion) since the enactment of the US-Canada Free Trade Agreement. Maine's exports to Canada have grown from \$300 million in 1988 to \$546 million in 1996, an increase of 82%, in the same period.

Maine's export to Mexico in 1993 (pre-NAFTA) were \$18 million. In 1994, the first full year of NAFTA, Maine exported \$27 million of goods to Mexico. In 1995, following the peso crisis, Maine's exports to Mexico declined to \$14 million. In 1996, as Mexico's economy rebounded, Maine's exports to Mex-

ico rallied to \$34 million. In short, Maine's exports to Mexico have almost doubled since the passage of NAFTA.

Taken together, Maine's exports to Canada and Mexico have grown from \$472 million in 1994 to \$582 million in 1996, an increase of \$110 million in three years. In my view, the current improved condition of Maine's economy is attributable in part not only to the continued strength of the US economy generally but increased international commerce in particular. The US Government estimates that for every \$1 billion in exports, 40,000 jobs are created. The message is clear.

Opponents of fast track legislation and free trade agreements generally cite the dangers of "exporting jobs" to lower wage countries. This is a rational concern, and one not to be dismissed. I believe, however, that market forces will dictate in any case where a business owner will choose to locate her manufacturing facilities, and as things stand today there are already many lower wage environments that can be haven to such activities, if that is a manufacturer's primary consideration.

I continue to have ultimate confidence in the competitiveness of Maine's workers, products and services. Our goods and services are highly competitive and desired around the world. We have nothing to fear from enhanced competition—and once the doors to new markets are open to us, we can and do succeed. Our workers are second to none. High quality, premium and value-added goods are being produced in Maine today when many lower-cost markets are available for the purpose. In short, we have nothing to fear from world markets, so long as we recognize that we have to continue to strive to be the very best.

Erecting protectionist barriers will not insulate us from the forces of competition that are at work in the world today. We need access to other markets, just as we have been liberal in granting access to our own. History teaches us that the Maginot Line did nothing to prevent the advance of unwelcome intruders. Similarly, creating impediments to market entry will not protect us from larger competitive forces that may have an adverse impact on our economy. We need to embrace the current competitive environment and succeed in it.

Fast track authority will enable the President to conclude trade agreements that can create vistas of opportunity for Maine businesses. We need to have enough faith in our leadership, and in the political process, to trust that our concerns over environmental protection and job impact will be represented at the negotiating table. The cold, hard truth is that our competitors from around the globe are aggressively pursuing trading relationships in countries and markets that we cannot yet approach owing to trade barriers or other impediments. If we dither, or if we engage in protracted debate no matter how well-intentioned, we will be far behind the curve—and that will in the short, medium and long-term result in loss of opportunity for Maine businesses, and impact our economic growth.

I do not for a moment mean to minimize the potential for adverse short-term impacts owing to the opening of new markets. These are real concerns, although I believe history has shown that our economy can flourish in a free trade environment. I simply feel that our best hopes for long-term economic prosperity here in Maine lie in creating international opportunities for our people, and not in limiting our access to new and emerging economies. However well-intentioned, restricting our ability to trade will never create new jobs for Maine people.



I thank you for the opportunity to comment, and wish you the very best in your deliberations. With best regards, I am.

Very truly yours,

PERRY B. NEWMAN,  
*Director of International Trade,  
State of Maine and,  
President, Maine  
International Trade  
Center.*

UNUM CORPORATION,  
*Portland, ME, October 30, 1997.*

Senator SUSAN M. COLLINS,  
*Russell Building, Washington, DC.*

DEAR SUSAN: Earlier this year, Unum communicated support for passage of fast track trade negotiating legislation. As this issue moves forward in Congress, I wanted to write and reiterate our support for passage of this legislation.

Opening foreign markets has been critical for Unum in several of our recent international expansions. Currently, Unum has operations in the United Kingdom, Japan, Argentina, Bermuda, France, and Germany, along with the United States and Canada.

We will continue to expand internationally as opportunities present themselves. However, we have found that it is imperative that our government be able to negotiate aggressively with our trading partners in order to get the fair and open access that we need to be competitive. Fast track legislation gives our government the ability to negotiate these kinds of trade agreements. As you weigh the facts on this issue, I think you will see that this legislation is a necessary tool for our government to be successful in negotiating with foreign governments.

If you would like any additional information about Unum's international operations, I would be more than happy to provide it. As fast track legislation is considered by the Senate, I urge your support.

Sincerely,

BRIAN K. ATCHINSON,  
*2nd Vice President, External Affairs.*

PRATT & WHITNEY,  
*North Berwick, ME, October 31, 1997.*  
Senator SUSAN M. COLLINS,  
*Senate Russell Office Building, U.S. Senate,  
Washington, DC.*

DEAR SENATOR COLLINS: The president's authority to negotiate any major trade agreement has lapsed and must be authorized by Congress. I am writing to tell you why it is important to the people at Pratt & Whitney's North Berwick plant, and United Technologies, to pass legislation known as "fast track" authority this year.

Pratt & Whitney's business success in the U.S. depends to a significant degree on our ability to sell our products in markets abroad. Our government's negotiators need fast track authority to open markets, reduce tariffs and eliminate trade barriers to U.S. products. Negotiators will not be taken seriously if it is perceived that they do not have the authority to conclude an agreement.

Fast track is not a new concept, and it does not result in us "rushing into trade agreements". It has been a procedure used since 1974 and has been renewed many times by Congress. Fast track does not remove Congress' involvement in trade agreements because the legislation includes specific negotiating objectives and a consultation mechanism whereby the president is obligated to consult with Congress during the negotiating of trade agreements. All fast track ensures is that once an agreement is reached, with congressional permission and consultation, it will not be amended after it is signed.

Why is fast track important to our economy? Because trade creates and supports

jobs in the U.S. and in Maine. The opponents of fast track would have us halt our participation in the global economy. That approach is the greatest threat to jobs in the U.S., especially for companies like United Technologies that export over \$3 billion per year. We need fast track to stay competitive, and maintain a strong economy.

I urge you to press for speedy consideration of the fast track legislation in Congress this year.

Sincerely,

R. E. PONCHAK,  
*General Manager.*

ABB ENVIRONMENTAL SERVICES, INC.,  
*Portland, ME, October 7, 1997.*

Hon. SUSAN M. COLLINS,  
*U.S. Senate, Washington, DC.*

DEAR SENATOR COLLINS: On behalf of ABB Inc., I am writing to urge you to support renewing fast track authority for the President. More than one third of the economic growth and nearly 40 percent of the new jobs created since 1993 are based on exports. Since only 4 percent of the world's consumers reside in the U.S., future growth and job creation will rely heavily on exports and the ability of the U.S. to access global markets. In order for the U.S. to be able to eliminate trade barriers and thus open foreign markets to U.S. goods and services, the President must have the proper authority to negotiate trade agreements from a position of strength, where the U.S. will be able to maintain its place as a world economic leader. Fast track will provide the President with this authority.

Fast track authority is especially important to ABB Inc. Our operations in the U.S. are becoming increasingly reliant on exports. So far, ABB's exports in 1997 have grown over 40 percent. The ability to gain greater access to markets all over the world and especially in Latin America and Asia is vital to the well-being of our company and employees. Fast track authority will ensure that ABB's interests abroad, as well as those of other U.S. companies, will be preserved.

Every President since 1974 has had fast track trade negotiating authority. Without fast track, the U.S. will be at a competitive disadvantage by permitting other countries to gain preferential market treatment at the expense of the American worker. Since fast track authority expired in 1994, more than twenty trade expansion agreements have been negotiated without the U.S.

Once again, I am requesting that you endorse fast track negotiating authority for the President. Please help support a strong American economy and jobs for the future by supporting fast track.

Sincerely,

DAVID P. CSINTYAN,  
*Office Manager.*

Ms. COLLINS. I thank the Chair. I yield the floor.

Mr. ROTH. Mr. President, I make a point of order a quorum is not present.

The PRESIDING OFFICER (Mr. FRIST). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### MORNING BUSINESS

Mr. ROTH. I ask unanimous consent that there now be a period of morning business until 1 p.m. with Senators per-

mitted to speak for up to 10 minutes each.

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

Mr. ROTH. Mr. President, I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### AMENDMENTS TO S. 1269

Mr. CRAIG. Mr. President, at this moment I am filing at the desk four amendments that at the appropriate time I would make efforts to attach to S. 1269, the fast-track legislation.

The chairman is on the floor and I would provide him with a packet of information as it relates to these amendments. None of us yet know the fate of fast track or if the House will be able to engender the necessary votes to pass this legislation.

Clearly, I think the proper refinement of fast track broadens its ability to be passed and to become law, and it becomes very important to all of us, if that is the case, that it does. I have reservations about giving the President this authority, and yet at the same time I have not stood in the way that the process be expedited to get it to the floor for a vote. But the amendments that I am filing this afternoon that I think are important are a product of the frustrations that American producers have experienced as a result of the mid-1980's North American Canadian Free-Trade Agreement and then, of course, NAFTA, the North American Free-Trade Agreement in the early 1990's.

One of my amendments deals with the commodity problems that we have primarily in agriculture but also in the forest products industry between Canada and the United States. The flow of commodity interest is largely one way at this moment, from Canada into the United States—live cattle impacting our markets, grain bypassing through the Canadian Grain Board, the protocol of the North American Free-Trade Agreement. We have just had disputes with Canada over poultry and dairy products. We now see a flood of potatoes coming out of Canada, potatoes last year that depressed the United States producer price to almost a historic low level, putting farmers in Idaho, Washington, and Maine in jeopardy.

As a result of that, one of my amendments would establish a bilateral joint commission to identify and recommend means of resolving national regional and provincial trading or trade distortions and differences between the United States and Canada with respect to the production, processing and sales of agricultural commodities. I have explained the reason why, and if we get



to the appropriate time I hope that the chairman and the full Senate would look upon that kind of amendment in favorable light.

Another amendment that I think certainly the chairman and the Senate would look favorably on is an amendment to enforce the S. 1296 ban on extraneous provisions. This amendment would provide effective enforcement provisions already in the bill.

As reported, S. 1269 prohibits extraneous provisions from being included in trade agreement bills considered under fast track. The bill limits fast-track trade bill provisions to those necessary or related to the implementation of a trade agreement, or not necessary to comply with the Budget Act.

This is a major improvement, I think, over previous fast-track legislation. However, S. 1269 currently contains no effective enforcement of this provision. Let's remember the North American Free-Trade Agreement and what we fell into there. We forced small business people to have to go to computerized methods of accounting and withholding. That was a tax increase, in so many words, that was inflicted upon us in a "take it or leave it" proposition. What my amendment would do is prohibit that kind of extraneous material, or any hidden tax that might come sneaking through, if you will, in a trade agreement of the kind the President would be allowed to negotiate under fast track.

Also, I have offered an amendment that would require domestic tax increases to be amendable, and that adds to the strength of the amendment I have just offered.

Those are the three. The other one is a clarification of the standard for the importation of firearms. This amendment is aimed at clarifying current law and preventing the administration from continuing to abuse its trade authority to carry out a political agenda against firearms. Even for firearm imports, there needs to be a meeting of a standard and a test. We think the administration has gone well beyond that.

That is the essence of the amendments that I have filed. Depending on how we get to the issue of fast track and what the House is able to do in the coming hours could determine our ability here in the Senate to perfect or to shape the fast-track agreement.

With that, I will file those amendments and yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

#### IRS RESTRUCTURING ACT OF 1997

Mr. KERREY. Mr. President, I ask unanimous consent the Senate proceed immediately to H.R. 2767, the IRS Restructuring Act of 1997, just received yesterday from the House, that the bill be read three times and passed, and the motion to reconsider laid on the table.

Mr. ROTH. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. KERREY. Mr. President, I hope my colleagues understand this legislation is something that will, by all accounts, today improve the operational efficiency of the IRS. It does not address many of the issues that were raised by the Senate Finance Committee during its 3 days of hearings and the chairman has indicated he is going to take those up next year. But in the 24 hours since I have offered this unanimous-consent resolution there have been 135,000 notices sent to taxpayers asking them to pay additional taxes and over 250,000 phone calls made by taxpayers to the IRS, trying to get information. These are the two principal points of contact, of irritation, that taxpayers have brought to us over and over and over.

The IRS Commissioner under current law simply does not have the authority to manage the agency. He can't hire and fire his top people, can't provide financial incentives, doesn't have the kind of oversight that's needed and doesn't have the requirement to publish his audit data. All that is kept for the moment confidential.

This piece of legislation, passed almost unanimously by the House, would certainly get nearly a unanimous vote here in the Senate as well. Everything in this legislation—if you look at it you would say, "My gosh, I'm surprised it isn't done already." As I said, every single day we wait, another 135,000 or so notices are going to go out to taxpayers that they owe additional taxes; a quarter of a million phone calls are going to be coming into the IRS, and they are not going to be managed nearly as well.

In our own survey we did to determine what was going on out there we found that 70 percent of the people who call in say they get good service from the phone calls, but that means that 3 out of 10 do not get good service. They are complaining. They are not getting their questions answered, for those who actually get through: A 25 percent error rate in the current environment, the current paper environment; less than 1 percent for electronic filing. The law that we propose, that was passed, as I said, nearly unanimously by the House, provides new incentives and powers to move to electronic filing. I hope my colleagues will understand the urgency of doing this. And what will happen, the price the taxpayers will pay, with a delay.

In this morning's papers there were stories about the Speaker saying he was going to try, in one of the conference committees, to get an amendment accepted that would have the IRS doing something that I can't imagine that anybody in this body would support. My guess is, if we discovered the IRS was doing what the Speaker is saying that he would like the IRS to do, most of us would be out here on the floor speaking out against it. He is proposing that the IRS conduct a poll, a 14-question poll. If you look at questions, you know what the answers are

going to be. "Do you think your taxes are fair or unfair?"

Not only a poll, but every single American taxpayer would be mailed under separate cover this poll. Not only would the taxpayer be mailed the poll, but the poll would also go to post offices, it would go to preparers, this poll would go to anybody who has contact with the IRS. The taxpayer then would be asked to fill out the questionnaire and mail it—not back to the IRS, but back to the General Accounting Office where they would be compiled and the results then would be published. The estimate of the costs to do that range from about \$30 million up to \$80 million. If somebody came to the floor today and said guess what, the IRS is doing a \$30 to \$80 million poll to find out whether or not the American taxpayers think their taxes are fair enough, if the level of taxes is fair or not, among other questions, I think it would be a 100-to-nothing vote to say the IRS cannot do this.

So I hope those who are on the Appropriations Committee, when they are working in these conferences, will make it clear that the Senate doesn't support asking the IRS to do a \$30 to \$80 million poll which will increase the caseload and work of the IRS itself, which will cause taxpayers to say, "My gosh what does this mean?" call the IRS with additional questions, and will cause people to say, "I don't know whether I want to mail this back. I am afraid this might produce some adverse reaction from the IRS itself."

This will increase complexity. Those who are proposing this have said that it is real simple, "We will just take it out of customer service, we will take the money out of customer service and it won't cost us anything at all." Again, can you imagine if somebody came to the floor and said, "Guess what the IRS is doing? They are proposing to spend \$30 million up to \$80 million out of customer service to do a 14-question poll." I can't imagine there wouldn't be 100 Senators down here saying we object to the IRS doing it.

This is a case where the Speaker of the House says he may ask the conference committee to direct the IRS to do this very thing. Mr. President, I hope Members, if we hang around here for another 4 or 5 days—given the word that I got that the House is going to vote on fast track, I guess, tomorrow; we could be here for awhile—every single day we wait, another 130,000 notices go out from the IRS to taxpayers that they owe money, another quarter of a million phone calls are going to come into the IRS, asking the IRS questions. The commonsense recommendations in this piece of legislation are so compelling that only four Members of the House of Representatives voted against it.

I believe this legislation would pass very quickly here in the Senate. It would set up, in fact, a debate over our tax system and put us in a position to be able to enact many of the things the

chairman of the Finance Committee, the distinguished Senator from Delaware, wants to pass. I think it is very difficult to explain to taxpayers back home why we didn't give the Commissioner the legal authority needed to manage his agency in a manner that would enable the voluntary compliance to go up and customer satisfaction to improve as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I rise to object to the unanimous-consent request made by my distinguished colleague, Senator BOB KERREY. In doing so, let me be clear that I applaud Senator KERREY's tremendous work and leadership, and I am grateful for the groundwork he and the commission he has chaired have laid in the important effort to reform the Internal Revenue Service.

What concerns me, Mr. President, is that the legislation which is being advocated at this time is—as the Washington Post pointed out—a measure that has not been subject to the kind of scrutiny and debate that must attend such an important issue. The fact is that Congress will get only one good opportunity to pass necessary and meaningful reform to the IRS. The work accomplished by the commission chaired by Senator KERREY and Congressman PORTMAN disclosed a number of shortcomings within the agency. A near year-long investigation by the Senate Finance Committee and hearings that we held in September disclosed even more issues that need to be addressed. And our on-going investigation continues to turn up others on what has nearly turned into a daily basis.

IRS reform must be complete. It must be accomplished thoughtfully, methodically, thoroughly—with Congress, the administration, and the taxpayers working together. Everyone knows that the last great attempt at reform, the King Commission in the 1950's, led to a major overhaul of what was then known as the Bureau of Internal Revenue. But within only a few years, the agency was once again whacked by abuse and misuse of authority.

We need complete reform, Mr. President. This time, we must get it right.

Among those things that we must analyze and address are:

Giving the oversight board—called for in this legislation—the authority to look at audit and collection activities;

Insuring that all taxpayers have due process and that the IRS does not abusively use its liens and seizures authority;

Making the taxpayer advocate within the agency independent and responsible to the oversight board;

Establishing an independent inspector general within the IRS, and requiring the IG—like the taxpayer advocate—to report to the oversight board;

Requiring signatures on all correspondence;

Banning the use of false identifications;

Banning the use of Bureau of Labor Statistics as a mechanism to determine taxpayers' income; and,

Banning the use of statistics and goals in determining performance of IRS employees.

Mr. President, each of these represents an area where we need to make reform. And the truth is, they are only a sampling of the needed changes that emerged from our first series of hearings. I know that there will be others. They, as well as these, will have to be examined, debated and—where and when appropriate—adopted as part of a major overhaul.

For these reasons, I object to the unanimous-consent request made by Senator KERREY.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I appreciate very much the comments of the distinguished chairman of the Finance Committee, the senior Senator from Delaware. Especially his willingness to hold 3 days of hearings, penetrating what is called the 6103 veil, which allows us to see information that typically is held in secret, in confidence, to protect the taxpayer. These hearings enabled the American people to see abuses that most Americans look at and say: This is objectionable and should not be allowed to continue.

I would point out, though, that the board question that the chairman raised here, giving the board more authority—the Washington Post editorial cited one of the reasons they wanted more hearings was they thought the legislation that we had given the board too much authority. So my guess is they would write it, if we gave the board more authority—they would write the committee saying: You better give the board more hearings because you still have it wrong.

We had 12 days of hearings in the hearings that Congressman PORTMAN of Ohio and I conducted. Thousands of interviews with IRS employees, former Commissioner Richardson supports it, former Commissioner Goldman supports the recommendation, former Treasury Secretary Baker, former Treasury Secretary Brady and current Treasury Secretary Rubin—all support the legislation. All have examined it. We have had a full markup in the Ways and Means Committee. This may not go as far as some would like, but given the fact that we handle 200 million tax returns, individual and corporate, every single year, it seems to me reasonable that we begin with this board somewhat cautiously.

It has significant authority in the development of the strategic plan. It has authority to make advisory recommendations on the budget as well. It can pass judgment on the performance of the Commissioner and make recommendations to the President in regard to the Commissioner's actions.

We do, in fact, in the amendments that have been agreed to now by 14

members of the Finance Committee, as the chairman indicated, give the taxpayer advocate the independence needed to be a true effective advocate for the taxpayer. Instead of being an employee of the IRS, the advocate would be able to operate more independently than is currently the case, and many of the changes the chairman has indicated that he would like to do I fully support.

What seems to me to be the most compelling question of all is, do you want the new Commissioner of the IRS to have the authority to hire and fire senior people, to be able to provide positive financial incentives, to be required to disclose what the audit requirements are, to have incentives to be able to go to electronic filing, to have the legal authority to be able to comment on tax complexity?

All these things are fairly straightforward. I can't imagine anybody saying the IRS Commissioner should not have the authority this legislation gives him to be able to manage the agency. The risks are high, Mr. President, that in this next filing system, given what we have discovered now by penetrating the 6103 veil, there is a good chance we are going to get a decrease in voluntary compliance, with citizens saying it may be a small percentage and, indeed, our commission discovered that it is a relatively small percentage of IRS employees who are abusing the authority and the power that they have. But I can tell you that when the odds are only 4, 5 or 6 percent, that is still pretty good odds if it is your tax return, if it is your life, if it is your future that is at stake.

We risk a lot by delaying, and the people who are going to pay a price, again, are those 130,000 people who every single day are going to get a letter in the mail saying, you owe additional taxes, and that quarter of a million people who are going to call up every single day to the IRS trying to get a question answered.

I don't disagree at all with the chairman's identifying some additional things that need to be done, but where we have such broad consensus among Republicans and Democrats, with only four dissenting votes in the House, my guess is in the Senate it would pass nearly unanimously as well once people look at the details of this legislation and see what it would give new Commissioner Rossotti the authority to be able to do.

Again, I don't know how long we are going to be around here, but this piece of legislation, if it were taken up in the manner I have described, I believe would be passed quickly, would be in conference quickly, get it to the President, get his signature and would set up not just the debate that the distinguished chairman of the committee has identified, but also a debate on tax simplicity and other things that ought to be taken up by this body as well as the House.

This sets up the debate. It doesn't decrease the opportunity for a debate. It

makes it more likely we will have a healthy debate about tax simplicity, about our code and about further changes that need to be made in the IRS in order to make certain that we can close this breathtaking gap that exists today between what the IRS is able to do and what the private sector is able to do for that 85 to 90 percent of the American people who are voluntarily willing to comply to pay their taxes, if they can just get one answer, which is: How big is the bill? How much do I owe?

It is that question that dictates much of the financial planning that American families are doing, and it is a very difficult question to get answered in the current environment. That question would be made much easier to answer if we would just take this piece of legislation up, enact it and get it on to the President for his signature.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, our colleague from Nebraska, I think, made the same request yesterday, and maybe some of the same comments were made yesterday. If we didn't have additional ideas to make the legislation better, I would agree with him, because I think the House passed some good legislation. I think we can make it better. Chairman ROTH mentioned a couple things we can do.

We had good hearings. Actually, the hearings that promulgated a lot of the IRS reforms happened in the Senate, not in the House. Our House colleagues, as the Constitution provides, initiates revenue measures. So they have acted and they have acted promptly. I congratulate Chairman ARCHER, who I think does an outstanding job as the chairman of the Ways and Means Committee. The House has done good work and passed a good, bipartisan bill.

Likewise, we can do good work in the Senate and pass a bipartisan bill. We might do better. We might add and build upon what the House has in their legislation. We heard from a lot of things. Mr. Dolan, the acting Commissioner of the IRS, had some suggestions, brought out some points. We had witnesses who talked about IRS abuse. I think we can build upon some of the changes that the House has advocated and make a better bill, but it may take a little bit of time to do it. I would like to do it and do it right.

Again, I appreciate what our colleague from Nebraska is saying, but I would very much like and happen to agree with the chairman, I think we would be better off if we allow the Finance Committee to mark up the legislation, make some improvements, and pass legislation that, again, will, hopefully, receive bipartisan support and the President's signature as well.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I appreciate very much what the distinguished

Senator from Oklahoma is saying. We have had many conversations. He is co-sponsoring the legislation, so I know he wants to get this reform enacted. I believe that when we know we can get something done that will improve the operation of the IRS, we ought to do it.

Again, I respectfully say, I think this sets up the basis for further action, because it gives the IRS Commissioner the kind of authority that the IRS Commissioner needs to manage the agency. It gives the IRS Commissioner authority to say this is what we think the Code is doing to the taxpayers, this is what it is costing the taxpayers to comply with the Code we have.

I favor rather aggressive reform of the Code. I certainly wouldn't come to the floor and say I don't think we ought to do it until we reform the Code. There is lots more that can be done with the IRS, no doubt about it. But I don't think we are ever going to have a single piece of legislation that does it all.

For gosh sakes, we just confirmed a new Commissioner and sent him over to run an agency of 115,000 people. Look at the law. The law doesn't give him the authority to manage the agency.

It doesn't give him the authority to hire and fire senior people.

It doesn't give him the authority to provide positive financial incentives so the agency can be run in a better fashion.

It doesn't give him legal authority to move expeditiously to electronic filing.

It doesn't require the basis of the disclosure of audits. There is a cumbersome Freedom of Information Act process with the IRS. It is especially slow and difficult for citizens who are trying to get information.

It doesn't require the establishment of some complexity analysis so that we can make a judgment about whether or not what we are doing is going to make it harder for the taxpayers to comply.

It doesn't require the kind of coordinated oversight that is needed with a public board governing the IRS that will enable us to achieve consensus on a strategic plan.

All these things are in there. You look at them and say, "I can't be against it." There likely will be 100 votes for all the things I just described. Why not do it now? It doesn't preclude us from coming back next year and taking further action. All these things I listed will improve benefits to American taxpayers, to those 130,000 every single day who are going to receive in the mail a notice that they owe additional taxes, to a quarter of a million who are going to pick up a phone and make a phone call and try to get an answer to some question they have.

If you look at the law that is being proposed that was passed by the House by all but four Members, I urge my colleagues on the other side of the aisle to look at the law and see, for gosh sakes, that this doesn't prevent us from taking action next year, this doesn't pre-

vent the Finance Committee or any other committee from holding hearings and considering legislation to improve it.

All this does is it matches with authority the responsibility that the Commissioner has and will enable, unquestionably enable, the customers, the taxpayers of the United States of America to get better service than they are currently getting. They are going to pay a price for delaying.

The congressional restructuring commission had 12 public hearings, thousands of interviews with private sector individuals. This legislation, by the way, has the endorsement of every provider out there of services to payers, as well as the endorsement of the National Federation of Independent Businesses.

This piece of legislation has been examined from stem to stern by an awful lot of people who are now embracing and endorsing the legislation and saying that on behalf of the American taxpayers, this piece of legislation, this change in the law for the IRS will make the IRS more efficient and make the taxpayers themselves more competent; that not only are they going to get a fair shake, but get a right answer to the question that they ask.

I will be down here again tomorrow if we are still around here, and the next day if we are still around here, and however long it takes. We can conference this thing in a day and get it on to the President. I hope Members on the other side will look at this law and begin to ask the question, do we want to change the law this time and come back and address all the other things the distinguished Senators from Delaware and Oklahoma said we ought to be doing?

Mr. President, I yield the floor.

Mr. SMITH of Oregon addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

#### PRIVILEGE OF THE FLOOR

Mr. SMITH of Oregon. Mr. President, I ask unanimous consent that Jim Ahlgrimm, a congressional fellow in my office, be granted the privilege of the floor for the duration of my remarks.

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

Mr. SMITH of Oregon. I thank the Chair.

(The remarks of Mr. SMITH of Oregon pertaining to the introduction of S. 1406 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

#### TRIBUTE TO OUR VETERANS

Mr. SMITH of Oregon. Mr. President, I would like to pay tribute to our veterans as we prepare to celebrate Veterans Day on Tuesday. Each day as I drive to work to the U.S. Senate, I cannot help but notice all the beautiful

monuments of our Nation's Capital. These monuments were built to honor great people and great events, and each has its own inspirational story to tell. What you will find in each of these stories is that the greatness of our country and of its leaders was founded in the willingness of common men and women, our veterans, to risk their lives defending the principles of right and democracy. Serving both at home and on foreign soil, their service must always be remembered.

Working in Washington in this great institution of the U.S. Senate and among these beautiful monuments frequently reminds me of the sacrifices of our veterans. Even outside of Washington, in almost every town across America, there are monuments dedicated to our veterans. I urge each American to discover their story, not only from a historical perspective, but also through the eyes of the veterans living in their communities where you will find common men and women who simply did the right thing when called upon to do so by their country. Because of them, we live in a world where there is more peace than ever before. They deserve our thanks.

Mr. President, I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

(The remarks of Mr. MURKOWSKI pertaining to the introduction of S. 1402 and S. 1403 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

#### BORDER IMPROVEMENT AND IMMIGRATION ACT OF 1997

Mr. MURKOWSKI. Mr. President, I rise today to offer my support for Senate bill 1360, Senator ABRAHAM's Border Improvement and Immigration Act introduced November 4. This legislation has already numerous cosponsors and is bipartisan in nature.

This bill clarifies a provision included in the 1996 Illegal Immigration Reform and Immigrant Responsibility Act. Section 110 of last year's immigration law requires the establishment of an automated entry and exit control system. While the merits of this provision are admirable, unfortunately, the reality is that this is not a feasible concept.

The section would require documentation of every alien entering and leaving our country. Can you imagine? To document entry and exit of every foreign national, every alien entering the United States would be required to hold a visa or passport or some sort of border crossing identification card.

In my State alone, Mr. President, Canadians are at our border. We are separated from the rest of the United States by Canada. We enjoy relatively free passage between the two countries as Americans. This facilitates trade and strengthens our historical ties of

friendship. To require the documentation of entry and exit of Canadians would result in Canada requesting the same type of consideration. Of course, our Canadian neighbors would be forced to wait in long lines. Trade would be disrupted. And it would develop a feeling of distrust. This is simply unacceptable.

When former Senator Simpson crafted this immigration reform proposal last year, he did not intend to create a new documentation requirement for our northern neighbors. Rather, the issue he wished to address was the illegal overstay rates of foreign nationals.

I cannot agree more that the illegal overstays need to be addressed. The Immigration and Naturalization Service currently cannot provide accurate data on overstay rates. However, the answer does not lie in requiring documentation of every alien entering through our land points of entry.

Section 110, if implemented as is, will only create more headaches for our friends and neighbors attempting to enter the United States and slow both trade and commerce that crosses our land border each day. It will do little to address my primary concern about overstay rates and subsequent illegal immigration.

For these reasons, I am supporting Senator ABRAHAM's efforts to correct section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and exempt land entry border points from collecting a record of arrivals and departures. I hope that my other colleagues join me in cosponsoring S. 1360, the Border Improvement and Immigration Act of 1997.

Mr. President, I would like to make one more statement, if I may, with the indulgence of my friend from Wyoming.

#### INTERNATIONAL CLIMATE TREATY

Mr. MURKOWSKI. There has been an awful lot of concern relative to the issue of global warming, greenhouse gases, carbon dioxide emissions, et cetera.

This December, representatives of 166 nations are going to meet in Kyoto, Japan, to broker a new international climate treaty. This treaty will set new emissions controls for carbon dioxide and other greenhouse gases.

Unfortunately, 130 of the 166 nations, including China, Mexico, and South Korea, are explicitly exempt from the new emissions controls or any new commitments whatsoever. As a consequence, it is my opinion that such a treaty simply cannot work and will not be ratified by the Senate.

Even if one favors strong action to curb carbon emissions, there are three key reasons to oppose the approach embodied in the draft treaty.

The first reason is, selectively applied emissions limits will harm large sectors of our economy.

Analysts expect even the most modest versions of the treaty to cost over

a million and a half jobs by the year 2005, along with cumulative losses in gross domestic product exceeding \$16 trillion from the year 2005 to the year 2015.

While the President claims the new global climate treaty will not harm the economy, the administration abandoned its internal analysis after their economic models predicted disaster—even when rosy assumptions were factored in. So bad were the results that the administration refused to even appear at a hearing of our Energy and Natural Resources Committee to comment on the treaty's economic impacts.

Second, the environmental benefits of this treaty are really questionable, Mr. President.

Any treaty without new commitments for developing nations will encourage the movement of production, capital, jobs, and emissions from the 36 nations subject to emissions controls to the 130 nations that are not.

Actual global emissions will not decrease. Only their point of origin will change.

Ironically, because of our industrial processes, which are more energy efficient than those found in developing nations, global carbon emissions per unit of production would, in my opinion, actually increase. In other words, we would endure economic pain for no identifiable environmental gain.

Third, selectively applied emissions controls will doom any climate treaty that contains them.

By an overwhelming vote of 95 to 0, this body, the U.S. Senate, passed a resolution in July demanding any new climate treaty contain new obligations—new obligations—for developing nations. At the same time, Mr. President, developing nations refuse to sign up to such a treaty. Thus, selectively applied emissions controls have become the so-called poison pill that is preventing the world from reasonably addressing the climate change issue.

So I think it is time to be a bit pragmatic. If we want to keep a new climate treaty from becoming an international embarrassment, we should reconsider the rush to Kyoto and expand solutions that really work.

What can really work, Mr. President?

One is nuclear energy. One is hydropower. For instance, nuclear energy produces roughly a third of our electricity without significant emissions of carbon dioxide. Yet, President Clinton's global warming explicitly ignores these sources of virtually carbon-free energy.

Even worse, Mr. President, the Clinton administration threatens—and has threatened numerous—to veto any nuclear waste legislation and continues to consider proposals to tear down hydropower dams, policies that endanger the carbon-free solutions that are in place today, and calls into question the administration's commitment to reduce our carbon emissions in a balanced, responsible manner.

We even see the Sierra Club come out against wind power claiming that the windmills are some kind of Cuisinart that decimates the bird population.

What does our President propose?

It is rather interesting to reflect on where we are now because he has come almost full circle. The President hints at some vague notion of meeting our emissions targets through electricity restructuring, but he is very short on specifics. Perhaps the President is playing to the headlines today, but leaving the details to tomorrow or to the next administration.

His proposal is that we, by the year 2008 to 2011, reduce our emissions to the level of 1990. Well, where is his administration going to be by that time? So they are just putting these things off as opposed to coming up with the mechanics that will work.

There are, in fact, things that we can do in the context of energy restructuring that can help restabilize our carbon emissions. We have had some 13 hearings on this subject in my committee, the Energy Committee, and we have heard from 120 witnesses. Thus, I am prepared to suggest some of the specifics that the President has not suggested.

For example, we can provide for stranded cost recovery of the more than 100 nuclear power reactors that together provide some 22 percent of our total electric power generation.

We can provide incentives to encourage or require regions to employ a mix of carbon-free wind, solar, nuclear, or hydropower adequate to achieve a specified carbon-free emissions standard.

We can offer a means to certify the claims of power producers who wish to market their power to consumers as low-carbon or carbon-free.

And we can offer assistance for market-led investments in new research towards carbon-free or low-carbon energy.

There is no shortage of policies we can pursue if we really want to address the issue of carbon emissions. We can be encouraged about recent technology breakthroughs in fuel cell technology, wind energy, solar technologies, and advanced nuclear plant designs.

In the end, I think, Mr. President, American ingenuity, technological innovation, and common sense will produce the solutions that the U.N. negotiations thus far have been unable to provide.

Finally, Mr. President, we need to employ these new technologies to increase energy efficiency, promote conservation, and stabilize our carbon emissions—but we do not need a flawed treaty that cannot get the job done. The climate issue is serious, but so are issues of equity, economic prosperity, and pragmatism.

During the last round of negotiations at Bonn, the draft treaty got worse. It got worse, not better. As a consequence, we need to prepare ourselves and the American people for the prospect that the new treaty will be unwor-

thy of support, even if you are deeply concerned about the increase of carbon dioxide in the atmosphere, as I am. In other words, it doesn't do us any good to board a fast train, a fast train that is going in the wrong direction, particularly if all nations of the world aren't aboard.

I yield the floor.

#### EXTENSION OF MORNING BUSINESS

Mr. ENZI. Mr. President, on behalf of the majority leader, I ask unanimous consent the period for morning business now be extended until the hour of 1:30.

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

#### FAST TRACK

Mr. ENZI. Mr. President, I rise to speak about the fast-track bill that is before us. I have followed the debate on this legislation very closely. I have listened to my colleagues discuss at length the issues of trade flows, foreign direct investment, the delegation of authority, and unfair trade agreements. It has been an interesting debate for this freshman Senator.

I want to share with my colleagues the feelings that my constituents have expressed to me. Many of them have deep concerns about our progress on trade. Intense import competition makes them feel as if they have been left behind in the pursuit of fair trade.

There is an issue here that is far more important to my constituents than trade, however, but it is inextricably linked to their ability to compete. While the administration vows to fight for fair trade with foreign countries, people in Wyoming want this administration to fight for fair regulation in this country. For them, fair trade will not stimulate economic growth when their growth is halted by unreasonable regulations.

It seems that there is a real disconnect in our administration's policies on economic health. While one side of the administration is promoting job growth in exports, the other side is shutting down our enterprises with overly restrictive environmental regulations.

There is an inconsistency here that is difficult to explain to people in Wyoming. They do not understand why the administration supports export growth, but allows the Environmental Protection Agency to issue and adopt regulations such as the new particulate matter and ozone standards for air quality.

How does this relate to the fast-track bill we are debating? It connects in two ways. The first issue is jobs. The purpose of the bill before us is to promote job growth—which is a good purpose and I support it. Unreasonable regulatory mandates, however, do not create jobs. Second, like fast track, environmental regulation is a delegated authority. And in my opinion, it is one

delegated authority that is out of control.

Let me first discuss what is wrong with the standards and how they will destroy jobs. They were formulated and adopted with a disturbing lack of scientific consensus; with no accountability; and with a genuine disregard for the real effects they will have on working people.

The accuracy of scientific information in the formulation of scientific rules is critical for a democracy. Democracies cannot survive without being able to rely on the precision of their scientific information. Furthermore, democracies cannot survive when bureaucracies are able to impose expensive mandates without any accountability. Democracy depends on representation along with taxation. Bureaucrats must consult with elected representatives before imposing massive costs on our citizens.

With the adoption of these unreasonable standards, the EPA and the administration have failed on both of these counts.

There are numerous examples that show a lack of scientific consensus in the promulgation of these new air quality standards. The EPA's own Clean Air Science Advisory Committee, stated that at this point, "there is no adequately articulated scientific basis for making regulatory decisions concerning a particulate matter National Ambient Air Quality Standard."

The administration's National Institute of Environmental Health Sciences dismissed the EPA's claims about the relationship between childhood asthma and air quality. They observed that the asthma rate in Philadelphia has soared even as that city's air pollution levels have plummeted. They also noted that some of the highest asthma rates in the world occur in Australia and New Zealand—two countries with excellent air quality.

Strangely enough, while the EPA is promulgating expensive rules, other agencies have been pushing for economic growth. The U.S. Trade Representative, the Department of Commerce, the Small Business Administration, and the Department of Agriculture—have all advocated the importance of fast track for growth.

Even the President has emphasized the need for fast track in terms of job creation. He stressed that,

"In order for us to continue to create jobs and opportunities for our own people, and to maintain our world leadership, we have to continue to expand exports . . . We have to act now to continue [our] progress to make sure our economy will work for all the American people."

Well, I stand here to tell you that unreasonably expensive regulations will not make our economy work for all American people. Achievements in trade expansion will not overcome the excessive costs imposed by regulatory mandates.

And the costs are excessive. At first, the EPA estimated the cost would be

less than \$2.5 billion. Then, the President's own Council of Economic Advisors put the price at a considerably higher \$60 billion. I have seen estimates for the cost as high as \$150 billion. That was an amount quoted in a Senate Small Business Committee hearing we held earlier this year. I think the difference in magnitude between these estimates—\$2.5 billion and \$150 billion—deeply concerns me, and is—in and of itself—a good reason to delay the standards.

The disagreement continues. The EPA stated in its regulatory impact analysis that the rules will not have a significant effect on small businesses. But the Small Business Administration refuted that. The SBA confirmed that, "Considering the large economic impacts suggested by EPA's own analysis, [which] will unquestionably fall on tens of thousands, if not hundreds of thousands of small businesses—this would be a startling proposition to the small business community."

It will affect hundreds of thousands of small businesses. Just who are we trying to help our trade policy, Mr. President?

The U.S. Department of Agriculture also raised concerns. They highlighted that EPA's air quality standards "do not contain detailed information regarding specific effects on agriculture that may be caused by pollution or that may result from pollution controls."

American agriculture is just beginning to see what is coming down the pike with regard to clean water standards. We are now taking a close look at how the EPA will be able to enforce "total maximum daily load" guidelines on streams in my State. This is a big concern for everyone who uses water in Wyoming. And we all do.

The fact is, the unreasonable environmental regulations destroy thousands of U.S. jobs by raising input and compliance costs. In a 1996 study of regulatory costs, Thomas Hopkins of the Center for the Study of American Business, estimated that regulatory mandates already cost small businesses between \$3,000 and \$5,500 per employee. The new air quality standards will impose an enormous new cost on top of that without any verification of the benefits.

The second connection this issue has to the debate of fast track is the issue of delegated authority. Congress has a responsibility to regulate commerce with foreign nations that is derived directly from the Constitution. Fast track delegates that authority to the executive branch.

Whether one agrees with the practical need for fast track or not, no member can deny that it is a delegation of congressional responsibility. Our senior Senator from West Virginia, Senator ROBERT BYRD, is an expert historian on constitutional law and he has spoken very eloquently and persuasively about this issue and against the fast-track legislation.

I have also heard some very convincing arguments about the necessity

of fast track. The argument is made that we need a strong voice in our multilateral trade negotiations—a voice that has the authority to back up its demands. Whether that is to be believed or not, recent developments make me very reluctant to delegate that authority. I have already stated my concerns about EPA's expansive interpretations of its delegated authority—now, we face the prospect that the administration will commit to dangerously unfair commitments in the global warming treaty to be discussed in Kyoto this December.

The administration's positions on the global climate change treaty are a paramount example of politics over science. There has been no scientific consensus on this issue. There has been no proven relationship to show that the climate change treaty would have any effect on global temperatures. In fact, there isn't any proof that human intervention will make a difference.

For some reason, however, the administration seems ready to embrace an agreement that would wage economic war against our own workers. According to one independent estimate, complying with U.N. reduction targets for greenhouse gas emissions could cost this country as much as \$350 billion per year. That is nearly \$2,000 for every working American.

The result will be the loss of 5 million American jobs directly related to energy use and production and the loss of several million more jobs that are indirectly related. The jobs will simply be transferred overseas—not to countries doing a better job, countries that are doing a worse job—something that is becoming easier and easier. It will be particularly easy if developing countries like China, India, Brazil, and Mexico do not impose the same air quality standards on themselves. That is what we are talking about in that treaty.

This is not consistent with promoting economic growth. Furthermore, there is no scientific consensus. Most importantly it is unfair. Personally, these circumstances make me very hesitant to support fast track and to restrict my ability to modify agreements entered into by this administration.

I cannot rationalize giving the Administration the authority to negotiate agreements with other countries when they refuse to negotiate domestic regulations with Congress.

Before I close, I want to stress that I understand the importance of trade agreements. I understand that Americans have much to gain by reducing foreign barriers. I do believe fast track is necessary for practically negotiating multilateral agreements.

I want to point out, however, that many of my constituents in the State of Wyoming have grave reservations about expanding NAFTA. Two of the largest sectors of Wyoming's economy, agriculture and energy, are in direct competition with Canadian producers. While our Nation as a whole stands to benefit from increased market access in Europe, South America, and Asia—

my constituents need attention focused on unfair import competition from NAFTA.

This problem is most apparent in our northern tier States. The Senator from North Dakota, Senator DORGAN, has clearly presented the unfair practices faced by our wheat and barley growers. United States food manufacturers import over \$200 million per year in Canadian wheat—nearly all of which is sold by the Canadian state trading board.

Cattle imports from Canada have also flooded our market. While national meat import levels have remained fairly stable, live imports from Canada into the Northern States have increased by over 100 percent since 1994. They have been especially unwelcome in a buyers' market that is saturated by oversupply and restricted by packer concentration. These Canadian imports exacerbated prices that were already down by over 40 percent.

Most recently, the independent oil producers in my State, who already face stringent regulations and substantial Federal taxation, are now competing with 130,000 barrels per day of Canadian crude that is being pumped into the region through a new pipeline. Wyoming's posted sour crude prices have plummeted from over \$19 per barrel in 1996 to just \$14 per barrel this year.

Needless to say, many of my Wyoming constituents feel they are getting the raw end of free trade. Most of them are people who deeply believe in fair and open trade, but they have real reservations about expanding agreements they don't feel are fair.

I will conclude by stressing that it is good for the administration to set its sights on foreign markets, but they must also pay attention to what is happening at home. There is no reason to open up foreign markets while you are closing down your businesses by strangling them with regulations.

We need to inject a standard of reasonableness in our environmental policy. The issues of job growth, trade, and domestic regulation are linked. I would like to see more consistency in our policy on economic growth.

I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska [Mr. MURKOWSKI], is recognized.

#### WARD VALLEY

Mr. MURKOWSKI. Mr. President, I would like to address the issue of low-level waste in this country and the issue of Ward Valley. California is the first State to site a low-level waste facility under legislation passed by Congress which granted States with the authority and responsibility for low-level waste. Low-level radioactive waste is produced from cancer treatments, medical research, industrial activities, and scientific research. In the



State of California there are some 800 sites where this medical waste is being stored. It is being stored in temporary facilities that were not designed for permanent storage.

This waste is stored near homes, schools, it's stored at college campuses, medical facilities, and so forth.

This radioactive waste is vulnerable to accidental release from the fires and earthquakes, neither of which are uncommon in California.

Public health and safety demands that this waste be moved from locations scattered across California to a single, monitored location—preferably, in a remote and sparsely populated area.

The State of California is the first State to take advantage of the Federal process that we authorized for the States to develop their own low-level waste sites. But it is interesting to note how the progress has gone—not because of the lack of commitment by California, but the lack of cooperation from the Department of Interior to simply conduct a very simple land exchange.

The State of California, in a process which began a decade ago, is trying to get their facility opened. They selected a site known as Ward Valley in the remote Mojave Desert.

The California license was issued in accordance with all State and Federal laws, and has withstood all court challenges. The license contains 130 specific conditions designed to protect public health, safety, and the environment.

But here comes the villain—the Department of Interior—having earlier agreed to sell California the land for the site—changed its mind, returned the check, and has refused to transfer the land.

Since that time, the Department of the Interior has engaged in continuous, purposeful delay. They seek more studies, allegedly to assure that the site will be safe.

We all insist on a safe disposal site, and we expect no less. Thus far, we have had two environmental impact studies and a special National Academy of Science study that all point to the safety of the site.

Now, the State of California, in accordance with the guidelines of the Nuclear Regulatory Commission and all applicable State and Federal laws, has done its job and done it well. But the Interior Department is still not satisfied. They want more studies. For starters, they insist on an additional water infiltration study and a third impact environmental statement.

The State of California has generously agreed to perform the water infiltration study prior to any land transfer which was a tremendous concession on California's part. However, Interior has not thus far allowed California access to the land to conduct the very tests that Interior insists upon. Instead of working to resolve the matter, the Department of the Interior seems to be engaged in a cycle of continuous study and endless delay. One has to wonder why the Department of the Interior is taking such a tack.

Are these delays and demands for more tests designed to assure public safety? Or are they merely part of a carefully orchestrated public relations campaign? Well, we can answer that question.

Several weeks ago, a memo we uncovered from the Department of the Interior shed an extraordinary light on this question. In fact, this memo makes the motivations behind the Interior Department's actions absolutely clear.

I have read this memorandum once on the floor of this body. I think it needs to be read again. This is a memo from Deputy Secretary John Garamendi, to Secretary Bruce Babbitt, Department of the Interior. It is short enough to read in its entirety.

It says:

February 21, 1996

Memorandum

To: Bruce Babbitt

From: John Garamendi

Subject: Ward Valley

Attached are the Ward Valley clips. We have taken the high ground. [Governor Pete] Wilson is the venal toady of special interests.

I do not think GreenPeace will picket you any longer. I will maintain a heavy PR campaign until the issue is firmly won.

There you have the words of John Garamendi relative to his willingness to work with California to act in order that the low-level waste at some 800 sites in California can be removed and put in one area that will be monitored out in the Mojave Desert.

I think this memorandum shows that Ward Valley has become a political football, a public relations issue. It also suggests that Interior has no plans other than to delay the transfer of the land. They just want to wage a PR campaign and delay a decision until somebody else's watch. They don't want to make this decision on their watch. They are putting it off because they know this administration is a few years from becoming history. They don't want to address it, they don't want the responsibility.

But what has Secretary Garamendi told the Senate with regard to Ward Valley? How do his private statements compare to his public ones?

At his confirmation hearing on July 27, 1995, John Garamendi testified under oath to our committee that the Ward Valley issue should and would be resolved quickly. Two years later, at a hearing on July 22, 1997, John Garamendi told the committee that he would work in good faith to resolve the matter in further negotiations with the State of California.

Well, we still don't have a resolution. California does not even have permission to do the additional testing Interior seems to want to see performed.

Instead of moving a process forward and transferring the land, Interior seems intent on waging a public relations campaign designed to further delay rather than enlighten.

Now, what have others said about the Interior Department's handling of this issue? Let's look at the experts.

The General Accounting Office, GAO, contends that the Department of the

Interior is attempting to assess the site's suitability—a job that belongs to California by law and that California has already undertaken and completed—despite the fact that Interior “lacks the criteria and expertise” for the job. That is the opinion of the General Accounting Office—that Interior lacks the criteria and expertise.

The GAO report also contends that there is no need for the new environmental impact statement sought by Interior since the substantive issues have already been addressed and that new information uncovered since the last environmental impact statement is generally favorable to the facility.

Well, this report is too lengthy to insert into the RECORD, but for the benefit of my colleagues, I am referring to GAO report RCED-97-184, dated July 1997, for anybody who might want to look it up.

To again summarize what GAO says, Mr. President, it says: First, Interior is trying to do a job that belongs to the State of California. The State of California was given the authority to do it; second, Interior is calling for new studies that aren't needed; third, Interior lacks the technical expertise to even perform these tasks.

GAO isn't alone in their criticism of the Department of Interior's handling of this issue. The Nuclear Regulatory Commission, NRC, has joined in the process as well.

Specifically, the NRC has been critical of the Interior Department for distributing fact sheets which contain errors, misleading statements, and information falsely attributed to the NRC that was actually provided by project opponents.

That is pretty strong stuff, Mr. President, but that is factual.

So not only is Interior waging a PR campaign, they are playing fast and loose with the truth in the conduct of that campaign, according to the Nuclear Regulatory Commission.

I ask unanimous consent that the letter from the Chairman of the NRC to the Secretary of the Interior, dated July 22, 1997, be printed in the RECORD.

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

UNITED STATES NUCLEAR

REGULATORY COMMISSION,

Washington, DC, July 22, 1997.

Hon. BRUCE BABBITT,

Secretary, U.S. Department of Interior, Washington, DC.

DEAR SECRETARY BABBITT: I am writing on behalf of the U.S. Nuclear Regulatory Commission (NRC) to share our views related to the Department of Interior's (DOI) actions regarding the proposed Ward Valley low-level radioactive waste (LLW) disposal facility in California. In February 1996, DOI announced that it would prepare a second supplement to an environmental impact statement (SEIS) for the transfer of land from the Federal government to the State of California, for the development of the Ward Valley

low-level radioactive waste (LLW) disposal facility. We understand that DOI has identified 13 issues that it believes need to be addressed in the SEIS. DOI also stated that it would not make a decision on the land transfer until the SEIS was completed. NRC will actively serve as a "commenting agency" on the SEIS in accordance with the Council of Environmental Quality regulations in 40 CFR 1503.2, "Duty To Comment." NRC's interest in the Ward Valley disposal facility is focused on protection of public health and safety, and many of the 13 issues to be addressed in the SEIS are related to our areas of expertise. As a commenting agency, we will review the draft SEIS, and provide comments based on the requirements in federal law and regulations, and our knowledge of policy, technical, and legal issues in LLW management. We would also be available to discuss these issues with DOI, both before and after publication of the draft SEIS.

On a related matter, it is our understanding that Deputy Secretary John Garamendi of DOI held a press conference on July 22, 1996, addressing the effect of Ward Valley facility availability on the use of radioisotopes in medicine and medical research. It was recently brought to our attention that DOI distributed a document entitled, "Medical, Research, and Academic Low Level Radioactive Waste (LLRW) Fact Sheet" at the press conference. This Fact Sheet contains several errors and statements that may mislead the reader. To assist DOI, we have addressed these errors and statements in the enclosure to this letter. Some of the points contained in the Fact Sheet are useful and contribute to the dialogue on this issue; however, NRC is concerned that some of the subjective information of the document is characterized as factual. We are particularly concerned by the statement that the NRC definition of LLW "... is an unfortunate and misleading catch-all definition ...". In fact, NRC's definition is taken from Federal law, specifically the Low-Level Radioactive Waste Policy Act of 1980, and the Low-Level Radioactive Waste Policy Amendments Act of 1985 (LLRWPA). Additionally, it is NRC's view that some of the information that was referenced or relied on in the Fact Sheet may not represent a balanced perspective based on facts. For example, a table of the sources and amounts of radioactive waste that is projected to go to the Ward Valley facility is erroneously attributed to NRC, the U.S. Department of Energy (DOE), U.S. Ecology, the Southwestern Compact, and the Ward Valley EIS. Raw data from the sources quoted appear to have been interpreted based on uncertain assumptions about future activities of generators to produce the figures in the table. Additionally, NRC noted that the figures in the table are identical to those in a March 1994 Committee to Bridge the Gap report.

With respect to the relationship between LLW disposal policy and medicine and medical research, we note that the National Academy of Sciences Board on Radiation Effects Research has prepared a Prospectus for a study entitled, "The Impact of United States Low-Level Radioactive Waste Management Policy on Biomedical Research." The study would, among other things, "Evaluate the effects of higher disposal costs and on-site storage on the current and future activities of biomedical research, including the effects of state non-compliance [with the LLRWPA of 1985] on institutions conducting biological and biomedical research and on hospitals where radioisotopes are crucial for the diagnosis and treatment of disease." Thus, the issue of medical uses of radioisotopes and how they have been affected by the Ward Valley process is far less clear than the Fact Sheet portrays.

Finally, since there are no formal arrangements that permit NRC to review and comment on the technical accuracy of various DOI documents on LLW and Ward Valley, we may not be aware such documents exist, thus the absence of NRC comments does not imply an NRC judgment with respect to the technical accuracy or completeness of such documents.

I trust our comments will be helpful in your efforts to address Ward Valley issues.

Sincerely,

SHIRLEY ANN JACKSON.

Enclosure: As stated.

NRC STAFF COMMENTS ON THE DEPARTMENT OF INTERIOR "FACT SHEET"<sup>1</sup>

1. The Fact Sheet contains a projection of LLW to be sent to the Ward Valley disposal facility over its 30-year life, and attributes the table to the Department of Energy, the U.S. Nuclear Regulatory Commission, the Southwestern Compact, U.S. Ecology, and the Ward Valley environmental impact statement. In fact, the figures in the table are identical to those in a table from a March 1994 Committee to Bridge the Gap report, are substantially different from California projections, and are based on assumptions that are not identified. The actual assumptions used are contained in the Committee to Bridge the Gap report and minimize the amount and importance of the medical waste stream.

2. The Fact Sheet is incomplete in that it provides only anecdotal evidence of the impact of not having the Ward Valley disposal facility available to medical generators. Although its arguments about short-lived radionuclides appear to be generally true, the Fact Sheet downplays the effects on generators that use longer-lived radionuclides. According to the Fact Sheet, there are an estimated 53 research hospitals in California, out of some 500 hospitals overall. The Fact Sheet describes the impact at three of these research organizations and concludes that they can manage their waste, either by disposing of it at an out-of-state facility (Barnwell or Envirocare), storing it, or, for sealed sources, sending them back to the manufacturer. The Fact Sheet concludes that there is no health and safety impact from the approach, but does not address broader issues such as the continued availability of existing disposal sites as an option, and the fact that transferring a sealed source to a manufacturer does not eliminate the problem, but simply shifts it from one organization to another.

3. The Fact Sheet does not address the more complex issues concerning use of radioisotopes in medicine, such as how medical research in general has been affected by issues such as disposal and storage cost increases, and the need to switch from longer-lived radionuclides to short-lived nuclides or non-radioactive materials. The National Academy of Sciences Board on Radiation Effects Research has prepared a Prospectus for a study entitled "The Impact of United States Low-Level Radioactive Waste Management Policy on Biomedical Research." The study would, among other things, "Evaluate the effects of higher disposal costs and on-site storage on the current and future activities of biomedical research, including the effects of state noncompliance on institutions conducting biological and biomedical research and on hospitals where radioisotopes are crucial for the diagnosis and treatment of disease." Thus, the issue of medical uses of radioisotopes and how they have been affected by the Ward Valley process is far less clear than the Fact Sheet portrays.

4. The Fact Sheet characterizes the NRC definition of LLW in 10 CFR Part 61 as "un-

fortunate and misleading" because it includes both long-lived and short-lived radionuclides. It fails to acknowledge that this definition is contained in Federal law (the Low-Level Radioactive Waste Policy Act of 1980 and the Low-Level Radioactive Waste Policy Amendments Act of 1985) and that information on the kinds and amounts of radionuclides contained in LLW for land disposal is widely available in NRC regulations and/or NUREGS, and from DOE. In developing Part 61 in the early 1980s, NRC sought public comment on the proposed rule, and provided extensive information on the assumptions, analyses, and proposed content of the regulation for review. In developing the regulations for LLW, including how different classes are defined, NRC received and considered extensive public input. Four regional workshops were held, and 107 persons commented on the draft rulemaking, for 10 CFR Part 61, which defines LLW. In short, NRC encouraged public involvement in developing the definition of, and defining the risk associated with, LLW.

The Fact Sheet focuses on the half-life of radionuclides, but fails to discuss risk to the public from the effects of ionizing radiation and how they are affected by the half-life of radionuclides. Public health and safety is measured in terms of risk, not half-life. Risk is a function of radiation dose, and the determination of risk depends on a variety of factors, including the type of radiation emitted, the concentration of radionuclides in the medium in which they are present, the likelihood that barriers isolating the radionuclides will be effective, and the likelihood of exposure if radioactive materials are not fully contained. The Fact Sheet is misleading when it states that the half-life of I<sup>123</sup> used in medicine is 13 hours, and that of I<sup>129</sup> from nuclear power plants is 16 million years and that it remains hazardous for 160-320 million years. Either isotope can be a risk to the public, depending upon the other factors discussed above, and half-life by itself does not indicate risk.

5. In the definition section, the Fact Sheet defines "radioactive half-life" as "The general rule is that the hazardous life of a radioactive substance is 10-20 times its half-life." This definition contains a new term (hazardous life) not used by the national or international health physics or radiation protection communities, and not defined in the Fact Sheet.

<sup>1</sup>"Medical, Research, and Academic Low Level Radioactive Waste (LLRW) Fact Sheet." U.S. Department of Interior, Office of the Deputy Secretary. Distributed at a press conference of the Deputy Secretary on July 22, 1996.

Mr. MURKOWSKI. Mr. President, you might ask, why would a Senator from Alaska even care about a facility in California that is not needed to dispose of radioactive waste generated in Alaska? We don't generate hardly any.

Part of the answer involves my responsibilities as the chairman of the Committee on Energy and Natural Resources, and our oversight responsibilities. Not surprisingly, my position on Ward Valley is the same one taken by my predecessor as chairman, Bennett Johnston of Louisiana. He understood, as I do, that Ward Valley is really more than a debate over the future of a thousand acres of land in the Mojave Desert; it is more than a debate over the disposition of low-level radioactive waste in California, Arizona, and the Dakotas; it is even more than the debate over the viability or even the future of the Low-Level Radioactive

Waste Policy Act. I suggest there is much more at stake.

I am taking on this battle because there is an intrinsic value in opposing the careless disregard of science and the decisionmaking process. It's important to stand up against those who engage in this dangerous manipulation of public fear. It is my job to work against the oppression of the public good by a vocal few. Because I very much care about human health, safety and the environment, I believe it makes sense to store this radioactive low-level waste at a single, monitored location in the desert, rather than at 800-some locations throughout California, near schools, neighborhoods, hospitals, medical centers, and so forth.

Finally, I believe it is important to ensure that the Government keeps its promises. It was the intent of Congress, when it passed the Low-Level Waste Policy Act of 1980, and further amended it in 1985, that the safe management of low-level radioactive waste would be a responsibility of the States. That is precisely what the Secretary of the Interior, Bruce Babbitt, lobbied for when he was Governor. He argued that low-level waste should be a State responsibility. At that time, he was serving with the now President, but then Governor, Bill Clinton in the National Governors' Association. Well, he has changed his position.

I know the view from the top floor of the Department of the Interior changes one's perspective from time to time, but it's difficult to appreciate, much less justify, the actions of the Department in this regard.

Are the continuing delays at Ward Valley the good-faith actions of public officials purporting to act in the public interest? I think not.

To answer those questions, I am announcing today that we are going to explore, in great detail on the committee, the Ward Valley issue in the next session, with a series of investigatory oversight hearings. What we are attempting to obtain, obviously, are the facts on why this administrative bungling seems to continue. I would like all who have an interest in this issue to be aware that these hearings will commence early in the next session.

In the interim, we will be seeking relevant documentation from the Department of the Interior and the White House. With that notice given, I thank you, Mr. President, and 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. MURKOWSKI. 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. MURKOWSKI. Mr. President, I ask unanimous consent that the period of morning business be extended for about 5 or 6 minutes.

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

Mr. MURKOWSKI. I thank the Chair.

#### OVERSIGHT OF THE HEADWATERS FOREST AND NEW WORLD MINE ACQUISITIONS

Mr. MURKOWSKI. Mr. President, I would like to share with my colleagues a little oversight on an issue that will be coming before this body again, and it covers the Headwaters Forest and New World Mine acquisitions taking place in both California and Montana. I have the obligation as chairman of the Energy and Natural Resources Committee to initiate authorization of these matters. I have had an active interest in the decisions of the Clinton administration to acquire the Headwaters Forest in northern California, and the New World Mine Site in Montana.

These decisions were made by the administration with little congressional involvement and the administration has now gone out of its way to, in my opinion, limit the role of Congress in how these properties actually are acquired.

Originally, the administration proposed acquiring both of these properties through land exchanges. When that proved to be very difficult and impossible to do without going through Congress, the idea of land exchanges was abandoned. So clearly the objective was to circumvent Congress.

The Clinton administration then proposed using \$315 million from the Land and Water Conservation Fund to purchase both of these properties.

The administration then insisted, contrary to the provisions of the Land and Water Conservation Fund Act, that such money could be spent without specific congressional authorization, clearly intending to go around Congress.

Ultimately, that argument failed. While I would have preferred to enact separate authorizing legislation, authorizations were contained within the 1998 Interior Appropriations bill.

However, the authorizations do not take effect and the money cannot be spent until a minimum of 180 days after enactment, and then only if no separate authorizing legislation is enacted.

During the 180-day review period, as chairman of the Energy and Natural Resources Committee, I intend to conduct a series of oversight hearings to examine the Headwaters Forest and New World Mine acquisitions. One focus of these oversight hearings will be the appraised value of the properties. To date the Clinton administration has refused to conduct appraisals to determine fair market values. This failure is in direct contradiction of existing law, which requires the appraisals be conducted for any Federal land acquisition. The appropriators had the foresight, of course, to recognize this hypocrisy.

Fair market value appraisals for both properties must be submitted to Congress within 120 days of enactment. The appraisals also must be reviewed,

and independently analyzed by the Comptroller General of the United States.

Once these appraisals are completed, I intend to closely examine them. I plan to look at the methodology and data used in the appraisals. Among the specific questions, I will ask:

Do the appraisals comply with the Department of Justice's Uniform Appraisal Standards for Federal Land Acquisitions?

What criteria were employed to determine fair market value?

What assumptions were made about the property and the use of the property?

What was the scope of the appraisal?

It is important to remember that neither the Headwaters Forest nor New World Mine acquisitions can proceed, absent these appraisals. So these appraisals must be done.

Further, Congress will have, at a minimum, 60 days to examine the appraisals. For every day, after 120 days, that appraisals are not submitted to Congress, the 180 day period will be extended by 1 day.

I also intend to examine during the 180 day review period, the true cost to the American taxpayer of the Headwaters Forest acquisition. A condition to the Headwaters Forest acquisition is that the current owner of the property can take on his Federal taxes, as a business loss, the difference between what he contends is the property's fair market value and the price the Federal Government and California are paying for the property. That differential is \$700 million.

In the event the owner receives such a ruling from the IRS, there will be a lost of tax revenue to the Federal treasury. This lost tax revenue could amount to \$100 million or more. It is inaccurate to say that the Headwaters Forest is costing the American taxpayer \$250 million. It could well cost the American taxpayer not only the \$250 million cash purchase price but also this lost tax revenue. Under no circumstances should this total cost exceed the appraised value of the Headwaters Forest.

As to the New World Mine acquisition, I intend to examine exactly what land or interests in the land the Federal Government is acquiring for \$65 million from the mining company. This issue needs to be examined because the agreement, committing the United States to buy this property, incredibly does not answer this question.

The mining company, which agreed to sell, owns or has under lease, interests in nearly 6,000 acres. However, the mining company has fee title to only 1,700 acres. The remainder is unpatented mining claims. The ownership situation is further complicated by the fact that most of the interests in the 6,000 acres are owned by a third party not a signatory to the agreement with the Federal Government. Congress, and the American taxpayer, have

a right to know, what we are getting for \$65 million.

There are many other issues that my committee will examine about these acquisitions including:

What is the status of the Habitat Conservation Plan for the land surrounding the Headwaters Forest?

What impact will that Habitat Conservation Plan have on other property owners in the western United States and Pacific Northwest?

Has California come up with its \$130 million share of the purchase price for the Headwaters Forest?

Do both acquisitions comply with the terms of the National Environmental Policy Act?

How will the properties be managed? By whom?

At what cost?

How will the public access the Headwaters Forest?

Is it good public policy to settle constitutional takings cases against the United States in this manner?

Is it good public policy to settle environmental litigation in this manner?

How does the Clinton administration interpret the phrase "priority Federal land acquisitions?"

Are the Headwaters Forest and New World Mine acquisitions consistent with the Federal land management policy on Federal land acquisitions?

While this may seem like an exhaustive list of issue, I only have skimmed the surface of the numerous unanswered questions about the acquisitions.

I want all of these questions answered before the acquisitions occur. It is in the interest of the taxpayers. It is the responsibility of this body.

My goal is to ensure, despite the uncommon circumstances which have led us to this point, that Congress and the American people can have confidence in the decisions to acquire the Headwaters Forest and the New World Mine in the interest of the taxpayers.

Mr. President, I yield the floor. I see several Senators seeking recognition, including the majority leader.

The PRESIDING OFFICER. The majority leader.

#### ACTION VITIATED ON AMENDMENT NO. 1602 TO S. 1269

Mr. LOTT. Mr. President, I ask unanimous consent the action on the Inhofe amendment, No. 1602, which was agreed to on S. 1269, be vitiated, and that the amendment be restored to the status quo when the Senate resumes the bill.

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

Mr. LOTT. Mr. President, I thank all Senators for their cooperation on this matter.

I particularly want to thank Senator INHOFE for agreeing to do this. He came to the floor and offered his amendment. And it was accepted on a voice vote. Senators were aware of what was being discussed. But in a desire to be totally fair and making sure the proper notifi-

cation was given, and to have opposition on the floor when action of that nature is taken, Senator INHOFE has been willing to agree to vitiate that action at this time. I thank him for his cooperation.

This is a very important issue which will be debated in the Senate and which should be considered by the Senate. It is an issue that has support and opposition on both sides of the aisle. Senator INHOFE certainly is very committed to having this subject considered by the Senate either later on this year or next year.

Again, I reiterate my thanks to him.

#### ORDER OF PROCEDURE

Mr. LOTT. Mr. President, it is my understanding that the Senate now is in a position to consider the Amtrak reform bill. The bill would then be agreed to after brief debate.

The Senate would then conduct a rollcall vote on the nomination of Judge Christina Snyder.

Following the confirmation vote, it is my hope that the District of Columbia appropriations bill will be ready to be considered.

Therefore, votes will occur with the first vote occurring at approximately 2:15 today.

I thank all Senators who have been involved in these other two bills, and we will update them further with information as to when votes may occur. It is possible that another vote will occur this afternoon. But it depends on action in the other body with regard to the appropriations conference reports.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, let me thank the majority leader for his efforts over the last 24 hours.

I also thank the Senator from Oklahoma.

Obviously, Democratic Senators need to be on the floor to voice their opposition and to object on the occasions when situations like this arise. We also have to work with good faith, and we intend to do that.

There is no reason why we need to be monitoring each other if we are working in good faith. I think this is a misunderstanding. I appreciate very much the cooperation. And we will work with the majority leader to ensure that at some point we have a good debate about the matter that would be addressed by the Inhofe amendment. We will work on this matter in the future.

Mr. INHOFE. Mr. President, will the leader yield?

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

Mr. INHOFE. I want the majority leader to be aware that I did consult with several Democrats and Republicans before taking up the amendment. But I am happy to do this.

Mr. DASCHLE. Very good.

Again, Mr. President, let me just say that we have a lot of work to do. I look

forward to working with the majority leader in the next 48 hours to see if we can complete it. I am pleased that we are now able to move to the Amtrak bill, and nominations. We can do that, and then move on to other things.

I yield the floor.

#### UNANIMOUS-CONSENT AGREE- MENT—NOMINATION OF CHRIS- TINA A. SNYDER

Mr. LOTT. Mr. President, as in executive session, I ask unanimous consent that at 2:15 today the Senate immediately proceed to executive session and a vote on the confirmation of Executive Calendar No. 255, Christina A. Snyder to be U.S. district judge for the Central District of California.

I further ask unanimous consent that following that vote the motion to reconsider be laid upon the table, any statements relating to the nomination appear at that point in the RECORD, and 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 SCHEDULE

Mr. LOTT. Mr. President, before we move to the Amtrak legislation, I want to say for the information of all Senators—and I will have more to say about this when we have a recorded vote at 2:15. I think at that time we should take the time to talk about the schedule for the remainder of the day and perhaps Saturday and Sunday.

It is our intent to stay and continue working. I don't see the necessity for us to be late tonight. But we will be back in on Saturday, and again on Sunday. We hope that we will have appropriations conference reports, possibly the first one being the Labor-HHS appropriations conference report, perhaps even later on today or tomorrow, and the Commerce-State-Justice conference report we hope to have by tomorrow, and, if not then, on Sunday.

We will continue to work on other issues, some of which may require votes, even on the Executive Calendar. And then when the House votes, of course, we would then proceed to act on fast track after the House has acted. Whether that is Saturday or Sunday now is not clear. But the House has postponed their action on fast track today. So that will not be taken up until Saturday or Sunday.

So we could be voting on fast track—perhaps on final passage—later on this weekend. But, in the meantime, of course, when we complete these intervening actions, we will go back to fast track as it is now pending before the Senate, and amendments will be in order, and other amendments I am sure will be offered. We will consult with the interested parties about how to proceed on those amendments and what time votes would occur.

But, again, I think that during the remainder of the day it is very likely that we will have a minimum of two votes, and maybe even three or four.

UNANIMOUS-CONSENT  
AGREEMENT—S. 738

Mr. LOTT. Mr. President, I now ask unanimous consent that the Senate proceed to consideration of Calendar No. 179, S. 738.

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

Mr. LOTT. I ask unanimous consent that the committee amendment be withdrawn, and I understand Senator HUTCHISON has a substitute amendment at the desk, and I would ask for its consideration.

Mr. DASCHLE. Mr. President, reserving the right to object, I only do so at the request of Senators KERRY and LAUTENBERG, that they be given 10 minutes each at some point following the introduction of the amendment and comments made by Senators MCCAIN and HUTCHISON.

Mr. LOTT. Mr. President, I don't know if we should at this time get consent in that we would have that time. I think they will have it and maybe more if they would like to have it, and we should not and will not complete the discussion on it until the Senators have been involved in working out this compromise are in the Chamber.

I would like to say if I could at this point, I thank the chairman of the committee of jurisdiction, Senator MCCAIN, for his persistence on this matter, and Senator HUTCHISON, who is chairman of the subcommittee, for her efforts in bringing about this compromise. Senator KERRY from the committee as well as Senator BREAUX have worked very hard in developing this compromise.

I have been involved in this effort now for 3 years, having served as chairman of the subcommittee in the previous Congress. I think it is very important that we get fundamental reform of Amtrak so that Amtrak at least will have a chance to be able to provide good service and do it without depending on continuing subsidies from the Federal Government forever. They should be able to turn a profit, and I think this legislation will make that possible. They should be able to contract outwork. They should be able to advertise. There are so many basic private sector things that they could do and should have been doing before now that would allow them to actually make a profit so that we can keep a national rail passenger system. We need a passenger system that serves all the country, not just the eastern seaboard, and this is a major step in that direction.

I want to emphasize, though, too, this is required in order to get the \$2.3 billion that was fenced in the budget agreement for capital improvements. And those funds are only for capital improvements, not for operating sub-

sidies, makeup of shortfalls in the past or salaries. That is not included in this legislation.

I think we have a good bill. After trying to move it for 2 years, I am delighted that the work of a lot of Senators including the Senators here now in the Chamber and others that will be here momentarily will make this possible. I don't want to delay it any longer for fear somebody might have a good idea of one word that might be added.

Mr. DASCHLE. Mr. President, at the risk of delaying and only to do what the majority leader has just done, I think the Senators who have worked on this as hard and as long as they have do deserve the commendation just given them not only on that side of the bill but ours as well. The Senators have done an extraordinary job, and I only wish there were more occasions when on a bipartisan basis we could see this kind of leadership and effort put forth. This is a tribute to their effort, and I think a very successful one and I think as a result we are going to see an overwhelming vote on this legislation as we should and I appreciate very much their efforts.

I yield the floor.

Mr. LOTT. Mr. President, I do want to add, and Senator DASCHLE will want to add, the fact that the ranking member on the committee, Senator HOLLINGS, also has been involved in this for quite some time, and he has been helpful in bringing it to this conclusion.

The PRESIDING OFFICER. Is there objection to the request?

Mr. DASCHLE. I certainly would add that Senator HOLLINGS, in fact, was the last person to sign off on this legislation as is understandable. We appreciate very much the early and perpetual effort he makes on Amtrak matters, and certainly he deserves that recognition as well.

I thank the majority leader.

The PRESIDING OFFICER. Was there an objection to the request from the Democratic leader?

Mr. LOTT. I believe the Chair did not hear objection.

There was not an objection from the Democratic leader on that unanimous consent request to proceed.

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

CONSENT OF CONGRESS TO THE  
APALACHICOLA-CHATTAHOOCHEE-FLINT RIVER BASIN COMPACT

CONSENT OF CONGRESS TO THE  
ALABAMA-COOSA-TALLAPOOSA RIVER BASIN COMPACT

Mr. LOTT. Before we go to Amtrak, two other unanimous-consent requests.

I ask unanimous consent that the Senate proceed en bloc to the immediate consideration of House Joint Resolution 91 and House Joint Resolution 92 which were received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows.

A resolution (H.J. Res. 91) granting the consent of Congress to the Apalachicola-Chattahoochee-Flint River Basin Compact.

A resolution (H.J. Res. 92) granting the consent of Congress to the Alabama-Coosa-Tallapoosa River Basin Compact.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolutions?

There being no objection, the Senate proceeded to consider the joint resolutions.

Mr. LOTT. Mr. President, I ask unanimous consent that the joint resolutions be considered as read a third time and passed, the motions to reconsider be laid upon the table, and that any statements relating to the resolutions be printed in the RECORD.

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

The joint resolutions (H.J. Res. 91 and H.J. Res. 92) were passed.

Mr. LOTT. I yield the floor.

Mr. SHELBY. Mr. President, I am pleased that the Senate has passed House Joint Resolutions 91 and 92 granting the consent of Congress to the Alabama-Coosa-Tallapoosa [ACT] and the Apalachicola-Chattahoochee-Flint [ACF] River Basin Compacts. I would like to thank the majority leader, his staff, and my colleagues from Alabama, Georgia, and Florida for their efforts and leadership in moving these valuable bills.

With the passage of these compacts, the three States now may move forward and begin the difficult task of allocating water resources throughout the region. The compacts set forth the framework for the three States to resolve the critical issue of how our scarce water resources are divided. This partnership will enable the States to determine the best utilization of our shared water supply. These rivers are an invaluable resource to our States—essential to Alabama's economic and personal well-being.

I look forward to continuing to work with Gov. Fob James and the Alabama delegation to assure that Alabama's water needs are met today and in the future.

AMTRAK REFORM AND  
ACCOUNTABILITY ACT OF 1997

The PRESIDING OFFICER. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 738) to reform the statutes relating to Amtrak, to authorize appropriation for Amtrak, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in *italic*.)

S. 738

*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 SECTIONS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Amtrak Reform and Accountability Act of 1997”.

(b) **TABLE OF SECTIONS.**—The table of sections for this Act is as follows:

Sec. 1. Short title; table of sections.

Sec. 2. Findings.

**TITLE I—REFORMS****Subtitle A—Operational Reforms**

Sec. 101. Basic system.

Sec. 102. Mail, express, and auto-ferry transportation.

Sec. 103. Route and service criteria.

Sec. 104. Additional qualifying routes.

Sec. 105. Transportation requested by States, authorities, and other persons.

Sec. 106. Amtrak commuter.

Sec. 107. Through service in conjunction with intercity bus operations.

Sec. 108. Rail and motor carrier passenger service.

Sec. 109. Passenger choice.

Sec. 110. Application of certain laws.

**Subtitle B—Procurement**

Sec. 121. Contracting out.

**Subtitle C—Employee Protection Reforms**

Sec. 141. Railway Labor Act Procedures.

Sec. 142. Service discontinuance.

**Subtitle D—Use of Railroad Facilities**

Sec. 161. Liability limitation.

Sec. 162. Retention of facilities.

**TITLE II—FISCAL ACCOUNTABILITY**

Sec. 201. Amtrak financial goals.

Sec. 202. Independent assessment.

Sec. 203. Amtrak Reform Council.

Sec. 204. Sunset trigger.

Sec. 205. Access to records and accounts.

Sec. 206. Officers' pay.

Sec. 207. Exemption from taxes.

**TITLE III—AUTHORIZATION OF APPROPRIATIONS**

Sec. 301. Authorization of appropriations.

**TITLE IV—MISCELLANEOUS**

Sec. 401. Status and applicable laws.

Sec. 402. Waste disposal.

Sec. 403. Assistance for upgrading facilities.

Sec. 404. Demonstration of new technology.

Sec. 405. Program master plan for Boston-New York main line.

Sec. 406. Americans with Disabilities Act of 1990.

Sec. 407. Definitions.

Sec. 408. Northeast Corridor cost dispute.

Sec. 409. Inspector General Act of 1978 amendment.

Sec. 410. Interstate rail compacts.

Sec. 411. Composition of Amtrak board of directors.

Sec. 412. Educational participation.

Sec. 413. Report to Congress on Amtrak bankruptcy.

Sec. 414. Amtrak to notify Congress of lobbying relationships.

**SEC. 2. FINDINGS.**

The Congress finds that—

(1) intercity rail passenger service is an essential component of a national intermodal passenger transportation system;

(2) Amtrak is facing a financial crisis, with growing and substantial debt obligations severely limiting its ability to cover operating costs and jeopardizing its long-term viability;

(3) immediate action is required to improve Amtrak's financial condition if Amtrak is to survive;

(4) all of Amtrak's stakeholders, including labor, management, and the Federal govern-

ment, must participate in efforts to reduce Amtrak's costs and increase its revenues;

(5) additional flexibility is needed to allow Amtrak to operate in a businesslike manner in order to manage costs and maximize revenues;

(6) Amtrak should ensure that new management flexibility produces cost savings without compromising safety;

(7) Amtrak's management should be held accountable to ensure that all investment by the Federal Government and State governments is used effectively to improve the quality of service and the long-term financial health of Amtrak;

(8) Amtrak and its employees should proceed quickly with proposals to modify collective bargaining agreements to make more efficient use of manpower and to realize cost savings which are necessary to reduce Federal financial assistance;

(9) Amtrak and intercity bus service providers should work cooperatively and develop coordinated intermodal relationships promoting seamless transportation services which enhance travel options and increase operating efficiencies; [and]

(10) *Amtrak's Strategic Business Plan calls for the establishment of a dedicated source of capital funding for Amtrak in order to ensure that Amtrak will be able to fulfill the goals of maintaining—*

(A) *a national passenger rail system; and*

(B) *that system without Federal operating assistance; and*

[(10)] (11) Federal financial assistance to cover operating losses incurred by Amtrak should be eliminated by the year 2002.

**TITLE I—REFORMS****Subtitle A—Operational Reforms****SEC. 101. BASIC SYSTEM.**

(a) **OPERATION OF BASIC SYSTEM.**—Section 24701 of title 49, United States Code, is amended to read as follows:

**“§ 24701. Operation of basic system**

“Amtrak shall provide intercity rail passenger transportation within the basic system. Amtrak shall strive to operate as a national rail passenger transportation system which provides access to all areas of the country and ties together existing and emergent regional rail passenger corridors and other intermodal passenger service.”

(b) **IMPROVING RAIL PASSENGER TRANSPORTATION.**—Section 24702 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(c) **DISCONTINUANCE.**—Section 24706 of title 49, United States Code, is amended—

(1) by striking “90 days” and inserting “180 days” in subsection (a)(1);

[(2) by striking “a discontinuance under section 24707(a) or (b) of this title” in subsection (a)(1) and inserting “discontinuing service over a route”];

(2) by striking “24707(a) or (b) of this title,” in subsection (a)(1) and inserting “discontinuing service over a route,”;

(3) by inserting “or assume” after “agree to share” in subsection (a)(1); and

(4) by striking “section 24707 (a) or (b) of this title” in subsections (a)(2) and (b)(1) and inserting “paragraph (1)”.

(d) **COST AND PERFORMANCE REVIEW.**—Section 24707 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(e) **SPECIAL COMMUTER TRANSPORTATION.**—Section 24708 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(f) **CONFORMING AMENDMENT.**—Section 24312(a)(1) of title 49, United States Code, is amended by striking “, 24701(a),”.

**SEC. 102. MAIL, EXPRESS, AND AUTO-FERRY TRANSPORTATION.**

(a) **REPEAL.**—Section 24306 of title 49, United States Code, is amended—

(1) by striking the last sentence of subsection (a); and

[(2) by striking paragraphs (1) and (2) of subsection (b); and]

[(3) by striking “(3) State” and inserting “State”].

(2) by striking subsection (b) and inserting the following:

“(b) **AUTHORITY OF OTHERS TO PROVIDE AUTO-FERRY TRANSPORTATION.**—State and local laws and regulations that impair the provision of auto-ferry transportation do not apply to Amtrak or a rail carrier providing auto-ferry transportation. A rail carrier may not refuse to participate with Amtrak in providing auto-ferry transportation because a State or local law or regulation makes the transportation unlawful.”.

**SEC. 103. ROUTE AND SERVICE CRITERIA.**

Section 24703 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

**SEC. 104. ADDITIONAL QUALIFYING ROUTES.**

Section 24705 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

**SEC. 105. TRANSPORTATION REQUESTED BY STATES, AUTHORITIES, AND OTHER PERSONS.**

Section 24101(c)(2) of title 49, United States Code, is amended by inserting “, separately or in combination,” after “and the private sector”.

**SEC. 106. AMTRAK COMMUTER.**

(a) **REPEAL OF CHAPTER 245.**—Chapter 245 of title 49, United States Code, and the item relating thereto in the table of chapters of subtitle V of such title, are repealed.

(b) **CONFORMING AMENDMENT.**—Section 24301(f) of title 49, United States Code, is amended to read as follows:

“(f) **TAX EXEMPTION FOR CERTAIN COMMUTER AUTHORITIES.**—A commuter authority that was eligible to make a contract with Amtrak Commuter to provide commuter rail passenger transportation but which decided to provide its own rail passenger transportation beginning January 1, 1983, is exempt, effective October 1, 1981, from paying a tax or fee to the same extent Amtrak is exempt.”.

(c) **TRACKAGE RIGHTS NOT AFFECTED.**—The repeal of chapter 245 of title 49, United States Code, by subsection (a) of this section is without prejudice to the retention of trackage rights over property owned or leased by commuter authorities.

**SEC. 107. THROUGH SERVICE IN CONJUNCTION WITH INTERCITY BUS OPERATIONS.**

(a) **IN GENERAL.**—Section 24305(a) of title 49, United States Code, is amended by adding at the end the following new paragraph:

“(3)(A) Except as provided in subsection (d)(2), Amtrak may enter into a contract with a motor carrier of passengers for the intercity transportation of passengers by motor carrier over regular routes only—

“(i) if the motor carrier is not a public recipient of governmental assistance, as such term is defined in section [10922(d)(1)(F)(i)] 13902(b)(8)(A) of this title, other than a recipient of funds under section [18 of the Federal Transit Act;] 5311 of this title;

“(ii) for passengers who have had prior movement by rail or will have subsequent movement by rail; and

“(iii) if the buses, when used in the provision of such transportation, are used exclusively for the transportation of passengers described in clause (ii).

“(B) Subparagraph (A) shall not apply to transportation funded predominantly by a



State or local government, or to ticket selling agreements.”.

(b) **POLICY STATEMENT.**—Section 24305(d) of title 49, United States Code, is amended by adding at the end the following new paragraph:

“(3) Congress encourages Amtrak and motor common carriers of passengers to use the authority conferred in section 11342(a) of this title for the purpose of providing improved service to the public and economy of operation.”.

#### **SEC. 108. RAIL AND MOTOR CARRIER PASSENGER SERVICE.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law (other than section 24305(a) of title 49, United States Code), Amtrak and motor carriers of passengers are authorized—

(1) to combine or package their respective services and facilities to the public as a means of increasing revenues; and

(2) to coordinate schedules, routes, rates, reservations, and ticketing to provide for enhanced intermodal surface transportation.

(b) **REVIEW.**—The authority granted by subsection (a) is subject to review by the Surface Transportation Board and may be modified or revoked by the Board if modification or revocation is in the public interest.

#### **SEC. 109. PASSENGER CHOICE.**

Federal employees are authorized to travel on Amtrak for official business where total travel cost from office to office is competitive on a total trip or time basis.

#### **SEC. 110. APPLICATION OF CERTAIN LAWS.**

(a) **APPLICATION OF FOIA.**—Section 24301(e) of title 49, United States Code, is amended by adding at the end thereof the following: “Section 552 of title 5, United States Code, applies to Amtrak for any fiscal year in which Amtrak receives a Federal subsidy.”.

(b) **APPLICATION OF FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT.**—Section [304A(m)] 303B(m) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. [253b]) 253b(m) applies to a proposal in the possession or control of [Amtrak.”.] Amtrak.

#### **Subtitle B—Procurement**

#### **SEC. 121. CONTRACTING OUT.**

(a) **CONTRACTING OUT REFORM.**—Effective 180 days after the date of enactment of this Act, section 24312 of title 49, United States Code, is amended—

(1) by striking the paragraph designation for paragraph (1) of subsection (a);

(2) by striking “(2)” in subsection (a)(2) and inserting “(b)”;

(3) by striking subsection (b).

The amendment made by paragraph (3) is without prejudice to the power of Amtrak to contract out the provision of food and beverage services on board Amtrak trains or to contract out work not resulting in the layoff of Amtrak employees.

(b) **NOTICES.**—Notwithstanding any arrangement in effect before the date of the enactment of this Act, notices under section 6 of the Railway Labor Act (45 U.S.C. 156) with respect to all issues relating to contracting out by Amtrak of work normally performed by an employee in a bargaining unit covered by a contract between Amtrak and a labor organization representing Amtrak employees, which are applicable to employees of Amtrak shall be deemed served and effective on the date which is 45 days after the date of the enactment of this Act. Amtrak, and each affected labor organization representing Amtrak employees, shall promptly supply specific information and proposals with respect to each such notice. This subsection shall not apply to issues relating to provisions defining the scope or classification of work performed by an Am-

trak employee. The issue for negotiation under this paragraph does not include the contracting out of work involving food and beverage services provided on Amtrak trains or the contracting out of work not resulting in the layoff of Amtrak employees.

(c) **NATIONAL MEDIATION BOARD EFFORTS.**—Except as provided in subsection (d), the National Mediation Board shall complete all efforts, with respect to the dispute described in subsection (b), under section 5 of the Railway Labor Act (45 U.S.C. 155) not later than 120 days after the date of the enactment of this Act.

(d) **RAILWAY LABOR ACT ARBITRATION.**—The parties to the dispute described in subsection (b) may agree to submit the dispute to arbitration under section 7 of the Railway Labor Act (45 U.S.C. 157), and any award resulting therefrom shall be retroactive to the date which is 120 days after the date of the enactment of this Act.

(e) **DISPUTE RESOLUTION.**—

(1) With respect to the dispute described in subsection (b) which—

(A) is unresolved as of the date which is 120 days after the date of the enactment of this Act; and

(B) is not submitted to arbitration as described in subsection (d),

Amtrak shall, and the labor organizations that are parties to such dispute shall, within 127 days after the date of the enactment of this Act, each select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within 134 days after the date of the enactment of this Act, the individuals selected under the preceding sentence shall jointly select an individual from such roster to make recommendations with respect to such dispute under this subsection. If the National Mediation Board is not informed of the selection of the individual under the preceding sentence 134 days after the date of enactment of this Act, the Board will immediately select such individual.

(2) No individual shall be selected under paragraph (1) who is pecuniarily or otherwise interested in any organization of employees or any railroad or who is selected pursuant to section 141(d) of this Act.

(3) The compensation of individuals selected under paragraph (1) shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway Labor Act (45 U.S.C. 160) shall apply to the expenses of such individuals as if such individuals were members of a board created under such section 10.

(4) If the parties to a dispute described in subsection (b) fail to reach agreement within 150 days after the date of the enactment of this Act, the individual selected under paragraph (1) with respect to such dispute shall make recommendations to the parties proposing contract terms to resolve the dispute.

(5) If the parties to a dispute described in subsection (b) fail to reach agreement, no change shall be made by either of the parties in the conditions out of which the dispute arose for 30 days after recommendations are made under paragraph (4).

(6) Section 10 of the Railway Labor Act (45 U.S.C. 160) shall not apply to a dispute described in subsection (b).

(f) **NO PRECEDENT FOR FREIGHT.**—Nothing in this section shall be a precedent for the resolution of any dispute between a freight railroad and any labor organization representing that railroad’s employees.

#### **Subtitle C—Employee Protection Reforms**

#### **SEC. 141. RAILWAY LABOR ACT PROCEDURES.**

(a) **NOTICES.**—Notwithstanding any arrangement in effect before the date of the enactment of this Act, notices under section 6 of the Railway Labor Act (45 U.S.C. 156)

with respect to all issues relating to employee protective arrangements and severance benefits which are applicable to employees of Amtrak, including all provisions of Appendix C-2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973, shall be deemed served and effective on the date which is 45 days after the date of the enactment of this Act. Amtrak, and each affected labor organization representing Amtrak employees, shall promptly supply specific information and proposals with respect to each such notice.

(b) **NATIONAL MEDIATION BOARD EFFORTS.**—Except as provided in subsection (c), the National Mediation Board shall complete all efforts, with respect to the dispute described in subsection (a), under section 5 of the Railway Labor Act (45 U.S.C. 155) not later than 120 days after the date of the enactment of this Act.

(c) **RAILWAY LABOR ACT ARBITRATION.**—The parties to the dispute described in subsection (a) may agree to submit the dispute to arbitration under section 7 of the Railway Labor Act (45 U.S.C. 157), and any award resulting therefrom shall be retroactive to the date which is 120 days after the date of the enactment of this Act.

(d) **DISPUTE RESOLUTION.**—

(1) With respect to the dispute described in subsection (a) which

(A) is unresolved as of the date which is 120 days after the date of the enactment of this Act; and

(B) is not submitted to arbitration as described in subsection (c), Amtrak shall, and the labor organization parties to such dispute shall, within 127 days after the date of the enactment of this Act, each select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within 134 days after the date of the enactment of this Act, the individuals selected under the preceding sentence shall jointly select an individual from such roster to make recommendations with respect to such dispute under this subsection. If the National Mediation Board is not informed of the selection under the preceding sentence 134 days after the date of enactment of this Act, the Board will immediately select such individual.

(2) No individual shall be selected under paragraph (1) who is pecuniarily or otherwise interested in any organization of employees or any railroad or who is selected pursuant to section 121(e) of this Act.

(3) The compensation of individuals selected under paragraph (1) shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway Labor Act shall apply to the expenses of such individuals as if such individuals were members of a board created under such section 10.

(4) If the parties to a dispute described in subsection (a) fail to reach agreement within 150 days after the date of the enactment of this Act, the individual selected under paragraph (1) with respect to such dispute shall make recommendations to the parties proposing contract terms to resolve the dispute.

(5) If the parties to a dispute described in subsection (a) fail to reach agreement, no change shall be made by either of the parties in the conditions out of which the dispute arose for 30 days after recommendations are made under paragraph (4).

(6) Section 10 of the Railway Labor Act (45 U.S.C. 160) shall not apply to a dispute described in subsection (a).

#### **SEC. 142. SERVICE DISCONTINUANCE.**

(a) **REPEAL.**—Section 24706(c) of title 49, United States Code, is repealed.

(b) **EXISTING CONTRACTS.**—Any provision of a contract entered into before the date of the enactment of this Act between Amtrak and a

labor organization representing Amtrak employees relating to employee protective arrangements and severance benefits applicable to employees of Amtrak is extinguished, including all provisions of Appendix C-2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973.

(c) SPECIAL EFFECTIVE DATE.—Subsections (a) and (b) of this section shall take effect 180 days after the date of the enactment of this Act.

(d) NONAPPLICATION OF BANKRUPTCY LAW PROVISION.—Section 1172(c) of title 11, United States Code, shall not apply to Amtrak and its employees.

#### Subtitle D—Use of Railroad Facilities

##### SEC. 161. LIABILITY LIMITATION.

(a) AMENDMENT.—Chapter 281 of title 49, United States Code, is amended by adding at the end the following new section:

#### “§28103. Limitations on rail passenger transportation liability

“(a) LIMITATIONS.—

“(1) Notwithstanding any other statutory or common law or public policy, or the nature of the conduct giving rise to damages or liability, a contract between Amtrak and its [passengers, the Alaska Railroad and its passengers.] passengers or private railroad car operators and their passengers regarding claims for personal injury, death, or damage to property arising from or in connection with the provision of rail passenger transportation, or from or in connection with any operations over or use of right-of-way or facilities owned, leased, or maintained by [Amtrak or the Alaska Railroad.] Amtrak, or from or in connection with any rail passenger transportation operations over or rail passenger transportation use of right-of-way or facilities owned, leased, or maintained by any high-speed railroad authority or operator, any commuter authority or operator, or any rail carrier shall be enforceable if—

“(A) punitive or exemplary damages, where permitted, are not limited to less than 2 times compensatory damages awarded to any claimant by any State or Federal court or administrative agency, or in any arbitration proceeding, or in any other forum or \$250,000, whichever is greater; and

“(B) passengers are provided adequate notice of any such contractual limitation or waiver or choice of forum.

“(2) For purposes of this subsection, the term ‘claim’ means a claim made directly or indirectly—

“(A) against Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, or any rail carrier [including the Alaska Railroad] or private rail car operators; or

“(B) against an affiliate engaged in railroad operations, officer, employee, or agent of, Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, or any rail carrier.

“(3) Notwithstanding paragraph (1)(A), in any case in which death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, a claimant may recover in a claim limited by this subsection for actual or compensatory damages measured by the pecuniary injuries, resulting from such death, to the persons for whose benefit the action was brought, subject to the provisions of paragraph (1).

“(b) INDEMNIFICATION OBLIGATION.—Obligations of any party, however arising, including obligations arising under leases or contracts or pursuant to orders of an administrative agency, to indemnify against damages or liability for personal injury, death, or damage to property described in [subsection] subsection (a), incurred after

the [death] date of the enactment of the Amtrak Reform and Accountability Act of 1997, shall be enforceable, notwithstanding any other statutory or common law or public policy, or the nature of the conduct giving rise to the damages or [liability.] liability.”

(c) CONFORMING AMENDMENT.—The table of sections of chapter 281 of title 49, United States Code, is amended by adding at the end the following new item:

“28103. Limitations on rail passenger transportation liability.”

##### SEC. 162. RETENTION OF FACILITIES.

Section 24309(b) of title 49, United States Code, is amended by inserting “or on January 1, 1997,” after “1979,”.

#### TITLE II—FISCAL ACCOUNTABILITY

##### SEC. 201. AMTRAK FINANCIAL GOALS.

Section 24101(d) of title 49, United States Code, is amended by adding at the end thereof the following: “Amtrak shall prepare a financial plan to operate within the funding levels authorized by section 24104 of this chapter, including budgetary goals for fiscal years 1998 through 2002. Commencing no later than the fiscal year following the fifth anniversary of the Amtrak Reform and Accountability Act of 1997, Amtrak shall operate without Federal operating grant funds appropriated for its benefit.”

##### SEC. 202. INDEPENDENT ASSESSMENT.

(a) INITIATION.—Not later than 15 days after the date of enactment of this Act, the Secretary of Transportation shall contract with an entity independent of Amtrak and not in any contractual relationship with Amtrak and of the Department of Transportation to conduct a complete independent assessment of the financial requirements of Amtrak through fiscal year 2002. The entity shall have demonstrated knowledge about railroad industry accounting requirements, including the uniqueness of the industry and of Surface Transportation Board accounting requirements. *The Department of Transportation, Office of Inspector General, shall approve the entity's statement of work and the award and shall oversee the contract. In carrying out its responsibilities under the preceding sentence, the Inspector General's Office shall perform such overview and validation or verification of data as may be necessary to assure that the assessment conducted under this subsection meets the requirements of this section.*

(b) ASSESSMENT CRITERIA.—The Secretary and Amtrak shall provide to the independent entity estimates of the financial requirements of Amtrak for the period described above, using as a base the fiscal year 1997 appropriation levels established by the Congress. The independent assessment shall be based on an objective analysis of Amtrak's funding needs.

(c) CERTAIN FACTORS TO BE TAKEN INTO ACCOUNT.—The independent assessment shall take into account all relevant factors, including Amtrak's—

(1) cost allocation process and procedures; (2) expenses related to intercity rail passenger service, commuter service, and any other service Amtrak provides;

(3) Strategic Business Plan, including Amtrak's projected expenses, capital needs, ridership, and revenue forecasts; and

(4) Amtrak's [debt obligations.] assets and liabilities.

*For purposes of paragraph (3), in the capital needs part of its Strategic Business Plan Amtrak shall distinguish between that portion of the capital required for the Northeast corridor and that required outside the Northeast corridor, and shall include rolling stock requirements, including capital leases, “state of good repair” requirements, and infrastructure improvements.*

(d) DEADLINE.—The independent assessment shall be completed not later than [90]

180 days after the contract is awarded, and shall be submitted to the Council established under section 203, the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the United States Senate, and the Committee on Transportation and Infrastructure of the United States House of Representatives.

##### SEC. 203. AMTRAK REFORM COUNCIL.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the Amtrak Reform Council.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of 9 members, as follows:

(A) The Secretary of Transportation.

(B) Two individuals appointed by the President, of which—

(i) one shall be a representative of a rail labor organization; and

(ii) one shall be a representative of rail management.

(C) Two individuals appointed by the Majority Leader of the United States Senate.

(D) One individual appointed by the Minority Leader of the United States Senate.

(E) Two individuals appointed by the Speaker of the United States House of Representatives.

(F) One individual appointed by the Minority Leader of the United States House of Representatives.

(2) APPOINTMENT CRITERIA.—

(A) TIME FOR INITIAL APPOINTMENTS.—Appointments under paragraph (1) shall be made within 30 days after the date of enactment of this Act.

(B) EXPERTISE.—Individuals appointed under subparagraphs (C) through (F) of paragraph (1)—

(i) may not be employees of the United States;

(ii) may not be board members or employees of Amtrak;

(iii) may not be representatives of rail labor organizations or rail management; and

(iv) shall have technical qualifications, professional standing, and demonstrated expertise in the field of corporate management, finance, rail or other transportation operations, labor, economics, or the law, or other areas of expertise relevant to the Council.

(3) TERM.—Members shall serve for terms of 5 years. If a vacancy occurs other than by the expiration of a term, the individual appointed to fill the vacancy shall be appointed in the same manner as, and shall serve only for the unexpired portion of the term for which, that individual's predecessor was appointed.

(4) CHAIRMAN.—The Council shall elect a chairman from among its membership within 15 days after the earlier of—

(A) the date on which all members of the Council have been appointed under paragraph (2)(A); or

(B) 45 days after the date of enactment of this Act.

[(4)] (5) MAJORITY REQUIRED FOR ACTION.—A majority of the members of the Council present and voting is required for the Council to take action. No person shall be elected chairman of the Council who receives fewer than 5 votes.

(c) ADMINISTRATIVE SUPPORT.—The Secretary of Transportation shall provide such administrative support to the Council as it needs in order to carry out its duties under this section.

(d) TRAVEL EXPENSES.—Each member of the Council shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with section 5702 and 5703 of title 5, United States Code.

(e) **MEETINGS.**—Each meeting of the Council, other than a meeting at which proprietary information is to be discussed, shall be open to the public.

(f) **ACCESS TO INFORMATION.**—Amtrak shall make available to the Council all information the Council requires to carry out its duties under this section. The Council shall establish appropriate procedures to ensure against the public disclosure of any information obtained under this subsection that is a trade secret or commercial or financial information that is privileged or confidential.

(g) **DUTIES.**—

(1) **EVALUATION AND RECOMMENDATION.**—The Council—

(A) shall evaluate Amtrak's performance; and

(B) make recommendations to Amtrak for achieving further cost containment and productivity improvements, and financial reforms.

(2) **SPECIFIC CONSIDERATIONS.**—In making its evaluation and recommendations under paragraph (1), the Council take consider all relevant performance factors, including—

(A) Amtrak's operation as a national passenger rail system which provides access to all regions of the country and ties together existing and emerging rail passenger corridors;

(B) appropriate methods for adoption of uniform cost and accounting procedures throughout the Amtrak system, based on generally accepted accounting principles; and

(C) management efficiencies and revenue enhancements, including savings achieved through labor and contracting negotiations.

(h) **ANNUAL REPORT.**—Each year before the fifth anniversary of the date of enactment of this Act, the Council shall submit to the Congress a report that includes an assessment of Amtrak's progress on the resolution or status of productivity issues; and makes recommendations for improvements and for any changes in law it believes to be necessary or appropriate.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Council such sums as may be necessary to enable the Council to carry out its duties.

#### SEC. 204. SUNSET TRIGGER.

(a) **IN GENERAL.**—If at any time more than 2 years after the date of enactment of this Act and implementation of the financial plan referred to in section 201 the Amtrak Reform Council finds that—

(1) Amtrak's business performance will prevent it from meeting the financial goals set forth in section 201; or

(2) Amtrak will require operating grant funds after the fifth anniversary of the date of enactment of this Act, then the Council shall immediately notify the President, the Committee on Commerce, Science, and Transportation of the United States Senate; and the Committee on Transportation and Infrastructure of the United States House of Representatives.

(b) **FACTORS CONSIDERED.**—In making a finding under subsection (a), the Council shall take into account—

(1) Amtrak's performance;

(2) the findings of the independent assessment conducted under section 202; [and]

(3) the level of Federal funds made available for carrying out the financial plan referred to in section 201; and

[(3)] (4) Acts of God, national emergencies, and other events beyond the reasonable control of Amtrak.

[(c) **ACTION PLAN.**—Within 90 days after the Council makes a finding under subsection (a), it shall develop and submit to the Congress—

[(1) an action plan for a restructured and rationalized intercity rail passenger system; and

[(2) an action plan for the complete liquidation of Amtrak.

If the Congress does not approve by concurrent resolution the implementation of the plan submitted under paragraph (1) within 90 calendar days after it is submitted to the Congress, then the Secretary of Transportation and Amtrak shall implement the plan submitted under paragraph (2).]

(c) **ACTION PLAN.**—

(1) **DEVELOPMENT OF PLANS.**—Within 90 days after the Council makes a finding under subsection (a)—

(A) it shall develop and submit to the Congress an action plan for a restructured and rationalized national intercity rail passenger system; and

(B) Amtrak shall develop and submit to the Congress an action plan for the complete liquidation of Amtrak, after having the plan reviewed by the Inspector General of the Department of Transportation and the General Accounting Office for accuracy and reasonableness.

(2) **CONGRESSIONAL ACTION OR INACTION.**—If within 90 days after receiving the plans submitted under paragraph (1), an Act to implement a restructured and rationalized intercity rail passenger system does not become law, then Amtrak shall implement the liquidation plan developed under paragraph (1)(B) after such modification as may be required to reflect the recommendations, if any, of the Inspector General of the Department of Transportation and the General Accounting Office.

#### SEC. 205. ACCESS TO RECORDS AND ACCOUNTS.

Section 24315 of title 49, United States Code, is amended by adding at the end the following new subsection:

“(h) **ACCESS TO RECORDS AND ACCOUNTS.**—A State shall have access to Amtrak's records, accounts, and other necessary documents used to determine the amount of any payment to Amtrak required of the State.”.

#### SEC. 206. OFFICERS' PAY.

Section 24303(b) of title 49, United States Code, is amended by adding at the end the following: “The preceding sentence shall not apply for any fiscal year for which no Federal assistance is provided to Amtrak.”.

#### SEC. 207. EXEMPTION FROM TAXES.

(a) **IN GENERAL.**—Subsection (1) of section 24301 of title 49, United States Code, is amended—

(1) by striking so much of [the subsection as precedes “or a rail carrier” in paragraph (1)] paragraph (1) as precedes “exempt” and inserting the following:

“[(1) **EXEMPTION FROM TAXES LEVIED AFTER SEPTEMBER 30, 1981.**—]

“(1) **IN GENERAL.**—[Amtrak.] Amtrak, a rail carrier subsidiary of Amtrak, and any passenger or other customer of Amtrak or such subsidiary, are”;

[(2) by inserting “, and any passenger or other customer of Amtrak or such subsidiary,” in paragraph (1) after “subsidiary of Amtrak”;

[(3)] (2) by striking “tax or fee imposed” in paragraph (1) and all that follows through “levied on it” and inserting “tax, fee, head charge, or other charge, imposed or levied by a State, political subdivision, or local taxing authority on Amtrak, a rail carrier subsidiary of Amtrak, or on persons traveling in intercity rail passenger transportation or on mail or express transportation provided by Amtrak or such a subsidiary, or on the carriage of such persons, mail, or express, or on the sale of any such transportation, or on the gross receipts derived therefrom”;

[(4)] (3) by striking the last sentence of paragraph (1);

[(5)] (4) by striking “(2) The” in paragraph (2) and inserting “(3) **JURISDICTION OF UNITED STATES DISTRICT COURTS.**—The”; and

[(6)] (5) by inserting after paragraph (1) the following:

“(2) **PHASE-IN OF EXEMPTION FOR CERTAIN EXISTING TAXES AND FEES.**—

“(A) **YEARS BEFORE 2000.**—Notwithstanding paragraph (1), Amtrak is exempt from a tax or fee referred to in paragraph (1) that Amtrak was required to pay as of September 10, 1982, during calendar years 1997 through 1999, only to the extent specified in the following table:

Phase-in of Exemption	
Year of assessment	Percentage of exemption
1997	40
1998	60
1999	80
2000 and later years	100

“(B) **TAXES ASSESSED AFTER MARCH, 1999.**—Amtrak shall be exempt from any tax or fee referred to in subparagraph (A) that is assessed on or after April 1, 1999.”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) do not apply to sales taxes imposed on intrastate travel as of the date of enactment of this Act.

### TITLE III—AUTHORIZATION OF APPROPRIATIONS

#### SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Section 24104(a) of title 49, United States Code, is amended to read as follows:

“(a) **IN GENERAL.**—There are authorized to be appropriated to the Secretary of Transportation—

“(1) \$1,138,000,000 for fiscal year 1998;

“(2) \$1,058,000,000 for fiscal year 1999;

“(3) \$1,023,000,000 for fiscal year 2000;

“(4) \$989,000,000 for fiscal year 2001; and

“(5) \$955,000,000 for fiscal year 2002,

for the benefit of Amtrak for capital expenditures under chapters 243 and 247 of this title, operating expenses, and payments described in subsection (c)(1)(A) through (C). In fiscal years following the fifth anniversary of the enactment of the Amtrak Reform and Accountability Act of 1997 no funds authorized for Amtrak shall be used for operating expenses other than those prescribed for tax liabilities under section 3221 of the Internal Revenue Code of 1986 that are more than the amount needed for benefits of individuals who retire from Amtrak and for their beneficiaries.”.

### TITLE IV—MISCELLANEOUS

#### SEC. 401. STATUS AND APPLICABLE LAWS.

Section 24301 of title 49, United States Code, is amended—

(1) by striking “rail carrier under section 10102” in subsection (a)(1) and inserting “railroad carrier under section 20102(2) and chapters 261 and 281”; and

(2) by amending subsection (c) to read as follows:

“(c) **APPLICATION OF SUBTITLE IV.**—Subtitle IV of this title shall not apply to Amtrak, except for sections [11303, 11342(a), 11504(a) and (d), and 11707.] 11301, 11322(a), 11502(a) and (d), and 11706. Notwithstanding the preceding sentence, Amtrak shall continue to be considered an employer under the Railroad Retirement Act of 1974, the Railroad Unemployment Insurance Act, and the Railroad Retirement Tax Act.”.

#### SEC. 402. WASTE DISPOSAL.

Section 24301(m)(1)(A) of title 49, United States Code, is amended by striking “1996” and inserting “2001”.

#### SEC. 403. ASSISTANCE FOR UPGRADING FACILITIES.

Section 24310 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 243 of such title, are repealed.

#### SEC. 404. DEMONSTRATION OF NEW TECHNOLOGY.

Section 24314 of title 49, United States Code, and the item relating thereto in the

table of sections for chapter 243 of that title, are repealed.

**SEC. 405. PROGRAM MASTER PLAN FOR BOSTON-NEW YORK MAIN LINE.**

(a) REPEAL.—Section 24903 of title 49, United States Code, is repealed and the table of sections for chapter 249 of such title is amended by striking the item relating to that section.

(b) CONFORMING AMENDMENTS.—

(1) Section 24902 of title 49, United States Code is amended by striking subsections (a), (c), and (d) and redesignating subsection (b) as subsection (a) and subsections (e) through (m) as subsections (b) through (j), respectively.

(2) Section 24904(a)(8) is amended by striking “the high-speed rail passenger transportation area specified in section 24902(a) (1) and (2)” and inserting “a high-speed rail passenger transportation area”.

**SEC. 406. AMERICANS WITH DISABILITIES ACT OF 1990.**

(a) APPLICATION TO AMTRAK.—

(1) ACCESS IMPROVEMENTS AT CERTAIN SHARED STATIONS.—Amtrak is responsible for its share, if any, of the costs of accessibility improvements at any station jointly used by Amtrak and a commuter authority.

(2) CERTAIN REQUIREMENTS NOT TO APPLY UNTIL 1998.—Amtrak shall not be subject to any requirement under subsection (a)(1), (a)(3), or (e)(2) of section 242 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12162) until January 1, 1998.

(b) CONFORMING AMENDMENT.—Section 24307 of title 49, United States Code, is amended—

(1) by striking subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

**SEC. 407. DEFINITIONS.**

Section 24102 of title 49, United States Code, is amended—

(1) by striking paragraphs (2) and (11);

(2) by redesignating paragraphs (3) through [(8)] [(10)] as paragraphs (2) through [(7)], (9), respectively; and

(3) by inserting “, including a unit of State or local government,” after “means a person” in paragraph (7), as so [redesignated; and] redesignated.

[(4) by inserting after paragraph (7), as so redesignated, the following new paragraph:

“[(8) ‘rail passenger transportation’ means the interstate, intrastate, or international transportation of passengers by rail, including mail and express.”.]

**SEC. 408. NORTHEAST CORRIDOR COST DISPUTE.**

Section 1163 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1111) is repealed.

**SEC. 409. INSPECTOR GENERAL ACT OF 1978 AMENDMENT.**

(a) AMENDMENT.—

(1) IN GENERAL.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking “Amtrak.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect in the first fiscal year for which Amtrak receives no Federal subsidy.

(b) AMTRAK NOT FEDERAL ENTITY.—Amtrak shall not be considered a Federal entity for purposes of the Inspector General Act of 1978. The preceding sentence shall apply for any fiscal year for which Amtrak receives no Federal subsidy.

(c) FEDERAL SUBSIDY.—

(1) ASSESSMENT.—In any fiscal year for which Amtrak requests Federal assistance, the Inspector General of the Department of Transportation shall review Amtrak's operations and conduct an assessment similar to the assessment required by section 202(a). The Inspector General shall report the results of the review and assessment to—

(A) the President of Amtrak;

(B) the Secretary of Transportation;

(C) the United States Senate Committee on Appropriations;

(D) the United States Senate Committee on Commerce, Science, and Transportation;

(E) the United States House of Representatives Committee on Appropriations;

(F) the United States House of Representatives Committee on Transportation and Infrastructure.

(2) REPORT.—The report shall be submitted, to the extent practicable, before any such committee reports legislation authorizing or appropriating funds for Amtrak for capital acquisition, development, or operating expenses.

(3) SPECIAL EFFECTIVE DATE.—This subsection takes effect 1 year after the date of enactment of this Act.

**SEC. 410. INTERSTATE RAIL COMPACTS.**

(a) CONSENT TO COMPACTS.—Congress grants consent to States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) to enter into interstate compacts to promote the provision of the service, including—

(1) retaining an existing service or commencing a new service;

(2) assembling rights-of-way; and

(3) performing capital improvements, including—

(A) the construction and rehabilitation of maintenance facilities;

(B) the purchase of locomotives; and

(C) operational improvements, including communications, signals, and other systems.

(b) FINANCING.—An interstate compact established by States under subsection (a) may provide that, in order to carry out the compact, the States may—

(1) accept contributions from a unit of State or local government or a person;

(2) use any Federal or State funds made available for intercity passenger rail service (except funds made available for the National Railroad Passenger Corporation);

(3) on such terms and conditions as the States consider advisable—

(A) borrow money on a short-term basis and issue notes for the borrowing; and

(B) issue bonds; and

(4) obtain financing by other means permitted under Federal or State law.

(c) ELIGIBLE PROJECTS.—Section 133(b) of title 23, United States Code, is amended by striking “and publicly owned intracity or intercity bus terminals and [facilities]” facilities.” in paragraph (2) and inserting [a comma and] “facilities, including vehicles and facilities, publicly or privately owned, that are used to provide intercity passenger service by bus or rail, or a combination of [both].” both.”.

(d) ELIGIBILITY OF PASSENGER RAIL UNDER CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(1) by striking “or” at the end of paragraph (3);

(2) by striking [the period at the end of paragraph (4); and] “standard.” in paragraph (4) and inserting “standard; or”

(3) by [adding at the end thereof] inserting after paragraph (4) the following:

“(5) if the project or program will have air quality benefits through construction of and operational improvements for intercity passenger rail facilities, operation of intercity passenger rail trains, and acquisition of rolling stock for intercity passenger rail service, except that not more than 50 percent of the amount received by a State for a fiscal year under this paragraph may be obligated for operating support.”.

(e) ELIGIBILITY OF PASSENGER RAIL AS NATIONAL HIGHWAY SYSTEM PROJECT.—Section

103(i) of title 23, United States Code, is amended by adding at the end thereof the following:

“(14) Construction, reconstruction, and rehabilitation of, and operational improvements for, intercity rail passenger facilities (including facilities owned by the National Railroad Passenger Corporation), operation of intercity rail passenger trains, and acquisition or reconstruction of rolling stock for intercity rail passenger service, except that not more than 50 percent of the amount received by a State for a fiscal year under this paragraph may be obligated for operation.”.

**SEC. 411. COMPOSITION OF AMTRAK BOARD OF DIRECTORS.**

Section 24302(a) of title 49, United States Code, is amended—

(1) by striking “3” in paragraph (1)(C) and inserting “4”;

(2) by striking clauses (i) and (ii) of paragraph (1)(C) and inserting the following:

“(i) one individual selected as a representative of rail labor in consultation with affected labor organizations.

“(ii) one chief executive officer of a State, and one chief executive officer of a municipality, selected from among the chief executive officers of State and municipalities with an interest in rail transportation, each of whom may select an individual to act as the officer's representative at board meetings.”;

(4) striking subparagraphs (D) and (E) of paragraph (1);

(5) inserting after subparagraph (C) the following:

“(D) 3 individuals appointed by the President of the United States, as follows:

“(i) one individual selected as a representative of a commuter authority, as defined in section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) that provides its own commuter rail passenger transportation or makes a contract with an operator, in consultation with affected commuter authorities.

“(ii) one individual with technical expertise in finance and accounting principles.

“(iii) one individual selected as a representative of the general public.”; and

(6) by striking paragraph (6) and inserting the following:

“(6) The Secretary may be represented at a meeting of the board only by the Administrator of the Federal Railroad Administration.”.

“(6) The Secretary may be represented at a meeting of the Board by his designate.”.

**SEC. 412. EDUCATIONAL PARTICIPATION.**

Amtrak shall participate in educational efforts with elementary and secondary schools to inform students on the advantages of rail travel and the need for rail safety.

**SEC. 413. REPORT TO CONGRESS ON AMTRAK BANKRUPTCY.**

Within 120 days after the date of enactment of this Act, the Comptroller General shall submit a report identifying financial and other issues associated with an Amtrak bankruptcy to the United States Senate Committee on Commerce, Science, and Transportation and to the United States House of Representatives Committee on Transportation and Infrastructure. The report shall include an analysis of the implications of such a bankruptcy on the Federal government, Amtrak's creditors, and the Railroad Retirement System.

**SEC. 414. AMTRAK TO NOTIFY CONGRESS OF LOBBYING RELATIONSHIPS.**

If, at any time, Amtrak enters into a consulting contract or similar arrangement, or a contract for lobbying, with a lobbying firm, an individual who is a lobbyist, or who is affiliated with a lobbying firm, as those terms are defined in section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602), Amtrak shall notify the United States Senate Committee on Commerce,

*Science, and Transportation, and the United States House of Representatives Committee on Transportation and Infrastructure of—*

(1) the name of the individual or firm involved;

(2) the purpose of the contract or arrangement; and

(3) the amount and nature of Amtrak's financial obligation under the contract.

Mr. MCCAIN. Mr. President, before the majority leader leaves the floor, are we contemplating a recorded vote on this, I would ask the majority leader, or what is the will of the Democratic leader?

Mr. LOTT. Mr. President, if I could respond, I believe we have it cleared and that this could be moved by voice vote.

Mr. MCCAIN. Does the Senator from Pennsylvania want a recorded vote on this or is a voice vote sufficient?

Mr. LOTT. If I could respond to the question, I know Pennsylvania is very supportive of Amtrak and would like this proposal to move forward as quickly as possible so I hope that we wouldn't have to have a recorded vote.

Mr. MCCAIN. I thank the majority leader. The reason why I asked is that the Senator from Pennsylvania had asked the question as to whether we would have a recorded vote.

I thank the Democratic leader as well as the majority leader for their kind remarks.

#### AMENDMENT NO. 1609

(Purpose: To reauthorize Amtrak and for other purposes)

The PRESIDING OFFICER. We need to have the clerk report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for herself, Mr. LOTT, Mr. MCCAIN, and Mr. JEFFORDS, proposes an amendment numbered 1609.

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

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

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

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I thank the Chair.

I thank the majority leader and the Democratic leader for their kind remarks. I especially wish to thank Senator HUTCHISON and Senator KERRY and Senator BREAUX who spent literally hundreds of hours on this bill. I think it is important to point out for the RECORD that this effort was begun by the majority leader when he was chairman of the subcommittee which is now chaired by the Senator from Texas, and the groundwork was laid through his strong efforts.

I might say that there were several occasions when we were gridlocked on this bill and we gathered in the majority leader's office and he helped us find ways to reach common ground.

Mr. President, this compromise reauthorization legislation is the product of

more than 3 years of bipartisan negotiations. Let there be no mistake. Amtrak is on the verge of bankruptcy. Fundamental reforms are needed immediately if there is to be any possibility of addressing Amtrak's financial crisis and turning it into a viable operation. This measure is long overdue. Some fear, as I do, that even with these reforms Amtrak may not make it.

Again, I thank Senator HUTCHISON for all her hard work, along with Senator BREAUX and Senator KERRY. Senator BREAUX and Senator KERRY will be in the Chamber shortly, I am told, to add their comments. Senator HUTCHISON will describe the details of her amendment which have to do with labor, contracting out, liability, and the sunset trigger which is part of this legislation.

I think everyone knows that I hold strong reservations about Amtrak. After subsidizing for 26 years what was to have been a 2-year experiment, I believe Congress must carefully evaluate whether this is the best use of our limited taxpayers dollars.

Since 1971, Amtrak has received over \$20 billion in Federal tax dollars. I know that Amtrak has strived to reduce its operating costs and increase its revenues. And, yes, a portion of Amtrak's financial challenges are due to statutory constraints that Congress imposed and has failed to lift, but the fact remains the Amtrak 12-year experiment was unsuccessful 26 years ago, it is unsuccessful today, and the prospects of its future are rather bleak.

I realize that my pessimistic view of Amtrak's future, based on its track record, is not shared by the majority of the Congress. That is why I have worked with my colleagues to bring some semblance of legitimacy to this operation. The bill before us does not go as far as many of us would like. For some of my colleagues on the other side of the aisle, they may say it goes too far. Regardless of the position held, the bill does provide for some comprehensive changes.

According to a November 5, 1997, letter from Tom Downs, "enactment of the Amtrak Accountability and Reform Act of 1997 would be the single-most significant action the Congress can take to aid Amtrak in achieving operating self-sufficiency by 2002." He goes on to say, "The legislative reforms contained in the bill will allow Amtrak to operate in a more business-like, cost-effective manner, thus allowing greater productivity and increased savings."

Mr. President, I ask unanimous consent that the letter from Mr. Tom Downs, who is the president and chief executive officer of Amtrak, be printed in the RECORD.

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

NATIONAL RAILROAD  
PASSENGER CORPORATION,  
Washington, DC, November 5, 1997.

Hon. JOHN MCCAIN, Chair,

Hon. ERNEST F. HOLLINGS,

Ranking Member, Committee on Commerce,  
Science and Transportation, Dirksen Senate  
Office Building, Washington, DC.

DEAR CHAIRMEN: Thank you for your leadership in working toward an agreement in the Senate on comprehensive reform legislation for Amtrak. It is my understanding that agreement has been reached, and the Senate will soon consider the modified version of S. 738. I want to let you know that enactment of the Amtrak Reform and Revitalization Act of 1997 would be the single most significant action the Congress can take to aid Amtrak in achieving operating self-sufficiency by 2002. I will urge your colleagues to support the compromise you have achieved.

Enactment of the reauthorization bill will not in and of itself enable Amtrak to become independent of federal operating support, but it is the most critical step in the process. The legislative reforms contained in the bill will allow Amtrak to operate in a more businesslike, cost-effective manner, thus allowing greater productivity and increased savings. The capital funding made available by enactment of the legislation will allow us to begin to bring the system up to a state of good repair and invest in high rate-of-return capital projects. Adequate capital investment is the key to operational self-sufficiency and the overall economic viability of the railroad.

Consistent with all our previous statement on becoming independent of federal operating support and as outlined in our Strategic Business Plan, we will still require a specific, declining level of federal operating support through 2002, excess mandatory Railroad Retirement payments, and the level of capital identified in the Congressional Budget Resolution. It is my strong hope that the Administration and the Congress will continue to support us as we come closer to reaching our goal.

Again, thank you for all your leadership and diligence on working out an agreement on this legislation. As both Amtrak and the General Accounting Office (GAO) have made very clear this year, Amtrak will not be around much longer under the status quo. Legislative relief and capital funding are two of the three most critical pieces in regaining our economic health and long-term viability, and enactment of this legislation will accomplish those two goals. Achieving an agreement on this legislation is a goal both the Secretary of Transportation and the Senate Majority Leader have identified as important for this Congress, due to Amtrak's precarious financial condition. I congratulate you on achieving this in the substitute offered today.

Very truly yours,

THOMAS M. DOWNS,  
Chairman, President and  
Chief Executive Officer.

Mr. MCCAIN. In closing, Mr. President, I want to remind my colleagues that even if Congress approves the statutory reforms and the \$2.3 billion for capital improvements is released, Amtrak's viability remains uncertain. Let's be clear. Amtrak is \$1 billion in debt and that debt level is predicted by the General Accounting Office to double to \$2 billion in the next 2 years. Tom Downs predicts that without this legislation Amtrak could be bankrupt by next spring. Others predict even sooner.

I hope the dire predictions are wrong but prudence dictates that while we

empower Amtrak to meet its financial goals and protect taxpayers, Congress and the administration prepare for and have a clear understanding of the long-range economic effects of a potential bankruptcy.

I requested the General Accounting Office to conduct an analysis of this issue and submit a report to the committee providing an overview of the financial issues and implications associated with an Amtrak liquidation. The report will include an analysis of the financial implications for the Federal Government, Amtrak's creditor's and the railroad retirement system.

I strongly support passage of this reform measure. However, I will continue to hold strong reservations over Amtrak's ability to ever turn Amtrak into a profitable, subsidy-free operation. One of the most important elements of this bill is that it provides the opportunity for us to shut off the spigot if and when it is clear the promise of financial viability will not or cannot be achieved.

What is happening here is not just a piece of reform legislation, Mr. President. We are releasing \$2.3 billion in what I have previously described as the great train robbery of 1997. Back in the old days some citizens of my State used to rob trains. But now the trains have decided to rob the taxpayers of \$2.3 billion with the help of this body.

The proviso, or the rationale that allowed the \$2.3 billion to be fenced off was \$2.3 billion in back taxes. The only problem with that scenario, Mr. President, is Amtrak has never paid any taxes. So we are providing another \$2.3 billion giveaway to Amtrak. These reforms release that money.

I will never forget when I first came to Congress in 1982, Mr. President. I was visited by a man whom I respect as much as any man, Graham Claytor, who was then the head of Amtrak. And he gave me in graphic detail a long and extensive briefing about how Amtrak was going to be viable financially by the year 1985. That's only 12 years ago. But every 2 or 3 years Amtrak has come over to Congress with another plan to become financially viable within 2 or 3 years, and we know the answer. The answer is that they have now received more than \$20 billion of the taxpayers' money.

I say enough is enough. And I commit now that if this reform and reauthorization plan does not make Amtrak financially viable, I will do everything in my power as a Senator and as chairman of the Commerce, Science, and Transportation Committee to see that it comes to an end.

I wish Amtrak every success with the passage of this legislation by the House. I will hope and pray that Amtrak succeeds. But I must tell you I am not optimistic that they will succeed and I hope to God that this is the last trip to the taxpayers' pocket book that we make on behalf of Amtrak.

Mr. President, again I thank Senator HUTCHISON who has done such a mag-

nificent job on this legislation. She has worked countless numbers of hours. She has made compromises that clearly at the beginning she was not prepared to do. She made these compromises because she knew that that is the essence of legislation and the lessons of getting legislative results. She deserves enormous credit, along with my dear friend, Senator KERRY and Senator BREAUX, from Massachusetts and Louisiana, who played a great role. Bipartisanship is what this place is supposed to be about on issues that don't lend themselves to partisanship, and I believe that this is truly a bipartisan effort of which I think all of us can be proud. Again, my thanks to Senator HUTCHISON.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that Senators SANTORUM and JEFFORDS be added as original cosponsors of the substitute.

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

Mrs. HUTCHISON. I am ready to vote, after which we will then debate.

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

The amendment (No. 1609) was agreed to.

Mrs. HUTCHISON. Mr. President, I want to say that what Senator MCCAIN said is absolutely true. I think it is fairly clear from his comments that he is not a fan of Amtrak. But as the chairman of the committee, he worked with all of us who do care about Amtrak, who do want passenger rail for our country, to try to give Amtrak a chance to succeed. I think all of us have come together on a bill that will give Amtrak a chance to succeed and will also make Amtrak accountable. That is what Senator MCCAIN is looking for and that is what all of us hope will happen.

In fact, Senator LOTT, the majority leader, who has worked on this for, as he said, 3 years—he was the Surface Transportation Subcommittee chairman before I took that position, before he became majority leader—Senator MCCAIN, Senator HOLLINGS, Senator BREAUX, Senator KERRY, all contributed greatly to a very hard-fought compromise. Because, of course, we are making huge changes in the law as it affects Amtrak and passenger rail in our country. Anything that makes this many changes, of course, could not be done easily. It took the labor groups, it took the trial lawyer groups to come together and work with us, along with Senators such as Senator MCCAIN who want accountability. So I think we have come together in a bill that will give Amtrak a chance. It is not a slam dunk. It is not an assured success. This is the first step in many steps that must be made for Amtrak to be able to operate without subsidies in the future.

What this bill has done is authorize the subsidies over the next 5 years that

eventually will phase out. At the end of 5 years there will not be operational subsidies by the taxpayers of Amtrak. We have all agreed to that. That is why it was essential that we have reforms, so that Amtrak could be more efficient, so it could compete in the marketplace, so that it could have a passenger operation that would be much improved and, hopefully, bring more people into the system so it could operate without the subsidies. In addition, the \$2.3 billion in infrastructure improvements, which are necessary both for the efficient operations and for the higher technology trains that we hope they will be able to operate, is contingent on these reforms. I think it was very wise, in the budget reconciliation bill, that the \$2.3 billion that would be put into investment in capital improvements would be tied to these very important reforms. Because without the reforms, Amtrak has no chance to succeed—none. With the reforms, it has a chance. That is what our bill today will give it. I would like to go through a few of the most important points of what we did today.

First, some of the labor protections that were mandated by the Federal Government are now taken out of the law. The 6-year statutory severance benefits will now be in place for 180 days as they are negotiated at the bargaining table, after which they will be totally lifted from all negotiation and there will be no Federal mandates. In other words, today if a line goes out of business or Amtrak takes it off, those employees today would be entitled by Federal law to 6 years of severance pay. Most Americans do not have jobs that have 6-year termination agreements. In fact, when Amtrak first came into place, it was a different time. Today, these severance packages are about to break the system, and I think the unions realize that and they are willing to say we will put it on the negotiating table and we will let the free market reign. So that is the first thing we are doing.

The second thing we are doing is taking the prohibition against any contracting out out of the law once again. It will be part of the contracts for the next 2 years, but it is on the negotiating table now so that Amtrak, if it sees that it can make efficiencies by contracting out certain services, will be able to do that in a negotiated framework. So that will be on the table as well.

It is very important that Amtrak bring its labor costs into line because, in fact, if you look at other forms of transportation, the labor costs in passenger rail transportation are lopsided. For instance, no airline has more than 37 percent total labor expense, yet Amtrak is at 54 percent of its total expenses in labor. No competing passenger industry has similar protection rules that are mandated by the Federal Government. In fact, Greyhound drivers and mechanics, who might be laid off because of service discontinuances,



are guaranteed 7 days' notice under union contracts; no statutory guarantee against contracting out. So I think if you are looking at transportation in its totality in our country, you have to have the ability to compete. So we have to have the ability at the bargaining table to bring these costs in line, if Amtrak is going to be a viable alternative form of transportation.

Another major area that needed some limitations was liability. Our substitute bill provides for a global passenger liability cap of \$200 million. I think this is very important. For any one accident there will be a cap, so Amtrak will be able to buy insurance. That is what we are trying to do, is have some sort of quantifiable limit so we will know what the costs would be in the most extreme circumstances. And Amtrak could buy insurance to cover that, hopefully at a reasonable cost.

As Senator McCain mentioned, there is a trigger on this. There will be an Amtrak Reform Council appointed to monitor Amtrak's progress with these new reforms, to look at the 5-year glidepath that Amtrak is on, to try to get to the point that there will be no more taxpayer subsidies of Amtrak. This Amtrak Reform Council is going to look at the Amtrak operation and the reforms and see how Amtrak is doing. After 2 years they will submit a strategic plan for Amtrak, and they will also report to Congress if they just don't think Amtrak has a chance to make it, after which Congress will be able, then, to either implement the plan, the strategic plan that would be put forward, or pull the plug on Amtrak.

These are accountability standards that I think are reasonable. Certainly we want to put good money into helping Amtrak succeed, but if it is going to be hopeless, we don't want to throw good money after bad. So I think the accountability is a very important part of this compromise.

We also provide in this bill for interstate rail compacts, so that two States that have traffic that would warrant, perhaps, a joint effort toward rail transportation could come together, could pool their resources and provide for rail transportation in their States. I think that is a very important step, for our States to be able to form compacts, because that will add to the options of rail transportation.

It also provides that Amtrak will have to give 180 days' notice if they are going to discontinue a route. The previous law required 90 days' notice. That is not enough time for a State to be able to step in and help Amtrak, especially if it's a State that has a legislature that only meets every other year and would have to make some emergency arrangements.

So I think we have several new parts of the law that will help very much in giving Amtrak the ability to succeed and also in giving more options to our

States to add to the rail passenger capabilities in our country. Because, you see, I think one of the reasons that Amtrak is not only viable but a very important part of an intermodal mobility system for our country is because cities are now going more and more into intracity rail systems. Even in southern States, in my State of Texas, now, in Dallas, Dallas has a rail train system that goes out of the Amtrak station. So I am very happy that the Texas Eagle Amtrak train will be able to start in Chicago, IL, come down through Missouri, through Arkansas, over through east Texas into Dallas and Fort Worth. People can get off the train in Dallas or Fort Worth and they can get on an intracity train and go all over the city of Dallas. They can go to the zoo, they can go to the museums, they can go out north where the commuting traffic is. They will be able eventually to go to the airport.

So, as more cities are beginning to have rail transportation options, then the feeding in of Amtrak also provides more passengers for Amtrak and more mobility for the citizens of our country. I love the fact that you can go from Chicago all the way down through Texas to San Antonio and then get on another Amtrak train, the Sunset Limited, and go to Los Angeles or all the way over to Florida.

These systems will provide vacation capabilities for people in our country to see the sights of America on a train. I think it is something that has been so successful in Europe through the years that it will also have a resurrection in America that will provide more opportunities for families to see this great country from a train and have that experience that we really almost lost in the last 25 or 30 years.

So I think what we are doing today is not propping up a historic, old, antiquated type of transportation that we have known in the past in this country. That is not what we are doing today. What we are doing today is providing a new, vibrant option for rail transportation to be added to the air transportation that is so terrific in our country and the bus transportation and the automobiles and highways that provide mobility options for all kinds of people—people who can't drive and people who don't want to drive. People who don't live near airports would be able to go to a train station that is fed from buses from small communities all over our States, going into an Amtrak train station where someone can get off a bus in a very small town and get onto an Amtrak train and go into cities from Florida to California, from Illinois to Massachusetts, and all the way down to Texas.

So I think it is a very exciting thing we are doing. That is why I have worked so hard with my colleagues, Senator Kerry, Senator Breaux, Senator Hollings and Senator McCain, to make this a reality, to give Amtrak a chance. Because if Amtrak can compete with the other kinds of transpor-

tation, I think it will not be a relic of the past but a very important part of an overall transportation system for the future for our country, for our children to have this experience, for our elderly people to have the mobility that train passenger systems can give.

I am very excited that we have come to this agreement. I appreciate the bipartisan spirit in which this agreement has been made.

I thank the Senators who are waiting to speak and I yield the floor.

Mr. JEFFORDS. Mr. President, today we move another step closer to preserving our Nation's passenger rail system. The desperate call for action signals the importance of rail travel and the severe impacts a shutdown of Amtrak would have on the daily lives of millions of Americans.

We live in a nation that prides itself on independence. For many Americans, their personal automobile grants them the ability to travel unincumbered for work and pleasure. But as we all know, this freedom is slowly ebbing as our Nation's highways and skies become more and more congested. Our roadways and runways are at capacity and growth opportunities are severely limited.

A drive through and around any major American city today will leave most drivers frustrated by delays. This constant automobile congestion slows commerce, reduces worker productivity, and limits travel independence. In fact, highway congestion now costs the United States \$100 billion annually, not including the economic and societal costs of increased pollution and wasted energy.

The American solution has been to find alternatives. Our road options are limited. Ten-lane highways cannot be expanded, and new highways are difficult to site and result in the destruction of irreplaceable land and neighborhoods.

Congestion in the air is also a major issue. Slots at airports are filled. Runways are backed up. Air space is busy. A recent safety study reported that 21 of the 26 major airports experienced serious delays, costing billions of dollars. New airports are expensive and only add to the problems we face today.

Rail remains the one underutilized infrastructure available to our Nation. Railroads offer us the opportunity to move cars off the highways and planes from the air. Rail is efficient, cheaper and more environmentally preferable than our other options. We must now begin the careful process of retaining and rebuilding passenger rail in our country.

Created in 1970, Amtrak serves millions of passengers each year. For 10 million households that have no car, and many communities without air or bus service, Amtrak is their lifeline. Amtrak connects 68 of the 75 largest urban areas in the United States, and serves many of the 62 million Americans living in rural areas.

According to the Journal of Commerce, without Amtrak there would be

an immediate need for 10 new tunnels under the Hudson River between northern New Jersey and New York City and 20 new highway lanes in New York. If Amtrak disappeared tomorrow, there would be an additional 27,000 cars on the highway between New York and Boston every day.

In my home State of Vermont, passenger rail has been rediscovered. We launched a new passenger service, the Ethan Allen Express last year, to complement the already existing Vermonter. Both trains have been immensely successful, brining passengers from New England, New York, and across the Nation to our beautiful State. These trains have relieved highway congestion, given an economic boost to the State and offer travelers an alternative to driving or flying. Our dream in Vermont is to expand this service, linking a number of our larger cities and reestablishing rail service to Maine, New Hampshire, and Boston.

And as we learned last winter in Vermont, rail keeps rolling regardless of weather. During the deep winter storms, as cars were snowbound and planes held on the ground, the trains were bringing business travelers and skiers to our State. We all remember when the eastern seaboard was hit with a major blizzard in the winter of 1996 and the Federal Government was shut down for a solid week. But Amtrak kept running. In fact, my only means of getting to the Senate that week was on the train, as roads were blocked and planes grounded.

Passenger rail service is the future. But many in this city have yet to recognize this reality. Amtrak has never been given the proper tools to bring the train into the modern age. The rail system operates on 1930's technology, with outdated engines, cars and maintenance facilities.

While this system struggles, other nations have invested heavily in technologically advanced high speed trains. France, Japan, and many other nations operate state-of-the-art trains, an efficient mode of travel in densely populated regions. Japan installed their bullet trains in the early 1960's, and Europe in the 1970's. The high-speed trains, cruising at 200 miles per hour or more, easily compete with cars, buses, and planes.

Why has the United States fallen so far behind? Railroads in this country once had the prestige and financial capital to do nearly anything, but that changed over the years. Through mismanagement and limited public support we let our passenger railroads decay to the point of extinction. Today, we face the same choices. Should we support reviving and expanding advanced passenger rail through public financing or shut the system down? Let's not make a mistake that we would truly regret in the future. It's time to make this railroad work and maintain its role as a vital component of our Nation's transportation infrastructure.

This Nation is on the verge of one of the most important transportation developments in its history. High speed rail should be operational from Washington to Boston by 1999. Other regions of the country are also working to develop high-speed train service, including California, Florida, and many other States. These trains easily compete with air travel and allow travelers a comfortable, fast and efficient means to reach their destination.

High-speed rail will also aid Amtrak's bottom line. This new system will bring further profits to a business that badly needs the capital.

Many critics will question the need for further public investment in Amtrak. As compared to other infrastructure programs, passenger rail gets little public support. Last year we spent \$20 billion on highways, while capital investment for Amtrak was less than \$450 million. In relative terms, between fiscal year 1980 and fiscal year 1994, spending on highways increased 73 percent, aviation increased 170 percent, while spending on rail declined by 60 percent.

Without proper reforms and additional capital funding the future of this railroad is at risk. I commend members of the Senate Commerce committee who have worked to deliver a solid reform proposal to the Senate. My hope is that the House will accept these changes and send this bill to the President before we adjourn for the year. The plan we have developed offers serious reforms that will enable the railroad to modernize while reducing operating costs.

Our Nation needs passenger rail. Together, we must move forward to preserve this important transportation option. The investments we are committing to today will increase our Nation's investment in the Amtrak rail system, and allow it to succeed in its efforts to continue to operate into the future.

Mr. LAUTENBERG. Mr. President, I rise to support the compromise Amtrak reauthorization bill being offered by Senator HUTCHISON. Passage of this bill brings us one step closer to putting Amtrak on firm footing by extending authorization for 5 years, and most importantly, by giving Amtrak \$2.3 billion in tax credits for much-needed capital investments.

But let's not pretend we are completely solving the problem today. The General Accounting Office has warned us over and over again that making Amtrak self sufficient will be difficult and that realistically we have to look at continued investment in the system beyond the year 2002.

Mr. President, our national transportation system is crucial to our economy. And a national rail system is a crucial part of any national transportation plan. But over the years we have consistently shortchanged Amtrak.

For instance, over the course of this decade, Germany has decided to invest nearly \$70 billion on what is already an excellent railway system in a country

a fraction of the size of the United States.

What have we done? Well, since 1971, we've invested just \$19 billion in Amtrak. And now we are preparing to phase out operating subsidies entirely. I think this is unrealistic.

Mr. President, let me put this in perspective. We continue to subsidize every other form of transportation.

Over the past 15 years, in relative terms, we've increased spending on highways by 73 percent and aviation by 170 percent, while we have cut Amtrak's funding 62 percent.

As we starved our national rail system during most of this decade, service declined and so did ridership. Between 1994 and 1996 Amtrak went from 21.1 million passengers to 19.7 million—meaning Amtrak lost even more revenue and was being sent into a downward spiral toward bankruptcy.

And those 1.4 million riders Amtrak lost still had to get to their destinations somehow and that likely meant more cars, buses, or planes in our already congested airports and highways.

Coming from the State of New Jersey, I can speak first hand about the importance of Amtrak to my State and the rest of the northeast corridor.

The New York/New Jersey metropolitan area is one of the most congested in the nation. A recent study said that every day people waste more than 2 million hours in traffic—2 million hours a day.

To put that number into perspective, that means that people here will waste more time in traffic in a single year than the man-hours to build the entire Continental railroad.

And if Amtrak wasn't there, another 11 million people would be dumped onto our roads.

How many billions of dollars would we have to spend widening roads in order to accommodate this new traffic? How much time and money would trucking companies, businesses and commuters lose as a result of increased traffic and congestion? I do not think that anyone can legitimately make the argument that highway users do not benefit from Amtrak's operations.

Amtrak does not just reduce congestion on our highways. It carries over 40 percent of the combined air-rail market between Washington and New York. Loss of Amtrak service in this corridor would require another 7,500 fully booked 757 jetliners to carry Amtrak's passenger load each year. How many billions would we have to invest in our air infrastructure to accommodate these travelers?

Mr. President, while I've spoken about my region, Amtrak is also a national passenger rail system that provides important service in areas of the country that are not as congested. In many cases, Amtrak provides residents of small rural towns with their only form of intercity transportation. Each year, some 22 million passengers depend on Amtrak for transportation between urban centers and rural locations. Amtrak provides service in 45 of the 50 States.

Ask any Amtrak passenger, traveling through the State of Montana, perhaps stopping off at Havre, on their way to Glacier National Park, whether Amtrak is important to them. Of course it is.

Mr. President, this agreement in front of us today strikes a compromise on very difficult labor issues. It asks Amtrak's workers to make significant concessions.

Mr. President, I worked hard to make these funds available to Amtrak. During the budget negotiations, I worked with Senators ROTH and DOMENICI to include a reserve fund for Amtrak to allow us to make additional capital funding available in future legislation.

Thanks to the leadership of Senators ROTH and MOYNIHAN, the Finance Committee found a way to provide this funding in the tax reconciliation bill through a \$2.3 billion tax credit.

Mr. President, I would like to end by commending all of those who worked so feverishly to put this compromise together. In particular, Senators KERRY, HOLLINGS, LOTT, HUTCHISON, MCCAIN, ROTH and BREAUX deserve special recognition for their efforts and leadership in this matter.

I urge my colleagues to support this Amtrak reauthorization compromise.

I think this step we take today to begin rejuvenating our national rail system might someday be considered just as historic as the century-old congressional decision to build it in the first place.

But we must not kid ourselves. More will need to be done if Amtrak is to thrive, not just survive.

Mr. CHAFEE. Mr. President, I strongly support this legislation, which will preserve vital passenger rail service in the United States. I applaud the hard work of the members of the Commerce Committee who have worked out a reasonable compromise on this much-needed bill.

In the 25 years since Amtrak was created, we've learned several things about passenger rail operations in the United States: First, in today's increasingly competitive transportation marketplace, Amtrak cannot continue to operate viably under the status quo. Second, we recognize political reality and know that the American people will not continue to support taxpayer subsidies of Amtrak if the railroad continues to operate under the same structure that has brought it close to financial collapse. Third, like its counterparts in the highway and aviation sectors, passenger railroad ought to be afforded a reasonable level of Federal assistance for its increasingly urgent infrastructure needs.

With regard this third matter—Federal support—I am pleased that Congress included within the tax bill passed earlier this year \$2.3 billion for Amtrak's capital improvements. These funds will help Amtrak conduct badly needed modernization of its infrastructure so that it can enhance service to its customers and more effectively perform in a competitive marketplace. However, these funds are on hold until

the bill before the Senate today is enacted into law.

What is also needed is a realistic assessment of the Federal laws currently governing Amtrak's operation. Although attention recently seems to be focused on the protections for Amtrak employees, there are a wide range of laws that hinder Amtrak's stated goal of operating more like a business.

It has been the provisions affecting Amtrak workers that have been most controversial and have stymied action in Congress for the past 2 years. Some of these laws stem from the Depression era, a time when Congress and the President sought to relieve a national tragedy. Others were enacted when Amtrak was first created in the early 1970's, well before the railroad's financial problems had developed.

In any event, it is important to note that many of these provisions are mandated by law, rather than agreed to through the traditional collective-bargaining process that businesses and labor unions across America deal with regularly. Other employers in the United States are certainly not required by law to provide worker benefits similar to those required of Amtrak.

If financial and operational viability is going to be restored at Amtrak, we simply must take a candid and reasonable look at all of the very unique laws—not just the labor protections—that have hindered Amtrak's ability to succeed. We must also ensure that, like its counterparts in the aviation and highway sectors, passenger rail is provided a reasonable level of support for capital improvements. These are the goals this bill seeks to achieve, and I am pleased that Senate is able to take it up today.

Specifically, when amended by this substitute, S. 738 will:

Authorize \$5.163 billion for Amtrak over the next 5 years;

Mandate that Amtrak be independent of Federal operating subsidies in 5 years;

Repeal two statutes that affect work rules at Amtrak, and put them into the collective bargaining process. These outdated statutes prohibit Amtrak from contracting out, and mandate 6 years of severance pay for laid off employees;

Impose a reasonable cap on punitive damages on rail transportation liability;

Create an Amtrak reform council [ARC] that will regularly evaluate Amtrak's financial performance to ensure accountability to the taxpayer;

Clarify that the \$2.3 billion included within the tax bill can only be used for Amtrak capital improvements.

When taken together, the provisions of this legislation will restore financial viability to Amtrak by permitting the company to operate more like a business. The bill also gives the U.S. taxpayer the assurance that Congress will no longer provide open-ended subsidies to passenger rail.

There are allegations that Amtrak's operational reforms are being sought as a ploy to make it less expensive to

eliminate these jobs and shut down the railroad altogether. This contention is ludicrous. The biggest threat to these jobs is maintaining the status quo, which is not financially viable for Amtrak.

If things continue under the current framework, Amtrak will soon be forced into bankruptcy. Such an outcome would eliminate all of Amtrak's 20,000 jobs, to say nothing of depriving the Nation of a needed service.

Ultimately, our effort to ensure that passenger rail survives into the 21st century should be focused on the customer: we should help ensure that conditions exist that will allow Amtrak to provide efficient, reliable national transportation service without adversely impacting its workforce or burdening U.S. taxpayers.

Absent this service, Amtrak's customers would go elsewhere, and our highways and airports would become severely clogged. This legislation ensures the viability of passenger rail service for the traveling public, and I urge my colleagues to support it.

Ms. SNOWE. Mr. President, today the Senate holds the future of Amtrak in its hands. The legislation before us seeks to put Amtrak's financial situation on a track to self-sufficiency. We have delayed action on Amtrak for three years and we cannot afford to delay it any longer.

As a member of the Senate Commerce Committee for the last 3 years, I have listened to Amtrak and its detractors discuss the problems and the potential for passenger rail service. The committee, first under the leadership of Senator LOTT, and now under the leadership of Senator HUTCHISON, chair of the Surface Transportation Subcommittee, have reported out tough but fair reform bills that put the burden on Amtrak to prove it can survive without a Federal operating subsidy.

In the last Congress, despite the best efforts of Senator LOTT, no agreement could be reached with those who claim they want Amtrak reform but also wouldn't let it come to the floor—even when they were offered the opportunity to offer, debate, and vote on their amendments. Much the same can be said to explain why we are here, in the waning hours of the first session, considering this important bill.

I want to express my support for the amendment offered by Senator HUTCHISON and my appreciation for her dedication to moving the reform process forward. She has fought a difficult battle because of her belief in the importance of maintaining a national passenger rail system, and I would like to commend her for her hard work and dedication to reform.

But, we are not simply debating Amtrak reform, but a more complex question: Do we, as a Nation, believe that we should have a national passenger rail service? If we do, then we will pass

this bill with Senator HUTCHISON's amendment. If we fail to address the financial problems at Amtrak all we are doing is delaying the inevitable.

We need to make the tough choices—that is what the people of this country have sent us here to do. If we are not willing or able to do that for Amtrak then we might as well shut the system down rather than allow it to slowly bleed to death. That is what is happening now because some in this body have been unwilling to face up to the fact that there is no easy answer to the financial problems facing Amtrak. If there were—we would not find ourselves in this situation.

Three years ago, Amtrak took the Government's pronouncement that it should operate without Federal operating subsidies to heart. They developed a business plan and told Congress what was needed both in the way of statutory changes and capital funding in order to meet this goal. Earlier this year we created the capital trust fund—an important first step—but in this case money simply isn't enough. Until we address the statutory changes they need, we have left them to sink slowly into bankruptcy.

Tom Downs has come before the Commerce Committee, the Finance Committee, the Appropriations Committee, and the Environment and Public Works Committee to tell the Senate what changes Amtrak needs in order to turn a public railroad into a business. He has laid out the statutory changes that are necessary in order to allow Amtrak to compete in the next century. He has been very straightforward about the fact that without these changes, Amtrak has no future.

The Commerce Committee has twice reported out bills that provide these changes. But the committee has also made it clear that the reform bill is a commitment between Congress and Amtrak to achieve the mutual goal of self-sufficiency. We have created the Amtrak Review Council which will consider factors that will help it determine if Amtrak has kept its end of the deal—Amtrak's performance, and the findings of the independent assessment—in order to determine whether or not Amtrak should continue to exist. I included a provision in the bill that will require the ARC to also consider whether Congress has held up its end of the bargain by requiring the council to look at whether sufficient funding was provided for Amtrak to carry out the financial plan it is required to write under the bill.

In my very first Commerce Committee hearing in January, 1995, Ken Mead, then with GAO told us that "... Congress needs to decide what is to be expected from Amtrak and how much it is willing to pay to fulfill those expectations." I believe the committee has provided the full Senate with a bill that provides Amtrak and its shareholders with a clear outline of those expectations and most importantly, provides Amtrak with all the tools,

within its power, to meet those expectations.

I believe that the committee's reform package—offered today by the distinguished Senator from Texas—is a fair one, but least anyone think that we are simply pouring money into a sinking ship, it is important to remember that this bill also includes a heavy dose of tough love. If the ARC determines that Amtrak cannot become free of Federal operating subsidies, then plans will be made for liquidation or a major restructuring will be undertaken.

Having worked with Tom Downs, I am a firm believer that he and the men and women who have worked so hard to keep Amtrak moving will meet the goal of self-sufficiency. If they cannot, even after Congress has provided them with the tools they have asked for, then I am ready to close them down. But I want to know that they had the opportunity, the resources and the tools to meet that goal, first. And that is why it is so important that we adopt the amendment offered by Senator HUTCHISON.

It is also important to look at what, until today, has prevented us from moving the Amtrak reform legislation—labor and liability.

According to the General Accounting Office, labor accounts for 52 percent of the costs at Amtrak. You don't need to be an accountant to know that if Amtrak is to succeed it needs to be able to address these costs. Amtrak has asked for the ability to sit down at the bargaining table and negotiate on the issues of contracting out of services and severance pay, which under current law is 6 years. The Committee bill required both sides to negotiate. Under the Hutchison amendment, the issue of contracting out shall itself be negotiated in the next round of contract negotiations.

A lot has changed since Amtrak was created and we need to allow the system to change with the times if it is to be a competitive force as we enter the next century. The men and women of Amtrak have worked hard to improve the system, make no mistake about it, and they have more at stake than anyone for without Amtrak they have no job. I do not believe that asking them to sit down at the table and negotiate is asking too much.

The Hutchison amendment also makes changes in the liability issue that has long held up reform. It is a much misunderstood issue and I applaud the Senator from Texas' ability to reach agreement on the issue.

The Senate will make an important decision today. We can take the responsible approach, pass reform, and help put Amtrak on the road to self-sufficiency. Or we can take the irresponsible approach, kill the bill and shut down passenger rail service. I have the luxury, I suppose, of coming from a State that will not be impacted one way or the other at this time. Maine does not have train service. We would like it, and we are waiting for a

decision by the Surface Transportation Board to determine if we will get it, but the people of my State believe that a national passenger rail system is important, and so do I.

A national passenger rail system is as much a part of our future as it is of our past. The Journal of Commerce noted last year that Amtrak's presence eliminates the need for 20 additional highway lanes in New York City and 10 new tunnels under the Hudson. It also replaces 27,000 cars on the highway between Boston and New York every day. We can only add so many lanes to any given highway.

We need Amtrak—not as a reminder of our past, but as a vital part of our transportation future, and I urge my colleagues to join me in passing this bill.

Mr. HOLLINGS. Mr. President, I rise today in support of S. 738, the Amtrak Reform and Revitalization Act of 1997, and urge its immediate passage.

S. 738 is the final product of a long collaborative process between Democrats and Republicans alike who have come together in a bipartisan way in order to save and strengthen Amtrak, the Nation's passenger rail carrier. Credit must be given to Senator HUTCHISON, the subcommittee chairman, Senator McCAIN, our Commerce Committee chairman, and the majority leader, Senator LOTT who took a personal interest in this legislation to get it done. On my side of the aisle we must acknowledge the contributions of Senators KERRY, BREAUX, and FORD who negotiated this compromise.

In addition, we should mention those Senate staff members who worked long hours to bring this legislation to the floor today. They include: Ann Begeman and Charlotte Casey from the Commerce Committee majority staff; Amy Henderson and Larry DiRita from Senator HUTCHISON's staff; Carl Biersack of the majority leader's office. On the Democratic side I want to mention: Ivan Schlager, Jim Drewry, Clyde Hart, and Carl Bentzel from the committee staff; Gregg Rothschild from Senator KERRY's office; Mark Ashby from Senator BREAUX's staff; Greg Rohde from Senator DORGAN's office; Tom Zoeller from Senator FORD's office; and Jonathan Adelstein of the minority leader's office.

This bill gives Amtrak the tools it says it needs to survive and prosper into the 21st century. In order for this to be done, each of Amtrak's stakeholders has had to give up some benefit. Amtrak passengers will have to bear a limit on Amtrak's liability to them, much the same way that the airlines limit their liability to passengers. Amtrak employees will have labor protections trimmed, but they will retain the ability to renegotiate these protections in the collective bargaining process. In addition, Amtrak management will be under increased scrutiny to perform. The bill establishes an Amtrak Reform Council to advise Amtrak management and to report to the Congress

on Amtrak's progress to self-sufficiency.

However, in return for those sacrifices, the bill provides Amtrak, for perhaps the first time, sufficient funds for it to repair and revitalize its track and facilities to grow into a first-class rail passenger service. The United States ranks very low in the world in the amount of money it spends on rail passenger service. According to one study the United States ranks below Bangladesh in the amount of money we allocate to this service. With this bill we can begin to close that gap and give the American people a service they can use and be proud of.

Mr. SHELBY. Mr. President, I compliment my colleagues on the Senate Commerce, Science, and Transportation Committee on today's successful passage of the Amtrak reauthorization bill. I acknowledge that the procurement, labor, and liability reforms contained in this bill as amended by the chairman's substitute amendment are the end result of difficult negotiations and compromises among many competing interests, and represent many years' effort. Issues such as contracting out and mandatory 6-year severance pay have been taken out of statute and put on the negotiating table.

I hope this bill's provisions, along with future negotiations, result in some real reforms. Even with the \$2.3 billion in tax credits that will be released on January 1, 1998 if this reauthorization bill is enacted into law, Amtrak will still be hard-pressed to continue running trains in the future, if meaningful improvements are not made in the way the railroad does business. Since I have taken on the chairmanship of the Senate Appropriations Transportation Subcommittee this year, one thing has become crystal clear: Amtrak does not intend to be weaned from Federal subsidies any time soon. The Amtrak-Brotherhood of Maintenance of Way Employees [BMWE] union agreement reached last weekend contains contingencies that require appropriations levels higher than those in current law or contemplated by the balanced budget agreement. Amtrak touts its glidepath to self-sufficiency as the funding path that will eventually lead to the elimination of Federal operating subsidies. However, the Amtrak-BMWE agreement points to a glidepath in the opposite direction.

The fiscal year 1998 transportation appropriations bill provided \$793 million for Amtrak operating and capital expenses. Added to Federal subsidies paid to Amtrak since the Corporation was formed in 1971, the taxpayers have thus far spent \$22 billion on a national railroad that carries fewer than 20 million passengers a year—less than 1 percent of all annual intercity passenger trips in the United States. According to the General Accounting Office, the average Amtrak direct Federal subsidy is \$38 per passenger trip, compared to \$1.50 per commercial airline passenger

enplanement. This is subsidy that comes out of the pockets of every American taxpayer, and yet, wide swaths of the country are not served at all by Amtrak, and many communities that do have train service only see the train a few times a week, or at odd hours of the night.

There is a growing sense that Federal funding of Amtrak can no longer be justified on fiscal or mobility grounds, and that it is time to consider phasing out the railroad's public monopoly status. I really hope that the reforms contained in this reauthorization bill do make a difference in the way Amtrak does business. Because if they do not, by releasing these tax credit funds, the Congress may simply be extending Amtrak's financial instability for 2 more years, and costing the taxpayers yet more appropriated funds for the subsidy of a failed experiment.

Mr. BIDEN. Mr. President, I am pleased that we finally have before us the legislation we need to give Amtrak a new lease on life. In my remarks this afternoon, I will start with the bottom line.

When we pass this legislation today, Amtrak will be eligible to receive the \$2.3 billion that was provided in last summer's balanced budget plan. This legislation authorizes the continued existence of Amtrak—that authorization expired in 1994—and therefore gives Amtrak access to the capital fund that some of us have worked so many years to establish.

Agreement on the terms of Amtrak's reauthorization has not been easy, Mr. President. It has taken several years to accomplish, marked by many long hours and more frustrations than I care to recall, as agreements we thought were done unraveled over and over again.

The bill before us this afternoon has required the best efforts of many of my colleagues, who have persevered in the face of those frustrations. We could not have reached this point without the leadership of Senator HUTCHISON, along with Senator MCCAIN, and of course, their colleague on the Commerce Committee, the distinguished majority leader, to reach agreement on the many difficult issues that this legislation has raised.

And I know that without the persistence of Senator JOHN KERRY, along with Senators HOLLINGS and BREAUX, we would not have reached this point.

And if I may say so, Mr. President, the entire Delaware congressional delegation has been a part of this process from the beginning. My good friend BILL ROTH, chair of the Finance Committee, and our Governor, Tom Carper, who is on the Amtrak board of directors, both continued to play their key roles at critical moments in this process.

The result is a bipartisan compromise, that required that everyone give up some of what they wanted to get as much as possible of what Amtrak needs. Those of us who followed

these negotiations closely can count many moments when it seemed that this legislation was dead. Only the long-suffering perseverance of the key players made this legislation possible.

But let's be clear about where we are in the life of Amtrak. As my good friend, Senator MCCAIN, has stressed today, Amtrak is indeed in dire economic trouble. And yes, some of this trouble is indeed due to some of the constraints that we in Congress put on Amtrak's business practices when we created it a quarter of a century ago. That is why the reforms in this legislation are needed.

But I believe that much of the problem is due to our failure over the years to provide our nation's passenger rail system with the level of financial support that we give to other elements of our country's transportation system.

As Senator KERRY has argued here this afternoon, we here in the United States rank below some of the poorest Nations on the planet in the level of financial support per citizen that we provide our passenger rail system.

One result of this has been that during the 25 year life of Amtrak, its employees have seen their wages cut as the cost of living grew while their paychecks stagnated.

In my State of Delaware, we have two of the essential maintenance facilities for Amtrak—at the Wilmington and Bear, DE yards. The workers at these facilities are the best in the business, and are carrying on a tradition that reaches back to the turn of the century in which Delaware has provided essential support for passenger rail along the East Coast.

The hard work that the men and women of the Delaware yards have put in keeping Amtrak's equipment and tracks safe and dependable has been rewarded with a stagnant standard of living. And our citizens—not just in East Coast urban areas, as we often hear, but in small towns all over the country—have had much less passenger rail service than the citizens of other major industrial nations.

By failing to support Amtrak adequately, we have been forced to live with a less efficient transportation system, reducing the effectiveness of the more substantial funds we provide for highways and airports, which are crowded with travelers who might otherwise be able to travel by rail.

We all hope that Amtrak will make the best of the management reforms in this bill to put passenger rail on a healthier financial track for the future. But this legislation entails more than operating reforms and access to a new capital fund.

As Senator MCCAIN so rightly pointed out, this legislation makes provision for termination of Federal Financial support for Amtrak's operations by the year 2002, something already part of our long-term budget plans. It includes provision for a study of the possibility of Amtrak's bankruptcy and liquidation. For the first time in Federal law,

we are contemplating the possibility of shutting down passenger rail in this country.

So while those of us who put in the hard work that made this moment possible should rightfully be proud of those efforts, we must not lose sight of the big picture. While we have bought a little more time for Amtrak, we have by no means assured that passenger rail—essential to the efficient operation of every other industrial economy's transportation system—will survive in the United States.

Over the next 5 years, there will be more tough choices as we move toward the twin goals of a balanced Federal budget and the end of Federal operating support for our country's passenger rail system. If we fail to provide Amtrak with the resources it needs to modernize, to attract the ridership and revenues that can advance the goal of self-sufficiency, today's accomplishment will be hollow.

I am not convinced, Mr. President, that we have chosen the right course for passenger rail in this country. No one argues against reforms that make the best use of taxpayers dollars, reforms that permit Amtrak to make use of the best business practices to attract riders and to expand our country's passenger rail system.

But by themselves, those reforms will not relieve us of our responsibility to keep passenger rail alive.

Senator KERRY reminded us today that the European Community has committed to major new investments on top of their substantial contributions to their continent's passenger rails system. As the most productive economy in the world, we should face up to the need to make similar commitments here.

So many benefits flow from these investments—benefits that can be measured, but not always on the books of any given passenger rail system—that the rest of the developed world is willing to make that kind of commitment. Those benefits include more efficient use of fuel, cleaner air, reduced congestion on our highways and at our airports—real benefits that add up to real dollars saved that can be put to better use.

In today's world—with balanced budgets and increased economic competition—we must make sure that we capture those benefits and save those dollars. That is why the fight for passenger rail in the United States is far from over today.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask unanimous consent that the vote that was scheduled for 2:15 be delayed until the end of my comments.

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

Mr. KERRY. Mr. President, I am delighted to join with the Senator from Texas, the chairman of the Commerce Committee, the Senator from Arizona, Senator HOLLINGS, Senator BREAU in

strongly supporting Amtrak itself and, equally important, supporting this reauthorization bill which is pending before the Senate.

I offer my sincere thanks to the Senator from Texas, Senator HUTCHISON, for her persistence on behalf not just of the bill but particularly Amtrak, which she just talked about, which she has vision of and of which we share a vision.

I also thank Senator MCCAIN who worked hard with all of us. Despite his own very deeply felt misgivings regarding federally subsidized passenger rail, as chairman he was very fair to all of the opinions that existed on the committee and gave us the opportunity to be able to come together to forge what I think is a good compromise.

A compromise, obviously, doesn't leave everybody happy. It is not supposed to. There are folks on both sides of the aisle who, if they wrote their own bill, would have written a different bill. Clearly, that is true. But it is because we reached that compromise that I think we put Amtrak in a position not only to survive but to thrive, and we have preserved the rights of labor to be able to negotiate appropriately for their relationship with the management.

I will not review, in the interest of time, any of the specific provisions at this moment. Senator HUTCHISON has done that. Senator MCCAIN has done that. But I would like to take a moment just to emphasize what I think can't be emphasized enough, which is the importance of Amtrak to the country and particularly important to the Northeast Corridor Improvement Project and to the transportation infrastructure of the Northeast region of the country. I think it is important to all the regions it reaches, but I particularly point out that the future completion of the Northeast corridor, which this legislation will help to ensure, is expected to attract 3 million additional passengers annually between New York and Boston.

This improved rail service is going to ease the congestion of Logan and other major Northeast airports. The Federal Railroad Administration expects passenger air service between Boston and New York to decrease by 40 percent as a result of these measures and to result in the elimination of over 50 daily New York-Boston flights. Indeed, without this legislation, and without the continued modernization of rail travel in the Northeast, the four airports between New York and Boston would be projected to produce annual passenger delays of over 20 million hours per year. That is lost productivity. That is a lost competitive edge for our country, as well as for the region.

We can expect improved Northeast rail service that will come as a result of this legislation to have a spillover positive impact on road congestion. Mr. President, 5.9 billion passenger miles were taken on Amtrak in 1994. These are trips that were not taken on

crowded highways and airways. Improved rail service in the Northeast is projected to eliminate over 300,000 auto trips each year from highways that are increasingly overly congested, and it will reduce auto congestion around the airports as well as improving air quality for the country and in the Northeast.

As these figures demonstrate, a healthy and financially viable passenger rail system is the key to ensuring an efficient transportation infrastructure in our country. We simply cannot continue, in some parts of the country certainly, to build more and more roads and more and more airports. The space doesn't allow it. We should look to Europe, and we should look to Japan, and we should look to other countries for the experience that they have had as more and more of the square miles of their country are consumed by business and by living space and where they have had to make use of those spaces effectively.

The fact is that in the United States of America within the next 20 to 30 years, the vast majority of our population, 75 percent of it, will live within 50 miles of coastline, including the Great Lakes. We will need to consider how we move people and products as those areas become more crowded.

So, simply stated, we need Amtrak because we cannot continue to pave our way out of our transportation problems. I would like to take just a quick moment to address some of those in the Congress who criticize Amtrak and any kind of Federal subsidy of rail as a form of some kind of central planning that is inherently dangerous and that supposedly the United States has always avoided. The fact is, Mr. President, we have not only not always avoided it; we have relied significantly on that kind of Federal input and planning to help us to be able to build the network of transportation that we rely on.

Throughout our Nation's history, we in Congress have been proactive and aggressive about this kind of assistance. You can drive in one relatively straight line from the northern coast of Maine to Florida on a well-paved road because the Federal Government planned it and because we funded the Interstate Highway System. The planning and construction of our Nation's ports and canal networks, transcontinental railroads, the air traffic control system, and the Interstate Highway System are all examples of Federal leadership in transportation policy which led to overall economic growth, to improved transportation efficiency and, finally, to the development of entirely new industries.

Indeed, while we in Congress have argued over whether the Federal Government should or shouldn't ensure a healthy inter-city rail system, internationally it is no secret that a well-founded rail network is an essential ingredient of a strong 21st century economy.



In fact, every major economic power, except the United States, invests several billions of dollars annually in passenger rail transportation. The European Union plans to invest more than \$100 billion to better utilize and integrate its multibillion-dollar rail network. And our economic competitors in Asia, including China, Taiwan, Malaysia, and South Korea, are all investing heavily in rail.

The unfortunate truth is that on a per capita basis, at least 34 countries, including Guinea, Myanmar, South Africa, Iran, and Botswana each spend more than the United States on passenger rail. In this light, which I think is the correct light in which to view what we are doing today, we are doing the bare minimum necessary to ensure continued passenger rail travel in the United States and to maintain a vibrant national transportation network.

Finally, I would like to take a moment just to say something about the men and women in Amtrak's labor organizations who work extraordinarily hard daily to ensure that the trains are in working order, that the tracks are maintained and that millions of Americans are able to get to work and travel comfortably and safely from city to city.

Much has been made in the arguments over reform about labor provisions in U.S. law which did give protections to those who worked on Amtrak. Those protections were to guarantee that their jobs wouldn't be contracted away or that a specific level of a severance might exist in order to safeguard them.

Before one overly criticizes those provisions which we have changed and which, in my judgment, we appropriately came to a compromise on, recognizing the times that we now live in, but it is important to not be overly cynical about them and to, frankly, understand the context in which they came about.

Amtrak was formed only in the 1970's, and the reason it was formed was that the freight carriers were unwilling to continue to provide passenger service. It was unclear at the time whether a new entity, called Amtrak, was going to be able to survive at all. It needed experienced, skillful workers in order to be able to put that survival to the test, in order to try to become a viable entity.

So to attract those skilled, viable workers from another job under another umbrella which they worked in where they had a pension and where they had years of experience, it was necessary to say to them, "You are not going to lose your job immediately. We are going to guarantee you that for taking the risk for helping to make Amtrak work, we will provide you with a guarantee."

The labor provisions that are at issue in this debate were originally put into Amtrak law in order to attract employees from other carriers so that they would work for Amtrak. Simply

stated, the provisions guaranteed that people who came to work for Amtrak when they didn't know it would survive would receive nothing more than the protection they had enjoyed previously.

Since that time, I point out to my colleagues, that Amtrak employees have made tremendous financial sacrifices in order to help keep Amtrak going. I don't think those have been recognized. In the early 1980's, Amtrak employees agreed to a 12-percent wage deferral in order to help Amtrak's bottom line. This deferral has never been repaid. So in point of fact, it became not a deferral, it became a wage giveback, a 12-percent wage giveback.

From 1987 through 1992, Amtrak employees agreed to have their wages frozen, even though management received salary increases as high as 15 percent during that period.

In addition, Amtrak employees are paid considerably less than workers holding similar jobs in other transportation agencies. For example, Amtrak car mechanics will earn \$2,200 less than those car mechanics on Atlanta's commuter lines; \$6,500 less than those on Chicago's commuter lines; and \$16,300 less than those on New York's and New Jersey's PATH commuter lines. A mechanic who started to work at Washington's Metro in 1980 literally would have received over \$100,000 more than if he or she had worked for Amtrak.

So now with this bill, Amtrak's employees are making yet another sacrifice, and they are giving up statutory protections to allow them severance benefits in the event of route cuts and also to change the contracting-out provisions.

Mr. President, one of the reasons we have this bill is because Amtrak employees have agreed to make this sacrifice. I think that those of us in Congress and the millions of Americans who enjoy Amtrak ought to be grateful for their courage and commitment to its continued viability.

I believe we have laid the groundwork for Amtrak to survive. Labor would be permitted to negotiate as normally as they can negotiate in the marketing process. I think we have reached an accommodation that will help us keep Amtrak not just alive but on the first steps to becoming a model, hopefully, in the long run as we go into the next century for what a good passenger rail system can be.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from the great State of Texas.

Mrs. HUTCHISON. Thank you, Mr. President. I thank the Senator from Massachusetts who was so helpful in working out this compromise. I think, as he said, a lot of people had to give something that they didn't want to give, which probably means that we did a fair compromise. Senator BREAU, who is also on the floor, was very much a part of this. Senator HOLLINGS, who was here, I also thank.

If there is no one else wishing to speak, then I would like to have third reading and then go to a vote, if that is possible.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass, as amended?

The bill (S. 738), as amended, was passed.

Mr. LOTT. Mr. President, today the Senate acted in a fully bipartisan manner to adopt meaningful and genuine legal, labor, and management reforms for America's national passenger railroad. It offers legislative solutions that could begin to restore the fiscal health of this failing railroad.

American taxpayers have already invested over \$20 million in this railroad.

Let me be clear: the Senate is sending a bipartisan message to this railroad—the management and the workers must fundamentally change both their culture and operating methods.

Amtrak cannot continue getting subsidies.

The legislation adopted today is an amendment to the bill reported by the Commerce Committee earlier this year. It is the bill sponsored by Senator KAY BAILEY HUTCHISON. The amendment was a joint effort of several members of the Commerce Committee on both sides of the aisle.

I want to personally commend the Senate's Commerce Committee for their leadership on this important transportation issue.

I'm sure the nearly 2 million Americans who ride the commuter rail system every day want to also thank them.

I also want to recognize the work of a number of dedicated staffers who have invested many hours, evenings and weekends to get the legislative language right. The work was intense, emotional and personal, but everyone maintained their professional manner and got the job done. The staff responsible for the details are: Ann Begeman, Clyde Hart, Amy Henderson, James Drewry, Lloyd Ator, and Penny Comp-ton.

Let me just take one moment and clarify one important issue within this reform bill. The current industry practice between Amtrak and other rail carriers is to allocate financial responsibility for claims. This makes sense and in fact many such contractual agreements exist today. The language in section 28103(b) of the bill is intended to confirm that such contractual agreements are consistent with Federal law and public policy. One should not construe this section as modifying such agreements.

Today, the Senate has taken action to ensure America's passenger rail service will not be interrupted. And, the Senate also mandated reforms to assure a prosperous passenger railroad.

Mr. President, this reauthorization reform for Amtrak is long overdue, but it is on the right track.

#### EXECUTIVE SESSION

#### NOMINATION OF CHRISTINA A. SNYDER, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the nomination of Christina A. Snyder, which the clerk will report.

The legislative clerk read the nomination of Christina A. Snyder, of California, to be U.S. district judge for the central district of California.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Mr. President, I am glad to see that the Senate is finally turning its attention to the nomination of Christina Snyder. She was first nominated in May 1996, over 17 months ago. Her hearing was finally held in July of this year and after another 2-month delay, she was reported by the Judiciary Committee without objection. She has been pending on the Senate Calendar without action and without any explanation for the 2-month delay that has since ensued.

It seems that the delay in considering her nomination had nothing to do with her outstanding qualifications or temperament or ability to serve as a Federal judge. Rather, it seems that some opposed this fine woman and held up her nomination to a very busy court because she had encouraged lawyers to be involved in pro bono activities.

Ms. Snyder has been held up anonymously for months and months. When the Judiciary Committee finally met to consider her nomination, I was curious to learn who and what had delayed her confirmation for over a year. But no one spoke against her and no one voted against her.

Ms. Snyder has been an outstanding lawyer, a member of the American Law Institute, and someone who contributes to the community and has lived the ethical consideration under Canon 2 of the Code of Professional Responsibility. I congratulate her on her outstanding career.

When she was being interrogated about her membership on the boards of Public Counsel and the Western Center on Law and Public Interest, Senator FEINGOLD properly observed:

[I]t is kind of an irony when we get to the day where if you don't participate in pro bono activities, you are somehow in a situation where your record is a little safer vis a vis being appointed to a Federal judgeship. And then when you get involved in pro bono activity, that might actually cause you to

get a few more questions. . . . [T]hat can't be an encouragement for lawyers to get involved in pro bono activities on behalf of people who don't have the ability to go to court very easily.

After all these months, I was please to hear Senator SESSIONS pronounce Ms. Snyder "an outstanding individual with a fine record" and "a capable lawyer of integrity and ability," when her nomination was considered by the Judiciary Committee.

I congratulate Ms. Snyder and her family and look forward to her service on the Federal court.

Although I am delighted that the Senate will today be confirming Christina Snyder as a Federal district court judge, the Republican leadership has once again passed over and refused to take up the nomination of Margaret Morrow. Ms. Morrow's nomination is the longest pending judicial nomination on the Senate Calendar, having languished on the Senate Calendar since June 12.

The central district of California desperately needs this vacancy filled, which has been open for more than 18 months, and Margaret Morrow is eminently qualified to fill it. Thus, while the Senate is finally proceeded to fill one of the judicial emergency vacancies that has plagued the U.S. District Court for the central district of California, it continues to shirk its duty with respect to the other judicial emergency vacancy, that for which Margaret Morrow was nominated on May 9, 1996.

Just 2 week's ago, the opponents of this nomination announced in a press conference that they welcomed a debate and rollcall vote on Margaret Morrow. But again the Republican majority leader has refused to bring up this well-qualified nominee for such debate and vote. It appears that Republicans have time for press conferences to attack one of the President's judicial nominations, but the majority leader will not allow the U.S. Senate to turn to that nomination for a vote. We can discuss the nomination in sequential press conferences and weekend talk show appearances but not in the one place that action must be taken on it, on the floor of the U.S. Senate.

The Senate has suffered through hours of quorum calls in the past few weeks which time would have been better spent debating and voting on this judicial nomination. The extremist attacks on Margaret Morrow are puzzling—not only to those of us in the Senate who know her record but to those who know her best in California, including many Republicans.

They cannot fathom why a few senators have decided to target someone as well-qualified and as moderate as she is. Just this week I included in the CONGRESSIONAL RECORD a recent article from the Los Angeles Times by Henry Weinstein on the nomination of Margaret Morrow, entitled "Bipartisan Support Not Enough for Judicial Nominee." This article documents the deep

and widespread bipartisan support that Margaret Morrow enjoys from Republicans that know her. In fact, these Republicans are shocked that some Senators have attacked Ms. Morrow.

For example, Sheldon H. Sloan, a former president of the Los Angeles County Bar Association and an associate of Gov. Pete Wilson, declared that: "My party has the wrong woman in their sights." Stephen S. Trott, a former high-ranking official in the Reagan administration and now a Court of Appeals Judge wrote to the majority leader to try to free up the Morrow nomination, according to this article Judge Trott informed Senator LOTT:

"I know that you are concerned, and properly so, about the judicial philosophy of each candidate to the federal bench. So am I. I have taken the oath, and I know what it means: follow the law, don't make it up to suit your own purposes. Based on my own long acquaintance with Margaret Morrow, I have every confidence she will respect the limitations of a judicial position."

Robert Bonner, the former head of DEA under a Republican administration, observed in the article that: "Margaret has gotten tangled in a web of larger forces about Clinton nominees. She is a mere pawn in this struggle." I could not agree more.

I ask unanimous consent to have printed in the RECORD an article by Terry Carter from the Los Angeles Daily Journal entitled "Is Jihad on Judicial Activism About Principle or Politics?" In that article Senator SESSIONS is quoted as saying that the Senate "can have a vote on [Morrow] nomination tomorrow." Well, today is tomorrow. It is high time to free the nomination of Margaret Morrow for debate and a vote.

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

[From the Los Angeles Daily Journal, Nov. 6, 1997]

#### IS JIHAD ON JUDICIAL ACTIVISM ABOUT PRINCIPLE OR POLITICS? (By Terry Carter)

WASHINGTON.—Three years after being nominated for the federal bench—having been branded a California "activist," grilled by Senate Judiciary Committee members about her personal voting habits and consigned to nomination limbo by an unidentified senator's "hold"—it would have been understandable if Los Angeles lawyer Margaret Morrow began composing a withdrawal letter in her head.

If she did, she could have looked for inspiration to what previous failed nominees had written.

"Despite the unpleasantness of the process, I am grateful for the honor of having had your support," one would-be federal judge wrote to his sponsor. ". . . For a while there, I really thought that your Herculean efforts had overcome the false and misleading charges that were made against me."

The author of that letter found salve in a manner few dream of. After his 1986 bid for a judgeship fell to a party line vote, then-Alabama U.S. Attorney Jeff Sessions, who faced questionable charges of racial insensitivity during Judiciary Committee hearings, went on to become a two-term governor and was

elected to the Senate in 1994 along with a number of other uncompromising firebrands. Today, Sessions sits on the very Judiciary Committee that rejected him, and he holds his thumb up or down on judicial nominations.

In an interview, Sessions said, "We can have a vote on [Morrow] tomorrow as far as I'm concerned. And I'd want to talk about some of her writings and statements and the Senate could vote." Sessions went on to say, "Margaret Morrow has written disrespectfully of the potential for good public policy coming out of the referendums in California. We have a real popular uproar over judges who've overturned referendums."

She likely would be, Sessions said, "a judicial activist."

In the judicial activism wars, Morrow will be either a victim or a survivor. In the spring, Morrow, a partner with Arnold & Porter and the first woman president of the State Bar, made it through the committee on a 13-5 vote.

Tough questions from, among others, Sen. Charles Grassley, R-Iowa, about how she voted on past state referenda were seen by many observers as transparent attempts to see how, as a judge, she might rule on matters concerning immigration, the death penalty, medical use of marijuana and other hot-button issues. But she seemed to weather the storm. Even the conservative Judiciary Committee chairman, Sen. Orrin Hatch, R-Utah, finally pronounced Morrow fit, saying his reservation about her potential for judicial activism had been assuaged. Now that her name has gone to the floor, her candidacy is promised a full-fledged debate by both sides.

Either way, Morrow has come to define the renewed flare-up of the age-old debate over the role of judges, predicted 200 years ago by Madison and Hamilton in the *Federalist Papers*. But there is a difference this time. Swirling in the background is a clash of old and new politics on Capitol Hill, particularly among Republicans campaigning for re-election and intent on keeping control of the Congress, even as they battle among themselves over leadership.

Republicans didn't have to look far to find a bogeyman in the judiciary—which not only is a good target, but it can't fight back.

Chasing so-called judicial activists is more than sucker-punching a patsy, as liberals put it. It gives Republicans something to do together while battling over party leadership. The excesses, the speed, have come mostly from the Young Turks and some old hands trying to get ahead. Whenever one pulls a foot off the accelerator to slow it down, another jams it to the floor—and no one wants out of the car.

"On this issue it's more strategy and tactics that bring disagreement among conservatives, not goals and objectives," said Elliot Minberg, counsel for the liberal interest group People for the American Way. The Young Turks and the establishment all agree to keep as many Clinton nominees off the bench as they can in a four-year stall, as much as they can get away with it.

The old guard hasn't gone out of its way to thwart the excesses. One of the most extreme of those was the announcement by Rep. Tom DeLay, R-Texas, earlier this year that he would seek impeachment of activist judges. DeLay recently reiterated the threat, and added that he wants it to "intimidate" judges.

Republican colleagues are quick to say that's beyond the pale, that impeachment for individual rulings won't happen, but, they admit, they like how it pushes the curve farther to the right.

A good example of that right-shifting spectrum is Hatch's unilateral move earlier this

year to end the American Bar Association's formal role of advising the Senate on judicial nominations, though individual senators still receive reports, and the more important pre-screening for the White House continues. Hatch told colleagues privately that he did so to keep the hard liners from doing worse. He said he's in the middle, but the middle keeps moving to the right.

The hunt for judicial activists is also proving a good fund-raising tool for some Republicans. Another freshman senator on the Judiciary Committee, John Ashcroft, R-Mo., already is signaling a run for the presidency. It was Ashcroft who placed the "hold" on the Morrow nomination, it was revealed last month. And Ashcroft used his chairmanship of the subcommittee on the Constitution, Federalism and Property Rights to hold hearings on judicial activism this year. "It's a good launching pad," said one Hill staffer. A sophisticated Internet user, Ashcroft at one point dedicated much of his Web site to judicial activism.

He is one of only 10 senators, for several months one of only six, to sign the so-called Hatch Pledge, which was crafted in February by the Judicial Selection Monitoring Project, a spinoff of the conservative Free Congress Education and Research Foundation. Each senator was asked to sign the pledge. It seized a sentence from a speech by Hatch at a Federalist Society meeting in his home state. "Those nominees who are or will be judicial activists should not be nominated by the president or conformed by the Senate, and I personally will do my best to see that they are not."

Hatch himself declined the request, citing personal policy against signing pledges, but he praised the efforts of the coalition of 260 conservative groups brought together by the Judicial Selection Monitoring Project. Also not joining Ashcroft in signing it were Grassley and Sessions. "I believe in fighting judicial activism but I don't need to sign a pledge," Sessions said. While judicial activism has been debated hotly the past two years in a presidential campaign, congressional hearings, on op-ed pages and in think tanks and bar panel discussions; the term's definition remains slippery. "It has been debased by conservatives so badly it has degenerated into an epithet for decisions you don't like—it's aimed only at results," said Bruce Fein, a former high-ranking official in the Ronald Reagan Justice Department.

Just the same, the debate quickened and became more focused in June when the Supreme Court struck down federal laws concerning religious freedom, Internet decency and handgun regulation. Outcries from both the left and the right questioned the process—calling it judicial activism—that led to these results.

No one did so more strongly than Hatch, who is considered by many to be an ideological soul-mate of Chief Justice William Rehnquist and Justices Antonin Scalia and Clarence Thomas. But those three were in the majority that were against Hatch's own Religious Freedom Restoration Act, which Congress enacted to maneuver around an earlier Supreme Court ruling.

"The Supreme Court has thrown down a gauntlet," Hatch said in a statement released the day after the decision was announced. "I intend to pick it up." After stumping against judicial activism for the better part of a year, Hatch suddenly expanded the term. Now he complained about "conservative judicial activism."

Perhaps, as a result, there will be a finer point to the debate, which is likely to continue. It has quickened in academia. But asking legal scholars to define judicial activism is like asking judges to interpret the Constitution. Often the only common thread

is their certainty. An activist against judicial activism, Thomas Jipping of the Judicial Selection Monitoring Project offers a quote from Humpty Dumpty in a colloquy with Alice after she ventured beyond the looking glass: "When I use a word it means just what I choose it to mean—neither more nor less."

Without using the term, Justice John Paul Stevens, in a 35-page dissent in *Printz v. US*, which struck down parts of the Brady Handgun Violence Prevention Act, chided his conservative colleagues—Rehnquist, Scalia, and Thomas in particular—for engaging in the kind of judicial activism they've eschewed so vocally in the past. Stevens pointed out that they had resorted to "emanations" and "penumbras" from the Constitution, tools liberals often are accused of wielding to torture the document.

While there is no locus classicus defining judicial activism, Laurence Tribe at Harvard Law School may trump them all: "To say there is a neutral vantage point outside the system for someone to declare in an Olympian and purportedly objective way that this is activism and that is restraint is itself a rather arrogant delusion."

But then, Tribe comes from the "eye of the beholder" school of thought, which tends to be composed of liberals. Those in the middle offer "on the one hand, and not the other" definitions. And conservative scholars usually define the term in considerable detail and nuance, with explanations of the mistakes others make in trying to do so.

Most are quick to mention specific cases, both old and recent. Some still argue *Marbury v. Madison*, 5 U.S. 137 (1803).

The conservative constitutional law professor Michael McConnell, now teaching at the University of Utah College of Law, made this response to Tribe. During the past 10 to 20 years, he said, the term judicial activism "has been a rhetorical theme of conservatives criticizing the court, and it's only natural that their ideological opposites would try to deconstruct and weaken that by saying it could be anything in the eye of the beholder."

McConnell offered a definition: "When a court imposes its own moral or political judgments in place of those of the democratically elected branches, without adequate warrant in the constitutional text, history, structure and precedent." But then he acknowledged the eye-of-the-beholder argument. "The devil is in the subordinate clause because we all see that differently," McConnell added.

A corollary to the argument that judicial activism is in the beholder's eye might be that made by some that it is necessary. Conservatives have complained for years that liberals went to the courts to get policy they couldn't muster through legislatures. Now many conservatives would like to turn the tables.

Clint Bolick, director of the libertarian Cato Institute's Center for Constitutional Studies, believes the courts "should play a feisty role." The courts, particularly the Supreme Court, were intended to be "a vigorous guardian of individual liberties against the encroachment of other branches of government," he explained. So at Cato, "we're in the business of securing judicial activism of the right kind, as in the correct kind." The Supreme Court's decisions striking down several federal laws this past term are "the way the court is supposed to be activist," he said.

In a more playful take on reining in judicial activism a belt with a jagged edge, the pro-life, Christian-oriented Family Research Council in June announced winners of its Court Jesters Award, for judges it believes stepped out of bounds. Noticeably missing

from the list, as the conservative gratify Fein pointed out, were two who made headlines during the year. One is federal Judge John Spizzo in New York, who acquitted two men arrested for blocking access to an abortion clinic because their actions stemmed from "conscience-driven religious belief" rather than willful criminal intent. The other is a state court judge in Alabama who posted in Ten Commandments in his courtroom and invited clergy to lead juries in prayer prior to hearing cases. The FRC's director, Gary Bauer, was willing to offer a written definition of judicial activism for this story but was unavailable over several weeks for an interview to discuss the topic.

"So many conservatives are so unprincipled in attacking judicial activism because the real grievance is against the results they don't like," said Fein, a columnist for the conservative Washington Times newspaper and a regular commentator on CNN, "And the standards Republicans are now voicing to screen Clinton nominees is what they said in the Bork hearings should never be applied," he said referring to the failed Republican nomination of Robert Bork in 1986.

The Jihad against judicial activism is seen some, in part, as the continuation of a dynamic the simmered through the Bork hearings: a long continuing battle against the Warren and Burger court. For one such attack through the rear-view mirror former attorney general Edwin Meese appeared Ashcroft's hearings on judicial activism. A fellow the Heritage Foundation, Meese followed up, releasing to the Judiciary Committee a report titled "Putting the Federal Judiciary Back on Track." The former Reagan administration official wants a number of landmark decisions by the Warren and Burger courts reversed, and agrees with Bork much-criticized belief that Congress should be empowered to overrule Supreme Court decision by simple majority vote.

For some, that rear-view mirror is cloudy. "The irony of complaints now about judicial activism," said Professor Erwin Chemerinsky of the University of Southern California Law School, "is that the majority of justices on the Supreme Court and the majority of federal judges are Republican appointees. And the Supreme Court hasn't recognized a new constitutional right in 25 years."

That may be why many believe the judicial activism wars are more of a political tool. Federal judges and the Supreme Court are "pushing fewer hot bottoms than they were 25 or 30 or 40 years ago," said A.E. Dick Howard, a constitutional scholar at the University of Virginia School of Law. The debate over judicial activism "is not as hot today. No attack on the modern court is comparable to [President Richard] Nixon's attacks on the Warren court."

There is no broad-based criticism of the courts today that compares to the time of Brown v. Board of Education, 347 U.S. 483 (1954), and issues of one-person-one-vote and school prayer. Howard explained. Criticism today is more episodic, he said.

On Capitol Hill, senators trying to break the lock on judicial nominations believe Chief Justice Rehnquist should go further than criticizing it in his annual report on the judiciary, "Who reads that?" asks one Senate staffer, "He needs to get out and say it in speeches." And others say that if President Clinton went to war over one or two judges, win or lose in Senate confirmations, the floodgates would open for all the others. "Every time a president has fought, if it looks like he's fighting for principle, he wins politically," said Professor Herman Schwartz, of American University's Washington College of Law. "People would pay attention, American like an independent judiciary."

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Christina A. Snyder, of California, to be U.S. District judge for the central district of California? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado [Mr. CAMPBELL] is necessarily absent.

The result was announced—yeas 93, nays 6, as follows:

[Rollcall Vote No. 297 Ex.]

YEAS—93

Abraham	Frist	Mack
Akaka	Glenn	McCain
Allard	Gorton	McConnell
Ashcroft	Graham	Mikulski
Baucus	Gramm	Moseley-Braun
Bennett	Grassley	Moynihan
Biden	Gregg	Murkowski
Bingaman	Hagel	Murray
Bond	Harkin	Nickles
Boxer	Hatch	Reed
Breaux	Helms	Reid
Brownback	Hollings	Robb
Bryan	Hutchinson	Roberts
Bumpers	Hutchison	Rockefeller
Byrd	Inhofe	Roth
Chafee	Inouye	Santorum
Cleland	Jeffords	Sarbanes
Coats	Johnson	Sessions
Cochran	Kempthorne	Shelby
Collins	Kennedy	Smith (NH)
Conrad	Kerrey	Smith (OR)
D'Amato	Kerry	Snowe
Daschle	Kohl	Specter
DeWine	Kyl	Stevens
Dodd	Landrieu	Thomas
Domenici	Lautenberg	Thompson
Dorgan	Leahy	Thurmond
Durbin	Levin	Torricelli
Feingold	Lieberman	Warner
Feinstein	Lott	Wellstone
Ford	Lugar	Wyden

NAYS—6

Burns	Craig	Faircloth
Coverdell	Enzi	Grams

NOT VOTING—1

Campbell

The nomination was confirmed.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

#### ORDER OF PROCEDURE

Mr. LEAHY. I see the distinguished majority and minority leaders on the floor. If they are seeking recognition, obviously I yield, but I ask that I be recognized for less than 5 minutes after they are finished.

Mr. LOTT. I thank the Senator for being willing to yield. I think the Senators would like to hear a little bit more about what the schedule would be, and now is a good time to do it.

I ask unanimous consent once we have completed this discussion, Senator LEAHY be recognized for 5 minutes to speak as he sees fit.

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

#### MORNING BUSINESS

Mr. LOTT. I ask unanimous consent there now be a period of morning busi-

ness until 3:30, with Senators permitted to speak for up to 10 minutes each.

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

#### APPROPRIATIONS COMMITTEE MEETING

Mr. STEVENS. I announce to the Senate that the Appropriations Committee will meet tomorrow at noon to see if we can devise a way to complete action on all bills tomorrow. That is tomorrow at 12 noon in 128.

#### SCHEDULE

Mr. LOTT. Mr. President, Senator DASCHLE and I have been talking about the rest of the schedule this afternoon.

First, once again, I am very pleased that after 3 years of effort, we have a bipartisan compromise on Amtrak reform. That was a good day's work. It still has to go to conference, but I believe now that we have a good chance to get that legislation through. That would be very beneficial to maintaining a national rail passenger system that would pay for itself.

I believe we are now prepared to go to the D.C. bill. We have worked out an agreement on that. Then later on this afternoon we hope to be able to have another vote. We hoped we would get something on the labor-HHS appropriations conference report. We don't know for sure, but that may not be possible. We still have the option to go back to fast track, and there are some amendments, I am sure, that are in the offing. But whatever votes we would have this afternoon, and it appears it would be a minimum of one more vote, but the last vote for today would occur not later than 5 p.m. this afternoon, and we would then come back in tomorrow at noon and get an assessment of where we are.

We are still hoping there may be an FDA reform conference report agreement. There is a possibility. We have worked out an agreement on the adoption-foster-care issue. If either of those are ready, we would try to do those tomorrow afternoon. We also would get an assessment of what will happen with regard to the appropriations bills coming from the House and also see if there is any way we can take some action that would help to expedite some conclusion to the appropriations process.

With regard to fast track, we will continue to go back to it and have discussion, debate, and amendments when they are ready. The House has delayed their taking a vote on fast track until Saturday or Sunday. They will not do it today. Of course, that will have an impact on what we do and when we do it. I don't think we can say anything beyond that until we see what happens in the House.

We have been asked by our colleagues in the House and by the administration to stay and continue to work to see if we can resolve the outstanding issues

on appropriations and be prepared to act on fast track, if and when the House does act. We will keep the Members informed. We will try to be conscious of schedules, but I think you should be prepared to have at least one more vote this afternoon, and there is a possibility that there would be a vote or two tomorrow afternoon and Sunday afternoon.

Again, on Sunday we would not be in until probably 1 o'clock to give Members an opportunity to go to church. One of the reasons why we won't have votes after 5 o'clock tonight is because of the Jewish sabbath. We are trying to honor Members' commitments in that regard while still trying to move this process forward.

There is a 50-50 chance, still, that we can finish all this by Sunday. There is one thing for sure: If we don't stay here and keep working, there is a 100-percent chance we will be here next Friday. Let's keep trying to get it to a conclusion. I believe it is possible.

I thank Senator DASCHLE for collaborating with me on these issues. I wonder if the minority leader might want to add anything?

Mr. DASCHLE. I think the majority leader has laid it out pretty well. We have had a lot of questions about what the schedule is for the weekend. As the majority leader has indicated, we can expect to be here tomorrow and most likely on Sunday. I think if we can work as we have in the last few hours on appropriations bills and other related legislation, there is at least that 50-50 chance we can complete our work this weekend.

One of the concerns that I have been hearing is that at some of the meetings we are not getting the kind of attendance that is necessary in order to complete the negotiations. I urge all Senators, as these meetings are scheduled—sometimes they are with very short notice—that people drop what they are doing and come to the meetings so we can expedite these negotiations.

I appreciate everyone's participation and cooperation and, again, we will work with the majority leader to see if we can accommodate what he has laid out for the agenda for this weekend.

Mr. LOTT. I yield the floor.

Mr. LEAHY. Mr. President, I ask unanimous consent to be able to yield to the senior Senator from Alaska without losing my right to the floor.

#### PRIVILEGE OF THE FLOOR

Mr. STEVENS. Mr. President, I ask unanimous consent that Katie Howard be permitted privileges of the floor.

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

#### DAIRY DECISION OF MINNESOTA FEDERAL COURT

Mr. LEAHY. Mr. President, a court decision was issued recently which could throw the entire system of sup-

plying milk to consumers into chaos and could lead to dramatically higher milk prices for consumers.

This decision was a runaway ruling that jeopardizes the survival of thousands of dairy farmers outside the Midwest.

The current milk marketing order system assures local milk production and reliable supplies of fresh and wholesome local milk."

The system is designed, according to the Congressional Research Service, to avoid "shortages of milk," and "to assure consumers of adequate and dependable supplies of pure and wholesome fluid milk."

In this respect, America is the envy of many nations in the world which have unreliable milk supplies shipped in from distant locations at high prices because there is no local competition.

Price differentials, which were struck down in this decision, help keep local producers in business, help cover the costs of transporting fluid milk, and avoid shortages of milk in supermarkets, according to CRS.

Common sense tells us that the cost of producing and transporting milk varies from region to region. A flat pricing system is flat-out wrong.

I joined with 47 of my colleagues recently in sending a letter to the Secretary of Agriculture urging him to keep the current system which assures local supplies of fresh milk to millions of American families.

The key to this system that has worked so well for decades is under attack—once again—in Minnesota.

It is no secret that Northern Midwestern States want to provide milk to the Nation. New technology is available where they can "drain" the water out of their milk, ship the resulting concentrate, and then reconstitute the milk at distant locations.

Over time, this new concentration of the dairy industry in Northern Midwestern States could put thousands of dairy farmers out of business around the Nation. I am very afraid that, ultimately, prices to consumers will rise as the supply of milk becomes more and more concentrated in one area of the country.

My major fear is that when Midwestern winter storms blanket roads with snow, or when freezing conditions in the North stop traffic on the interstates, or when there is a trucker's strike, that consumers in the rest of the country are going to feel lucky if they can buy milk for just \$5 a gallon. Parents who need milk for children might want to pay a lot more than \$5 a gallon, if they could buy milk at any price.

I do not think consumers are going to like this system of being dependent on reconstituted milk being shipped in from 1,000 miles away at who knows what price.

Our current system of encouraging local production of milk works very well for consumers. USDA has been right to promote the local production

of fresh milk instead of this system of concentrating the industry in one region and then shipping products to be reconstituted into milk later.

The Court's ruling—unless stayed—will be effective almost immediately. The order will not have a great deal of effect in states fortunate enough to be in Northeast Dairy Compact, or in states that have their own milk order system such as California.

In those states, local dairy farmers should be able to stay in business and provide towns and cities with local, fresh supplies of milk.

When disasters, or winter storms hit, consumers in these areas will be able to buy milk.

USDA must appeal the decision immediately—no ifs, ands, or buts. The existence of thousands of dairy farmers is at stake.

It is unclear to me precisely which order regions will be affected by the Court order. The Order terminates Class I differentials in "all surplus and balanced marketing orders and all deficit orders that do not rely on direct shipments of alternative milk supplies from the Upper Midwest or from other deficit orders which in turn rely on the Upper Midwest for replacement supplies."

A balanced market is one with sufficient milk to meet demand plus a 40% reserve. A surplus market produces milk in excess of the demand and reserve percentage.

Thus, a few Southeastern states may be exempt from the Order.

For states like New York, Pennsylvania, New Jersey, and some Southwestern states, impact of the Order should come swiftly as banks decline to make loans to dairy farmers.

The expectation is that producer income will drop significantly and that farmers would go out of business as lenders refuse to provide credit.

Prices in the Northern Midwest could strengthen 20 to 30 cents per hundred-weight (one-hundred pounds) sold—but it is too early to really know how much their prices would go up.

This action was originally filed some years ago by Eric Olsen, Patricia Jensen, James Massey and Lynn Hayes representing the Farmers Legal Aid Action Group. It was filed before the Honorable Judge David S. Doty of the Fourth Division for the District of Minnesota.

Mr. President, I know that my distinguished colleague from Vermont, Mr. JEFFORDS, will also be addressing the Senate on the same issue. Again, it is about a court decision that was issued recently which could throw the entire system of supplying milk to consumers into chaos and could also lead to dramatically higher milk prices for consumers.

The decision was a runaway ruling that jeopardizes the survival of thousands of dairy farmers everywhere except the Midwest.

Now, the current milk marketing order system, which is a very complex

one, assures local milk production, and it assures reliable supplies of fresh and wholesome local milk. In this respect, we are the envy here in the United States of most nations of the world. Most nations have unreliable milk supplies that are shipped in from distant locations at high prices, because there is no local competition. Common sense tells us that the cost of producing and transporting milk varies from region to region. You can't have a flatout pricing system that is the same everywhere.

Now, again, I joined with 47 other Senators recently in sending a letter to the Secretary of Agriculture urging him to keep the current system, which assures local supplies of fresh milk to millions of Americans. It's no secret that northern Midwestern States want to provide all the milk to the Nation. They have a technology where they take all the water out of their milk and you get this kind of "glop" that is left, and you ship it to distant places and somebody pumps some water back into it, and you end up with this reconstituted milk, which they can then sell. If you do that, what is going to happen is that the "glop" producers of this reconstituted milk will all be in one part of the country and the rest of us will be everywhere else in the country. The rest of the country will be at their mercy, depending upon when, how often, and at what price they want to send this concentrate to us.

Now, my major fear is—especially coming from a part of the country that has severe winters—what happens when the Midwestern winter storms blanket roads with snow, or you get the freezing conditions in the North and that stops traffic on the Interstates? It happens fairly often. Or what happens when there is a truckers' strike? When that happens, I think you are going to find consumers in the country feeling lucky they can buy milk for \$5 a gallon. Parents who need milk for their children might have to pay a lot more than \$5 a gallon if they have to buy milk at whatever price. Whatever price they get it for, it is going to be the reconstituted "glop" coming to that area—and water is going to have to be added—from producers from a thousand miles away. I don't think this makes much sense. I like the system we have today, which encourages producers in a number of different areas of the country where they can produce fresh milk for the consumers at prices they can afford.

Now, the court's ruling will be effective immediately. It is not going to have a great deal of effect on the States in the Northeast dairy compact or States who have their own milk order system, such as California. In those States, local dairy farmers should be able to stay in business and provide local, fresh supplies of milk. When disasters and winter storms hit, consumers in those areas will be able to get milk. What I worry about is all the other areas.

The Department of Agriculture has to appeal this decision immediately—no ifs, ands, or buts. The existence of thousands of dairy farmers is at stake. USDA has to act for these farmers and for the consumers.

Mr. President, I see my distinguished colleague from Vermont on the floor. I now yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont, Mr. JEFFORDS, is recognized.

Mr. JEFFORDS. Mr. President, I commend my colleague from Vermont for raising what could be a very important issue to all of the people of this country who like milk. I don't understand how a court could do that, other than the fact that, when I read he was from Minnesota, I new why it was done. The judiciary sometimes gets a little prone to its own constituency. But I want to tell you, I want to raise the danger that this precedent sets. I urge Secretary Glickman to appeal the judge's decision and to make sure that this does not maintain an existence.

If this ruling survives, it could be the final financial blow to many farmers throughout the country. It could also lead to higher prices consumers pay for their milk. Senator LEAHY and I have stood on the floor many times defending Vermont's dairy farmers and dairy farmers across the country. We have fought to give both the dairy farmers and the consumers a fair and stable milk price. At times, debates on dairy policy have pitted one region against the other. In this case, a group of Midwestern milk producers hope to eliminate the pricing structure for fluid milk that dairy farmers and consumers rely upon for stable prices.

This methodology of creating a system to provide differentials was created way back in our history, at a time when the original milk acts were considered, recognizing that it's incredibly important that we have fluid milk available to the families all across the Nation. One only has to remember back a few years ago when there was a tremendous drought in Minnesota and Wisconsin, in the area where these farmers say they can produce it for all the country. As a result of that, we had the huge price increases. We had to supply milk to other regions because they could not produce it sufficiently in Minnesota and Wisconsin. That is a demonstration as to why the original dairy legislation in the acts of the thirties made sure that this fluid milk would be available across the Nation at all times, understanding the need for fresh milk.

If this ruling of the judge from Minnesota prevails, the entire country may ultimately rely on Minnesota and her bordering States for their milk supply. This would be extremely dangerous to consumers for prices and not being able to get it because of the lack of milk.

I know that in Vermont, every morning—and I am sure it's the same at

breakfast tables across the country—people enjoy fresh milk that was produced and packaged within a reasonable distance of their home and at reasonable prices. There are many other reasons for maintaining a healthy dairy industry in each region. The economic and social benefits ripple through each farming community.

Mr. President, the present system for pricing fluid milk is currently under consideration from the U.S. Department of Agriculture. There is tremendous support for maintaining the current pricing structure for fluid milk. Recently, as Senator LEAHY mentioned, 48 Senators and 113 House Members sent a letter to Secretary Glickman urging him to keep the current system.

It is critical that the Secretary act quickly to request a stay and appeal this decision. I urge my colleagues to join Senator LEAHY and myself in that request.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

#### DISTRICT OF COLUMBIA APPROPRIATIONS BILL

Ms. MOSELEY-BRAUN. Mr. President, I rise to state my objection to the motion to proceed on the District of Columbia appropriations bill, at least temporarily. I want to explain why.

There is currently an amendment on the D.C. appropriations bill that will grant certain Central Americans access to the suspension of deportation procedure. These are refugees—people who leave their countries for political asylum here. And they will not be deported because of the amendment that is part of the D.C. appropriations bill. It covers some 191,000 Salvadorans, some 21,000 Nicaraguans, some 118,000 Guatemalans, and I certainly support the suspension of deportation for all of those groups of asylum seekers. It does not, however, cover just about 18,000 Haitians. In fact, the only group of asylum seekers that were left out of the bill as it came out of the House were the Haitians.

This is not only patently unfair but certainly suggests almost a tin ear on the racial implications of what came out of the House by the House Members who put this together that they would not understand—that singling out the Haitians for exclusion from this relief would be perceived as negative in many parts of this country which is nothing short of stunning to me.

I am happy to report that I had a conversation with the majority leader, Senator LOTT. He wants to try to help us with this situation. Senator GRAHAM has an actual bill to try to fix the situation with regard to the Haitians separate and apart from the District of Columbia appropriations. I support and would cosponsor Senator GRAHAM's legislation. However, the catch here and the reason for my voicing my objection



right now—my temporary objection right now—is that, as Senator LOTT pointed out in his comments, we talk about whether or not these Haitians would be deported in the meantime until Senator GRAHAM's bill can get passed. We don't yet have an agreement from the administration, from the INS, from the House, from the Senate in terms of Senate oversight. We don't have an agreement that these Haitians won't be singled out—18,000 out of almost 250,000 people to be deported in the interim until the Graham effort is concluded.

So I find myself in the difficult position of having to object to proceeding to something that might otherwise be a good thing until this obvious blatant error is—at least until we get some commitments that these people will not be harmed. That is what the number of men, women, and children need for their lives in behalf of and in pursuit of democracy. It is not fair to single them out for special treatment for no rational reason other than as they have brought to me that they fear they have been singled out because of their color, that they have been singled out because of their race.

That is not right. That is not what this country stands for. I hope that is not the signal that we are going to send by the way this legislative process works out.

So, until we get an agreement on suspension of deportation, I am afraid I will have to object to the motion to proceed with regard to the District of Columbia appropriations bill. I know there are some other issues. I hope these issues get worked out. I hope this issue gets worked out.

I want to put the Senate on notice that this legislation in its current form sends the absolute wrong signal to the country and, indeed, to the world regarding our commitment to family.

How are you going to suspend deportation for 191,000 people from El Salvador, 21,000 people from Nicaragua, 118,000 people from Guatemala and not allow 18,000 people from Haiti to take advantage of the same relief under almost identical circumstances? There is no reason for it. There is no rational for it. Quite frankly, I would be remiss if I allowed this mistake to go forward. I am confident it is going to be worked out.

Again, my conversation with Senator LOTT, my conversation with Senator GRAHAM, with Senator KENNEDY, and with Senator MACK—we have had conversations across the board. We just want to make certain there is agreement before this starts to leave here—that there is an agreement that these people will not be kicked out of country under circumstances in which almost 250,000 people similarly situated are allowed to stay. That is my objection. That is my problem with the bill at the time.

I want to make the point that we in the Senate are not prepared to send that kind of negative signal to the

country or to the rest of the world, and that we will at least resolve the deportation issue before the District of Columbia appropriations legislation goes forward.

I thank the Chair.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

#### NIH ENDORSES ACUPUNCTURE

Mr. HARKIN. Mr. President, earlier this week an expert scientific panel at the National Institutes of Health strongly endorsed acupuncture as an effective treatment for certain conditions. This is the first time that the NIH has endorsed a major alternative therapy. It is truly a breakthrough, and is just the type of advance that I envisioned when I worked to establish the Office of Alternative Medicine at the NIH.

The consensus conference held by NIH involved top scientists from around the Nation, including those with expertise in acupuncture and experts in research evaluation and design. These scientists, led by Dr. David Ramsey, president of the University of Maryland, Baltimore, objectively evaluated the evidence of acupuncture's efficacy and came to a consensus that this therapy is safe and provides significant help for a number of health problems.

They found that acupuncture is an effective treatment for postoperative dental pain, postoperative and chemotherapy-induced nausea, nausea during pregnancy, and other conditions. They also identified a number of other conditions, including asthma, substance addiction, stroke rehabilitation, headache, general muscle pain, low back pain, carpal tunnel syndrome, for which acupuncture demonstrates effectiveness but with a less degree of certainty.

I was dismayed to read that despite this consensus agreement after rigorous evaluation of the scientific evidence, there is still a fringe element in the medical community that refuses to acknowledge the facts. These critics seem only to be interested in bad mouthing anything out of what they consider to be the medical mainstream. While we all benefit from a healthy dose of skepticism in the scientific process, I hope in the future, this small group of critics take off their blinders long enough to objectively look at the scientific evidence and give credit where credit is due.

Mr. President, as I have said before, millions of Americans—more and more each day—are using alternative medical therapies. In 1993, the FDA reported that Americans were spending \$500 million a year for between 9 and 12 million acupuncture treatment visits. Unfortunately, research has not kept pace. The NIH has failed to break through biases that exist and devote

the attention to this area that is needed. As a result, American consumers have been denied information about the effectiveness of the therapies they are using or thinking of using.

I am pleased to report that the conference report on the fiscal year 1998 Health and Human Services appropriations bill has agreed to provide more than a 50-percent increase to the Office of Alternative Medicine to expand efforts like this week's consensus conference on acupuncture to other work and to investigate and validate complementary and alternative therapies. Our report also guarantees that this increase will be spent on grants and contracts that directly respond to requests for proposals and program announcements issued by the Office of Alternative Medicine.

Mr. President, this week's endorsement of acupuncture by NIH is a positive step forward for the American public and for the medical research in our Nation. I hope that it will lead not only to greater acceptance of, and access to, cost effective acupuncture services, but to increased willingness on the part of NIH and the medical community to commit to the objective evaluation of a range of promising complementary and alternative medical therapies.

Mr. President, I ask that the full text of the findings of this historic NIH consensus panel be printed in the RECORD.

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

#### NATIONAL INSTITUTES OF HEALTH CONSENSUS DEVELOPMENT STATEMENT

##### INTRODUCTION

Acupuncture is a component of the health care system of China that can be traced back for at least 2,500 years. The general theory of acupuncture is based on the premise that there are patterns of energy flow (Qi) through the body that are essential for health. Disruptions of this flow are believed to be responsible for disease. The acupuncturist can correct imbalances of flow at identifiable points close to the skin. The practice of acupuncture to treat identifiable pathophysiological conditions in American medicine was rare until the visit of President Nixon to China in 1972. Since that time, there has been an explosion of interest in the United States and Europe in the application of the technique of acupuncture to Western medicine.

Acupuncture describes a family of procedures involving stimulation of anatomical locations on the skin by a variety of techniques. The most studied mechanism of stimulation of acupuncture points employs penetration of the skin by thin, solid, metallic needles, which are manipulated manually or by electric stimulation. The majority of comments in this report are based on data that came from such studies. Stimulation of these areas by moxibustion, pressure, heat, and lasers is used in acupuncture practice, but due to the paucity of studies, these techniques are more difficult to evaluate. Thus, there are a variety of approaches to diagnosis and treatment in American acupuncture that incorporate medical traditions from China, Japan, Korea, and other countries.

Acupuncture has been used by millions of American patients and performed by thousands of physicians, dentists, acupuncturists,

and other practitioners for relief or prevention of pain and for a variety of health conditions. After reviewing the existing body of knowledge, the U.S. Food and Drug Administration recently removed acupuncture needles from the category of "experimental medical devices" and now regulates them just as it does other devices, such as surgical scalpels and hypodermic syringes, under good manufacturing practices and single-use standards of sterility.

Over the years, the National Institutes of Health (NIH) has funded a variety of research projects on acupuncture, including studies on the mechanisms by which acupuncture may have its effects, as well as clinical trials and other studies. There is also a considerable body of international literature on the risks and benefits of acupuncture, and the World Health Organization lists a variety of medical conditions that may benefit from the use of acupuncture or moxibustion. Such applications include prevention and treatment of nausea and vomiting; treatment of pain and addictions to alcohol, tobacco, and other drugs; treatment of pulmonary problems such as asthma and bronchitis; and rehabilitation from neurological damage such as that caused by stroke.

To address important issues regarding acupuncture, the NIH Office of Alternative Medicine and the NIH Office of Medical Applications of Research organized a 2½-day conference to evaluate the scientific and medical data on the uses, risks, and benefits of acupuncture procedures for a variety of conditions. Cosponsors of the conference were the National Cancer Institute, the National Heart, Lung, and Blood Institute, the National Institute of Allergy and Infectious Diseases, and National Institute of Arthritis and Musculoskeletal and Skin Diseases, the National Institute of Dental Research, the National Institute on Drug Abuse, and the Office of Research on Women's Health and the NIH. The conference brought together national and international experts in the fields of acupuncture, pain, psychology, psychiatry, physical medicine and rehabilitation, drug abuse, family practice, internal medicine, health policy, epidemiology, statistics, physiology, and biophysics, as well as representatives from the public.

After 1½ days of available presentation and audience discussion, an independent, non-Federal consensus panel weighed the scientific evidence and wrote a draft statement that was presented to the audience on the third day. The consensus statement addressed the following key questions:

What is the efficacy of acupuncture, compared with placebo or sham acupuncture, in the conditions for which sufficient data are available to evaluate?

What is the place of acupuncture in the treatment of various conditions for which sufficient data are available, in comparison with or in combination with other interventions (including no intervention)?

What is known about the biological effects of acupuncture that helps us understand how it works?

What issues need to be addressed so that acupuncture may be appropriately incorporated into today's health care system?

What are the directions for future research?

The primary sponsors of this meeting were the National Human Genome Research Institute and the NIH Office of Medical Applications of Research. The conference was cosponsored by the National Institute of Diabetes and Digestive and Kidney Diseases; the National Heart, Lung, and Blood Institute, the National Institute of Child Health and Human Development, the NIH Office of Rare Diseases; the National Institute of Mental

Health; the National Institute of Nursing Research; the NIH Office of Research on Women's Health; the Agency for Health Care Policy and Research; and the Centers for Disease Control and Prevention.

1. What is the efficacy of acupuncture, compared with placebo or sham acupuncture, in the conditions for which sufficient data are available to evaluate?

Acupuncture is a complex intervention that may vary for different patients with similar chief complaints. The number and length of treatments and the specific points used may vary among individuals and during the course of treatment. Given this reality, it is perhaps encouraging that there exist a number of studies of sufficient quality to assess the efficacy of acupuncture for certain conditions.

According to contemporary research standards, there is a paucity of high-quality research assessing efficacy of acupuncture compared with placebo or sham acupuncture. The vast majority of papers studying acupuncture in the biomedical literature consist of case reports, case series, or intervention studies with designs inadequate to assess efficacy.

This discussion of efficacy refers to needle acupuncture (manual or electroacupuncture) because the published research is primarily on needle acupuncture and often does not encompass the full breadth of acupuncture techniques and practices. The controlled trials usually have only involved adults and did not involve long-term (i.e., years) acupuncture treatment.

Efficacy of a treatment assesses the differential effect of a treatment when compared with placebo or another treatment modality using a double-blind controlled trial and a rigidly defined protocol. Papers should describe enrollment procedures, eligibility criteria, description of the clinical characteristics of the subjects, methods for diagnosis, and a description of the protocol (i.e., randomization method, specific definition of treatment, and control conditions, including length of treatment, and number of acupuncture sessions). Optimal trials should also use standardized outcomes and appropriate statistical analyses. This assessment of efficacy focuses on high-quality trials comparing acupuncture with sham acupuncture or placebo.

#### *Response rate*

As with other interventions, some individuals are poor responders to specific acupuncture protocols. Both animal and human laboratory and clinical experience suggest that the majority of subjects respond to acupuncture, with a minority not responding. Some of the clinical research outcomes, however, suggest that a larger percentage may not respond. The reason for this paradox is unclear and may reflect the current state of the research.

#### *Efficacy for specific disorders*

There is clear evidence that needle acupuncture is efficacious for adult postoperative and chemotherapy nausea and vomiting and probably for the nausea of pregnancy.

Much of the research is on various pain problems. There is evidence of efficacy for postoperative dental pain. There are reasonable studies (although sometimes only single studies) showing relief of pain with acupuncture on diverse pain conditions such as menstrual cramps, tennis elbow, and fibromyalgia. This suggests that acupuncture may have a more general effect on pain. However, there are also studies that do not find efficacy for acupuncture in pain.

There is evidence that acupuncture does not demonstrate efficacy for cessation of smoking and may not be efficacious for some other conditions.

While many other conditions have received some attention in the literature and, in fact, the research suggests some exciting potential areas for the use of acupuncture, the quality or quantity of the research evidence is not sufficient to provide firm evidence of efficacy at this time.

#### *Sham acupuncture*

A commonly used control group is sham acupuncture, using techniques that are not intended to stimulate known acupuncture points. However, there is disagreement on correct needle placement. Also, particularly in the studies of pain, sham acupuncture often seems to have either intermediate effects between the placebo and 'Oreal' acupuncture points or effects similar to those of the 'Oreal' acupuncture points. Placement of a needle in any position elicits a biological response that complicates the interpretation of studies involving sham acupuncture. Thus, there is substantial controversy over the use of sham acupuncture as control groups. This may be less of a problem in studies not involving pain.

2. What is the place of acupuncture in the treatment of various conditions for which sufficient data are available, in comparison with or in combination with other interventions (including no intervention)?

Assessing the usefulness of a medical intervention in practice differs from assessing formal efficacy. In conventional practice, clinicians make decisions based on the characteristics of the patient, clinical experience, potential for harm, and information from colleagues and the medical literature. In addition, when more than one treatment is possible, the clinician may make the choice taking into account the patient's preferences. While it is often thought that there is substantial research evidence to support conventional medical practices, this is frequently not that case. This does not mean that these treatments are ineffective. The data in support of acupuncture are as strong as those for many accepted Western medical therapies.

One of the advantages of acupuncture is that the incidence of adverse effects is substantially lower than that of many drugs or other accepted medical procedures used for the same conditions. As an example, musculoskeletal conditions, such as fibromyalgia, myofascial pain, and "tennis elbow," or epicondylitis, are conditions for which acupuncture may be beneficial. These painful conditions are often treated with, among other things, anti-inflammatory medications (aspirin, ibuprofen, etc.) or with steroid injections. Both medical interventions have a potential for deleterious side effects, but are still widely used, and are considered acceptable treatment. The evidence supporting these therapies is no better than that for acupuncture.

In addition, ample clinical experience, supported by some research data, suggests that acupuncture may be a reasonable option for a number of clinical conditions. Examples are postoperative pain and myofascial and low back pain. Examples of disorders for which the research evidence is less convincing but for which there are some positive clinical reports include addiction, stroke rehabilitation, carpal tunnel syndrome, osteoarthritis, and headache. Acupuncture treatment for many conditions such as asthma, addiction, or smoking cessation should be part of a comprehensive management program.

Many other conditions have been treated by acupuncture, the World Health Organization, for example, has listed more than 40 for which the technique may be indicated.

3. What is known about the biological effects of acupuncture that helps us understand how it works?

Many studies in animals and humans have demonstrated that acupuncture can cause multiple biological responses. These responses can occur locally, i.e., at or close to the site of application, or at a distance, mediated mainly by sensory neurons to many structures within the central nervous system. This can lead to activation of pathways affecting various physiological systems in the brain as well as in the periphery. A focus of attention has been the role of endogenous opioids in acupuncture analgesia. Considerable evidence supports the claim that opioid peptides are released during acupuncture and that the analgesic effects of acupuncture are at least partially explained by their actions. That opioid antagonists such as naloxone reverse the analgesic effects of acupuncture further strengthens this hypothesis. Stimulation by acupuncture may also activate the hypothalamus and the pituitary gland, resulting in a broad spectrum of systemic effects. Alteration in the secretion of neurotransmitters and neurohormones and changes in the regulation of blood flow, both centrally and peripherally, have been documented. There is also evidence that there are alterations in immune functions produced by acupuncture. Which of these and other physiological changes mediate clinical effects is a present unclear.

Despite considerable efforts to understand the anatomy and physiology of the "acupuncture points," the definition and characterization of these points remains controversial. Even more elusive is the scientific basis of some of the key traditional Eastern medical concepts such as the circulation of Qi, the meridian system, and the five phases theory, which are difficult to reconcile with contemporary biomedical information but continue to play an important role in the evaluation of patients and the formulation of treatment in acupuncture.

Some of the biological effects of acupuncture have also been observed when "sham" acupuncture points are stimulated, highlighting the importance of defining appropriate control groups in assessing biological changes purported to be due to acupuncture. Such findings raise questions regarding the specificity of these biological changes. In addition, similar biological alterations including the release of endogenous opioids and changes in blood pressure have been observed after painful stimuli, vigorous exercise, and/or relaxation training; it is at present unclear to what extent acupuncture shares similar biological mechanisms.

It should be noted also that for any therapeutic intervention, including acupuncture, the so-called "non-specific" effects account for a substantial proportion of its effectiveness, and thus should not be casually discounted. Many factors may profoundly determine therapeutic outcome including the quality of the relationship between the clinician and the patient, the degree of trust, the expectations of the patient, the compatibility of the backgrounds and belief systems of the clinician and the patient, as well as a myriad of factors that together define the therapeutic milieu.

Although much remains unknown regarding the mechanism(s) that might mediate the therapeutic effect of acupuncture, the panel is encouraged that a number of significant acupuncture-related biological changes can be identified and carefully delineated. Further research in this direction not only is important for elucidating the phenomena associated with acupuncture, but also has the potential for exploring new pathways in human physiology not previously examined in a systematic manner.

4. What issues need to be addressed so that acupuncture may be appropriately incorporated into today's health care system?

The integration of acupuncture into today's health care system will be facilitated by a better understanding among providers of the language and practices of both the Eastern and Western health care communities. Acupuncture focuses on a holistic, energy-based approach to the patient rather than a disease-oriented diagnostic and treatment model.

An important factor for the integration of acupuncture into the health care system is the training and credentialing of acupuncture practitioners by the appropriate state agencies. This is necessary to allow the public and other health practitioners to identify qualified acupuncture practitioners. The acupuncture educational community has made substantial progress in this area and is encouraged to continue along this path. Educational standards have been established for training of physician and non-physician acupuncturists. Many acupuncture educational programs are accredited by an agency that is recognized by the U.S. Department of Education. A national credentialing agency exists that is recognized by some of the major professional acupuncture organizations and provides examinations for entry-level competency in the field.

A majority of States provide licensure or registration for acupuncture practitioners. Because some acupuncture practitioners have limited English proficiency, credentialing and licensing examinations should be provided in languages other than English where necessary. There is variation in the titles that are conferred through these processes, and the requirements to obtain licensure vary widely. The scope of practice allowed under these State requirements varies as well. While States have the individual prerogative to set standards for licensing professions, harmonization in these areas will provide greater confidence in the qualifications of acupuncture practitioners. For example, not all States recognize the same credentialing examination, thus making reciprocity difficult.

The occurrence of adverse events in the practice of acupuncture has been documented to be extremely low. However, these events have occurred in rare occasions, some of which are life threatening (e.g., pneumothorax). Therefore, appropriate safeguards for the protection of patients and consumers need to be in place. Patients should be fully informed of their treatment options, expected prognosis, relative risk, and safety practices to minimize these risks prior to their receipt of acupuncture. This information must be provided in a manner that is linguistically and culturally appropriate to the patient. Use of acupuncture needles should always follow FDA regulations, including use of sterile, single-use needles. It is noted that these practices are already being done by many acupuncture practitioners; however, these practices should be uniform. Recourse for patient grievance and professional censure are provided through credentialing and licensing procedures and are available through appropriate State jurisdictions.

It has been reported that more than 1 million Americans currently receive acupuncture each year. Continued access to qualified acupuncture professionals for appropriate conditions should be ensured. Because many individuals seek health care treatment from both acupuncturists and physicians, communication between these providers should be strengthened and improved. If a patient is under the care of an acupuncturist and a physician, both practitioners should be informed. Care should be taken so that important medical problems are not overlooked. Patients and providers have a responsibility to facilitate this communication.

There is evidence that some patients have limited access to acupuncture services because of inability to pay. Insurance companies can decrease or remove financial barriers to access depending on their willingness to provide coverage for appropriate acupuncture services. An increasing number of insurance companies are either considering this possibility or now provide coverage for acupuncture services. Where there are State health insurance plans, and for populations served by Medicare or Medicaid, expansion of coverage to include appropriate acupuncture services would also help remove financial barriers to access.

As acupuncture is incorporated into today's health care system, and further research clarifies the role of acupuncture for various health conditions, it is expected that dissemination of this information to health care practitioners, insurance providers, policymakers, and the general public will lead to more informed decisions in regard to the appropriate use of acupuncture.

5. What are the directions for future research?

The incorporation of any new clinical intervention into accepted practice faces more scrutiny now than ever before. The demands of evidence-based medicine, outcomes research, managed care systems of health care delivery, and a plethora of therapeutic choices makes the acceptance of new treatments an arduous process. The difficulties are accentuated when the treatment is based on theories unfamiliar to Western medicine and its practitioners. It is important, therefore, that the evaluation of acupuncture for the treatment of specific conditions be carried out carefully, using designs which can withstand rigorous scrutiny. In order to further the evaluation of the role of acupuncture in the management of various conditions, the following general areas for future research are suggested.

What are the demographics and patterns of use of acupuncture in the U.S. and other countries?

There is currently limited information on basic questions such as who uses acupuncture, for what indications is acupuncture most commonly sought, what variations in experience and techniques used exist among acupuncture practitioners, and whether there are differences in these patterns by geography or ethnic group. Descriptive epidemiologic studies can provide insight into these and other questions. This information can in turn be used to guide future research and to identify areas of greatest public health concern.

Can the efficacy of acupuncture for various conditions for which it is used or for which it shows promise be demonstrated?

Relatively few high-quality, randomized, controlled trials have been published on the effects of acupuncture. Such studies should be designed in a rigorous manner to allow evaluation of the effectiveness of acupuncture. Such studies should include experienced acupuncture practitioners in order to design and deliver appropriate interventions. Emphasis should be placed on studies that examine acupuncture as used in clinical practice, and that respect the theoretical basis for acupuncture therapy.

Although randomized controlled trials provide a strong basis for inferring causality, other study designs such as used in clinical epidemiology or outcomes research can also provide important insights regarding the usefulness of acupuncture for various conditions. There have been few such studies in the acupuncture literature.

Do different theoretical bases for acupuncture result in different treatment outcomes?

Competing theoretical orientations (e.g., Chinese, Japanese, French) currently exist

that might predict divergent therapeutic approaches (i.e., the use of different acupuncture points). Research projects should be designed to assess the relative merit of these divergent approaches, as well to compare these systems with treatment programs using fixed acupuncture points.

In order to fully assess the efficacy of acupuncture, studies should be designed to examine not only fixed acupuncture points, but also the Eastern medical systems that provide the foundation for acupuncture therapy, including the choice of points. In addition to assessing the effect of acupuncture in context, this would also provide the opportunity to determine if Eastern medical theories predict more effective acupuncture points, as well as to examine the relative utility of competing systems (e.g., Chinese vs. Japanese vs. French) for such purposes.

What areas of public policy research can provide guidance for the integration of acupuncture into today's health care system?

The incorporation of acupuncture as a treatment raises numerous questions of public policy. These include issues of access, cost-effectiveness, reimbursement by State, Federal, and private payors, and training, licensure, and accreditation. These public policy issues must be founded on quality epidemiologic and demographic data and effectiveness research.

Can further insight into the biological basis for acupuncture be gained?

Mechanisms which provide a Western scientific explanation for some of the effects of acupuncture are beginning to emerge. This is encouraging, and may provide novel insights into neural, endocrine and other physiological processes. Research should be supported to provide a better understanding of the mechanisms involved, and such research may lead to improvements in treatment.

Does an organized energetic system exist in the human body that has clinical applications?

Although biochemical and physiologic studies have provided insight into some of the biologic effects of acupuncture, acupuncture practice is based on a very different model of energy balance. This theory may provide new insights to medical research that may further elucidate the basis for acupuncture.

How do the approaches and answers to these questions differ among populations that have used acupuncture as a part of its healing tradition for centuries, compared to populations that have only recently begun to incorporate acupuncture into health care?

#### CONCLUSIONS AND RECOMMENDATIONS

Acupuncture as a therapeutic intervention is widely practiced in the United States. There have been many studies of its potential usefulness. However, many of these studies provide equivocal results because of design, sample size, and other factors. The issue is further complicated by inherent difficulties in the use of appropriate controls, such as placebo and sham acupuncture groups.

However, promising results have emerged, for example, efficacy of acupuncture in adult post-operative and chemotherapy nausea and vomiting and in post-operative dental pain. There are other situations such as addiction, stroke rehabilitation, headache, menstrual cramps, tennis elbow, fibromyalgia, myofascial pain, osteoarthritis, low back pain, carpal tunnel syndrome, and asthma where acupuncture may be useful as an adjunct treatment or an acceptable alternative or be included in a comprehensive management program. Further research is likely to uncover additional areas where acupuncture interventions will be useful.

Findings from basic research have begun to elucidate the mechanisms of action of acupunc-

tuncture, including the release of opioids and other peptides in the central nervous system and the periphery and changes in neuroendocrine function. Although much needs to be accomplished, the emergence of plausible mechanisms for the therapeutic effects of acupuncture is encouraging.

The introduction of acupuncture into the choice of treatment modalities that are readily available to the public is in its early stages. Issues of training, licensure, and reimbursement remain to be clarified. There is sufficient evidence, however, of its potential value to conventional medicine to encourage further studies.

There is sufficient evidence of acupuncture's value to expand its use into correctional medicine and to encourage further studies of its physiology and clinical value.

Mr. HARKIN. I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I would like to take this opportunity to respond to my friends, the Senators from Vermont, Mr. LEAHY and Mr. JEFFORDS, who just spoke with regard to a recent decision by the Federal District Court of Minnesota. It also gives me an opportunity to not only present a different perspective on that ruling, but to also hail the ruling, which is the first ray of hope that the dairy farmers in the upper Midwest, and in particular the farmers in my home State of Wisconsin, have had for a very, very long time.

I think the judge in this case ruled correctly. In the Minnesota Milk Producers versus Dan Glickman, Secretary of the U.S. Department of Agriculture, Federal Judge David Doty finally said what Wisconsin dairy farmers have long known is the case, and that is that the current Federal milk marketing order system is outdated and is, in fact, illegal, given the realities of our national dairy market today. This system was set up some 60 years ago, because at that time it was not always possible for consumers in other parts of the country, particularly the South and the Southeast, to get fresh milk because of inadequate refrigeration and transportation technology. So this system was set up on the basis of how far a farmer lived from Eau Claire, WI—the supposed reserve supply of milk in the United States. In other words, the closer a farmer lived to Eau Claire, WI, the less he got as an add-on for his class I fluid milk. The system worked, and it certainly provided the needed fresh milk for virtually every marketing order in the country east of the Rocky Mountains.

Times have changed. During the past 60 years these areas, such as the Northeastern, Southwestern and Southcentral regions of the United States, are now able to produce enough milk to provide for their fluid milk needs and then some. Yet there is still a gross discrepancy between what a dairy farmer gets, let's say in Texas or Vermont, for his or her class I milk, and what a farmer in Wisconsin gets for the same type of milk. For exam-

ple, farmers in Wisconsin may receive \$1.20 per hundredweight in addition to the base price for milk, but in other regions more distant from Wisconsin, dairy farmers might receive \$2 or \$3 or even \$4 more than Wisconsin farmers.

These are very serious disparities and these differentials have led to an extremely unfair situation to the dairy farmers in the upper Midwest. The decision by the district court this week finally says, "Enough is enough." It takes note, in effect, of the fact that in the last 17 years, Wisconsin alone has gone from having 45,000 dairy farms to less than 25,000. We have lost over 1,000 dairy farms per year each year. And when upper Midwest dairy farmers talk about all of the problems facing their industry, the complaint that arises most often is the unfairness of the Federal milk marketing order system.

In contrast to what the two Senators from Vermont were saying—one of them actually indicated there had to be these disparities in order for milk to be supplied to consumers—the fact is, current market conditions and existing technologies no longer necessitate a system that prices milk based on distance from Eau Claire. In fact, in recent years, when our dairy farmers have tried to sell their milk in Chicago, have been beaten out of that market by milk from southcentral and southwestern producers. How can that be if these regions can't produce enough milk for their own needs in that area? Obviously, they can meet their needs and still afford to export milk to other regions because they are receiving a higher class I milk price. And the result is that this system subsidizes the farmers in the Southeast, Northeastern, and regions of the United States and provides them an unfair advantage and competitive advantage over our farmers in the upper Midwest. It has had a lot to do, in my view and the view of almost every farmer in Wisconsin, with the loss of so many of our dairy farms in our State.

It is ironic, at a time when the Federal Government, including Congress with the passage of the 1996 farm bill, has made it a policy to reduce Government pricing interference in agricultural markets, that it is still interfering in a very serious and detrimental way with a free and open national dairy market. This decision by the judge in the U.S. District Court of Minnesota—a Federal court—is an excellent decision. It is a decision that finally tells it like it is—and that is that there is no legitimate basis for these discriminatory class I price differentials which provide one farmer in the Northeastern part of the United States and another farmer in Texas far more for the same type of milk than the hard-working farmers in Wisconsin or Minnesota.

Mr. President, we in Wisconsin and the upper Midwest praise this court ruling. We believe it is an important, proper and very overdue decision. It gives us some hope that the remaining

farmers in our State, in the upper Midwest, will be allowed to survive without the interference of an outdated and unfair system—in fact, as now indicated by the court, a system that is unlawful, given the changes in the dairy market and given the changes in the times.

Mr. President, this court decision was, at long last, the right one and I look forward to the positive consequences that can flow from it.

I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

#### NATIONAL DRUG POLICY

Mrs. FEINSTEIN. Mr. President, I rise this afternoon to commend and strongly support Gen. Barry McCaffrey, Director of the Office of National Drug Policy Control, in his call for increased funds for the drug interdiction effort. I have been one who has been most critical over the low priority effort that has been made to stop the flow of drugs into this country. The recent series in the Washington Post—I think it was five articles—pointed out that anywhere from 5 to 7 tons a day of heavy narcotics is flowing into our country.

General McCaffrey reports that he has been visiting at least four Cabinet Secretaries, including the Cabinet Secretary representing Defense, to really ask for moneys to increase the interdiction efforts with respect to hard narcotics.

I, who have criticized, must also be one who stands and supports this. Later today, Senator COVERDELL and I, and I hope the distinguished Senator from Iowa, Senator GRASSLEY, who has just come to the floor, will be joining in a letter to the Secretary, also indicating our support.

General McCaffrey insists that he cannot certify the Pentagon's requested budget for fiscal 1999 unless it includes \$141 million in additional drug interdiction funding. I believe the general is right in taking this action. I urge the administration to support him.

While highlighting the fact that other Federal agencies have increased their counternarcotics spending at a faster rate, the general has asked that the Defense Department increase the amount it spends for the drug fight in four key areas.

The first is Andean coca reduction. He is asking for an increase of \$75 million to carry on the drug fight in the Andes region, where American and local officials are working in cooperation to disrupt the cocaine export industry.

National Guard counterdrug operations—he is asking for an increase of \$30 million to support antidrug activities of the National Guard that partially restores reductions incurred since 1993 in State plans funding, which include support for counterdrug activities along the border.

Third, he is asking for an increase of \$12 million for a program to intercept traffickers in the Caribbean Basin, including southern Florida, Puerto Rico, the U.S. Virgin Islands, and the eastern Caribbean. This would implement commitments made by the President during the Caribbean summit in Barbados.

And he is asking for money for Mexican initiatives, an increase of \$24 million to provide additional resources to reduce the flow of illicit drugs from Mexico and for a drug training program for Mexican officials so that they can locate and arrest drug traffickers and money launderers at the border.

The point that General McCaffrey makes, that I think is so important, is although the domestic funding of domestic agencies to fight drugs has gone up, the Defense Department funding, which is really the interdiction funding—the air surveillance, the radar, the trafficking, those things that are going into really cutting off the flow of narcotics—has gone down by 2 percent this year. If you look at a chart of its decline over a period of years you will see where it went up to a high in 1992, came dramatically down by 1994, and has remained virtually flat, even declining some more, between 1995 and 1999. So the current DOD budget is only 1.3 percent higher than fiscal year 1990.

We were told we have 5 to 7 tons of cocaine and hard narcotics coming in over our border a day. And yet, the DOD budget is only 1.3 percent higher in these areas than it was in 1990. That is less than a single year of inflation.

So, I think the head of this Office of Drug Control has a very, very good point in asking for this money and, frankly, for really putting his foot down. Many of us in the Senate have been after him to be more vigorous to stop the flow of narcotics: "Why don't you do something about it? Why don't you see that the air and sea and land interdiction is beefed up?" He can't do that without the resources to do it.

Mr. President, I happen to believe in terms of the appropriateness of it being in the Defense Department budget, that there is no threat to America's national security equal to the threat of drugs. Tens of thousands of people are killed in this country from drugs. Hundreds of thousands of lives in this country are ruined by drugs. It is largely responsible today for the crime rate in virtually every community throughout this Nation. It is a driving force and a central drawing card for the gang movement in the United States and its spread across State lines.

The cartels have flourished because of it, and with it has come some of the most violent actions which anyone can possibly conceive: prosecutors killed, attorneys threatened. Just today, if you pick up the newspaper, you will see one of the cartel leaders, Amado Carrillo Fuentes, who underwent plastic surgery. The doctors who performed that surgery disappeared. Their bodies were just found. Their fingernails had been pulled out. Their bodies were covered with burns. The garrote still re-

mained around their neck. And this is everyday action surrounding drugs, the movement of drugs and the activities of the five big Mexican cartels.

All of this has created increased and, I think, unnecessary tensions between two countries, neighboring countries—the United States and Mexico—who should be good friends and working together. We can't work together without the resources to carry out the job well. No Nation today, again, presents the threat to this Nation's national security as does the heavy flow of narcotics into this country.

So I am very proud, and Senator COVERDELL and I will be issuing a joint press statement indicating our strong support for this action. We want a standup drug czar. We want him to call it as he sees it. We want him to take forceful action wherever that action is needed.

I am proud to stand here representing one of the States that is impacted in a major way by drugs, to say both to the Secretary of Defense and to the President of the United States, "Please support the drug czar in his request for these additional moneys. They are necessary for him to do the job."

I thank the Chair, and I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

#### EXTENSION OF MORNING BUSINESS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that morning business be extended until 4 o'clock.

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

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

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

#### CONFIRMATION OF CHRISTINA SNYDER

Mrs. FEINSTEIN. Mr. President, I thank the Senate, in particular I thank the majority and minority leaders for the agreement that allowed the confirmation of Christina Snyder as a Federal district court judge to proceed. I think this body will be proud of Mrs. Snyder's work on the bench. I have a great deal of faith in her.

I thank the majority leader very much for scheduling this vote on the nomination of Christina Snyder. Mrs. Snyder is an excellent candidate, and I am delighted that the Senate will act today on her nomination.

Christina Snyder's nomination has been pending before the Senate since

being reported by the Judiciary Committee on September 18, and the California district courts face an urgent need for additional judges on the bench.

I recommended Chris Snyder to the President, in January 1996, for appointment to the central district of California because I believe she is extremely well qualified for the position.

Christina Snyder is a highly respected lawyer in Los Angeles. She has more than 20 years of experience in the courtroom and served as a partner in three respected Los Angeles law firms.

She has focused her legal career on civil proceedings, where approximately 70 percent of her cases have been in the Federal courts.

Her practice has consisted of complex civil litigation, representing mostly defendants, including cases involving the Federal securities laws, civil RICO, antitrust, intellectual property, and the Lanham Act.

Christina's record for integrity and decisiveness has earned the respect of her peers, both Democrats and Republicans alike.

Chris Snyder has the support of professors, judges, and lawyers in the central district and throughout California.

Among her many supporters are such prominent Republican Los Angeles leaders as Mayor Richard Riordan, who noted his very high regard and enthusiastic support for her, and Sheriff Sherman Block.

As a testament to her high regard by her colleagues in the legal profession, Mrs. Snyder was nominated for membership to the prestigious American Law Institute. Membership in the organization is equally divided between lawyers, judges, and legal professors. It is indeed an honor to be elected to the organization and Mrs. Snyder was elected to the institute the very first time she was nominated, a noteworthy accomplishment.

Mrs. Snyder has also lectured on various subjects related to banking law and intellectual property law, and is currently coauthoring a treatise on the local rules of practice of the Federal courts in the State of California.

As an attorney for over 20 years, she has the experience and temperament to excel in this position.

I urge the Senate to confirm her nomination to the central district court.

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

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you very much, Mr. President. I want to pick up on a thank you here about the fact that we were able to confirm today an outstanding candidate that Senator FEINSTEIN recommended to the President, Christine Snyder.

#### NOMINATION OF MARGARET MORROW

Mrs. BOXER. Mr. President, I personally say to Senators LOTT and DASCHLE

an enormous thank you for working out an agreement by which we can vote on another extraordinary woman, Margaret Morrow, and make sure that vote will take place before the February break.

We have had one or two Senators who put anonymous holds on this nomination. I am happy to say they decided to come out and talk about why they don't feel it is a good nomination, because at least we know who is objecting to Margaret Morrow.

Those two Senators and I have spoken. We have written to each other extensively, and they have agreed that it is only fair that there be a vote on Margaret Morrow. She has the support of Senator HATCH. She has the support of many members of the Judiciary Committee on both sides of the aisle. Margaret Morrow will make a great judge. I think it is most unfortunate that she has to wait until February, but I feel that at least we have a commitment for a date certain that we will have a vote, and that will be before the February recess.

Again, I thank very much the majority leader, Senator LOTT, and the Democratic leader, Senator DASCHLE, for working with me to make sure that this happens.

I think as we wind down, I have something to be very happy about, which is that we are going to have a vote on Margaret Morrow. I know when my colleagues see the strong bipartisan support she has in the State of California and in this U.S. Senate that she will win confirmation.

Thank you very much, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, I ask unanimous consent that I may have as much time as I require.

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

#### ORIGINS OF FAST TRACK

Mr. BYRD. Mr. President, I have followed the fast-track debate closely, and it is with some disappointment that I note the absence of any discussion of the constitutional and institutional framework that governs our country's approach to foreign trade. A proper understanding of that framework is essential if we are to have a productive, enlightened debate about fast track.

I am also convinced that some of fast track's most ardent admirers might find their ardor dimmed a little if they recognize the sordid truth about fast track.

Accordingly, I wish to speak, not overly long, about the illegitimate

birth and disreputable pedigree of fast track. And I will attempt to unfold a decidedly unflattering but undeniably truthful account of how Presidential machinations and arrogance combined with congressional spinelessness to produce the monstrosity of fast track. They will learn that fast track is not about saving jobs or opening markets or building a bridge to the next century. Fast track, in a very considerable measure, is about *power*—raw, unfettered, Presidential power. And Mr. President, let me point out to any colleagues who doubt my reliability and objectivity in this regard that much of what I have to say is drawn from a recent article in the *George Washington Journal of International Law and Economics*, whose author appears favorably disposed to fast track.

I start by noting that the Constitution assigns Congress a major role in the regulation of foreign affairs. Contrary to popular opinion—and contrary to the beliefs of most Presidents—the executive branch does *not* possess sole authority over foreign affairs. Indeed, beyond the general statement in article II, section 1 that “[t]he executive Power shall be vested in a President of the United States of America,” the Constitution contains only four provisions that grant the executive clear foreign relations authority.

Now, I carry in my shirt pocket a copy of the Constitution of the United States. Alexander the Great greatly admired the Iliad. And he carried with him a copy of the Iliad, a copy that Aristotle had carefully examined and refined somewhat. And it was called the “casket copy.” Aristotle slept with this casket copy of the Iliad under his pillow. And along with the Iliad, there was a sword.

Now, Mr. President, I do not have a copy of the Constitution at night under my pillow, but I try to carry it at all times whether I am in West Virginia or whether I am here. I try to carry a copy of the Constitution in my shirt pocket. It is a copy of the Constitution that I have had for several years. It only cost 15 cents at the time I procured it from the Government Printing Office. Although the price has advanced now to probably about \$1.50, \$1.75, it is still the same Constitution.

We may have added one or two or three amendments to the Constitution since I first procured this copy. I have not stopped to check on that. But the Constitution itself has not changed in that time other than, as I say, some amendments have been added.

Would it surprise Senators to know that the Constitution contains only four provisions that grant the executive clear foreign relations authority? As one scholar has dryly observed, “the support these clauses offer the President is less than overwhelming.” The



clauses, all in article II, are these: the power to appoint ambassadors and to negotiate treaties, (section 2, clause 2), and both of these require the Senate's "Advice and Consent"; also the responsibility to receive ambassadors from foreign governments, (section 3); and the authority to command the Armed Forces in case Congress, through its responsibilities and powers under the Constitution, provides Armed Forces for the President to command, (section 2, clause 1). These narrow provisions provide a rather shaky foundation on which to build a case for the executive's predominance over foreign affairs.

Congress, by contrast, is explicitly given substantial authority under the Constitution and in the Constitution over foreign affairs. While the Constitutional Convention saw a lot of debate about which branch was better qualified to make foreign policy, the document that was signed on September 17, 1787 gives us a clue as to which side won. Fully eleven of the powers granted to Congress in article I, section 8 involve foreign affairs. They include the powers: (1) "To regulate Commerce with foreign Nations" (clause 3); (2) "To lay and collect Taxes, Duties, Imposts and Excises" (clause 1); (3) "To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations" (clause 9); (4) "To declare War . . . and make Rules concerning Captures on Land and Water" (clause 11); (5) "To raise and support Armies" (clause 12); (6) "To provide and maintain a Navy" (clause 13); and (7) "To provide for organizing, arming, and disciplining, the Militia." (clause 16). When one throws into the mix Congress' power to make the law—section 1, article 1—and its control over spending and appropriations in section 9, one conclusion is inescapable, namely: Congress' authority over foreign affairs is formidable.

Despite the Constitution's clear language, however, the history of this country has seen the executive branch assume control over increasingly large swathes of foreign affairs power, while Congress has occasionally taken back a scrap or two or a crumb or so for itself. It is now almost axiomatic that the President is sole representative of the United States before foreign nations. This is the culmination of a process that began in the earliest days of the Republic, when Congress met infrequently, giving the President effective day-to-day power over foreign affairs; the process has since accelerated with the advent of modern media—particularly television—which provide the President with a singularly powerful forum in which to make his case on matters of foreign policy.

While the executive branch has assumed general authority over foreign affairs, for a long time Congress made sure that its power over foreign *trade* remained on the eastern end—on the eastern end—of Pennsylvania Avenue.

After all, the Constitution is clear on this point: Congress has sole authority over trade. Two of the article I clauses as I just cited deals squarely with that issue, and they are conclusive, namely: Congress must "regulate Commerce," it has the power to "regulate Commerce with foreign Nations" and has the power to "lay and collect . . . Duties, Imposts and Excises."

For much of this Nation's history, there was little tension between the legislative and executive branches over trade regulation, unlike other areas of foreign policy, such as the use of military force.

As I have said on earlier occasions, for the first 150 years or so of its existence, Congress exercised broad control over foreign trade and tariffs. Starting in 1934, however, Congress decided that it no longer wished to unilaterally exercise its power to set tariffs. Accordingly, Congress delegated to the President in the Reciprocal Trade Agreements Act of 1934 the authority to negotiate tariff agreements and to proclaim changes in tariff rates, within certain boundaries set by Congress. This so-called "Proclamation Authority" was periodically renewed, typically for brief periods of around three years.

It did not take Congress long to decide that it had given away—that it had delegated—too much trade negotiating authority. The result was the Trade Expansion Act of 1962 which, among other things, created the Office of the Special Representative for Trade Negotiations; required that multilateral trade negotiations include designated members of the Senate Finance Committee and the House Ways and Means Committee; and prevented the President from negotiating certain tariff reductions designated by the Tariff Commission.

Congress soon discovered that the Trade Expansion Act was not enough to rein in a newly emboldened executive branch, which set about seizing as much control over foreign trade as it could get away with—and then some! The first shoe to fall was the U.S.-Canada Automotive Products Agreement of 1965, which the administration secretly negotiated for over a year without so much as notifying Congress. When President Johnson sent the Agreement to Congress for approval, presenting it as a *fait accompli* which needed only a legislative rubber stamp, a number of my colleagues were disconcerted at what they viewed as his high-handedness. Many resented the President's usurpation of Congress' rightful role in trade matters. And I suspect that many others wish that they had then stood up for congressional prerogatives rather than permitting the executive to accumulate still broader powers over trade. Instead, members adopted a course of conciliation and appeasement; they should have known, as history so often reminds us, that nothing, nothing, whets the appetite for power so much as a tender morsel of the substance.

The other shoe dangled briefly before falling to the floor with a resounding crash a few years later. This time, the issue was the 1964-67 Kennedy Round of the General Agreement on Tariffs and Trade, or GATT. At the time, tariffs were relatively low, which meant that more attention was focused on non-tariff barriers. This posed a problem for congressional oversight. After all, while tariff changes could be restricted within a designated range of percentage rates, it was much more difficult to provide precise limits on the negotiation of non-tariff barriers. During the second session of the 89th Congress the Senate therefore adopted a concurrent resolution, S. Con. Res. 100, "urging the President to instruct U.S. negotiators in Geneva to bargain only on provisions authorized in the Trade Expansion Act of 1962."

Now, what was the President's response to this clear, explicit instruction from the Senate? As best I can determine, the President simply cast those directions aside, for he promptly entered into two non-tariff barrier agreements that the 1962 Act had not authorized. One of these agreements was an antidumping code, for which President Johnson claimed "sole executive agreement authority." I was a member of the Senate back then, and let me assure you that we did not look kindly on the President's blatant refusal to follow *our* instructions or those of the Constitution. Our response was to state unequivocally that the President's agreement did not supersede domestic law or limit the Tariff Commission's statutory discretion to implement the antidumping laws. Congress made clear that the President's antidumping agreement would be followed only in cases where it did not conflict with standing law; and Congress reiterated that no President—not even that master arm-twister, Lyndon Baines Johnson!—could encroach upon Congress' power to make the laws.

The second non-tariff agreement that President Johnson entered into without congressional authorization was the repeal of the American Selling Price method of customs valuation. Once again, the President asserted his authority to make—or, in this case, to repeal—the laws. It is just what we are seeing happen in the case of line-item veto. Congress has given the President the authority to repeal laws. Shame, shame on Congress. Once again, and to its everlasting credit, Congress stood firm. We condemned President Johnson's refusal to heed the Senate's instructions and we rejected his outrageous belief that "executive authority" allowed him to make trade agreements that changed U.S. domestic law! Few scholars, today, of course, would agree with the President's position, but the matter was less clearly defined then. And, Mr. President, I for one am relieved that Congress stood fast in defense of its constitutional powers. I wish it would wake up one day and read history and read the Constitution again.

The battle was not over, however. President Nixon continued his predecessor's attempts to usurp Congress' trade authority, though this time by persuasion rather than by intimidation. The different tactics of Presidents Johnson and Nixon towards the same goal may say a lot about their respective personalities and presidencies. President Johnson had launched a frontal attack upon Congress, relying on brute force and his own, ample powers of persuasion to intimidate the legislature into granting him greater trade power. Nixon, however, took a different tack; rather than storming the barricades of Congress, he tried to convince us to open the gates to him.

The President made a powerful pitch for Congress granting him the ability to unilaterally change domestic law. He declared, with a fervor that subsequent fast track supporters have echoed, that the ability of the country to enter into trade agreements hung in the balance. The future of the United States itself was in jeopardy *unless* Congress would delegate to him—you will be hearing the same thing today; the United States was in jeopardy *unless* Congress would delegate to him—the authority to proclaim all changes to U.S. law necessitated by a trade agreement. Now, how prosperous. I will not dwell on the obvious constitutional infirmities of Nixon's proposal; suffice it to say that giving the President the power to proclaim changes to U.S. law might have raised a few eyebrows at the Constitutional Convention! Don't you think so? It might have raised a few eyebrows up there with that illustrious group of men that included James Madison, Hamilton, Elbridge Gerry, and others. You would have seen some eyebrows going up and down. Our Constitution's framers knew full well that lawmaking by Executive fiat is the very definition of tyranny.

I wish that this story of the executive branch's attempt to seize the powers of the legislative had a happier ending; one of the sad truths known to all historians is that, in real life, the endings are so often confused or disappointing. President Nixon did not, of course, win the authority to proclaim changes to domestic law. However, he did succeed in pressuring Congress to grant him the authority to negotiate certain trade agreements which Congress might neither amend nor debate extensively: what we now simply call "fast track." The President's invocation of the national interest, and the fears he raised that, without fast track—and we are hearing the same siren call today—he would be unable to implement an effective trade policy for the United States, and it won the day. In a moment of weakness—and Congress has had its moments of weakness, as in this instance—Congress allowed itself to be seduced by the President's rhetoric and his appeal to patriotic duty; and a short time later, lo and behold, fast track was born.

Well, today, Mr. President, history appears to be repeating itself. Once

again, the air is filled with the dire, somber predictions about what will happen if fast track is not approved. I read that there are all kinds of trading, all kinds of promises being made, and we are seeing arms twisted out of shape—no bones broken, you understand, but just arms being twisted. Once again, we have a President who appeals to national interest and insists that he will be unable to negotiate trade agreements without fast track. Once again, Members have ears that cannot hear and eyes that cannot see. Once again, we have a Congress that appears overawed by Executive authority and unwilling to assert its rightful role in regulating trade—in fact, a Congress that is quite willing, perhaps happy, as was the Roman senate in that case, to hand off another of its duties to a dictator or to an emperor—in our case, happy to hand off another of its constitutional duties to the Executive.

I am sure that most of the viewing public must wonder why any elected official would willingly give up some of the power of the people, the power that, under the Constitution, is to be exercised by elected representatives of the people. Power, after all, they must imagine, is what politicians crave most.

Oh, that we could review again the story of Lucius Quinctius Cincinnatus, who in the year 458 B.C. was called upon by a delegation from the Roman senate. And upon inquiring why this delegation had come to him to interrupt his plowing of his small farm of three acres alongside the Tiber River, he was informed that the senate had decided to thrust upon him the power of a dictator so that he could rid Rome of the threat of certain tribes to the east, the Aequians. And being the loyal patriot that he was, Cincinnatus turned to his wife Racilia and said, "We may not have enough food to live on this winter because we won't be able to sow our fields." Nevertheless, he wiped his perspiring forehead, took on the regalia of a dictator, and loyally assumed the responsibilities and duties that the Roman senate had placed upon him. He rid the city of Rome of the threats, and he relieved the Roman legions that were being surrounded by the armies of the tribes to the east. Within 16 days, he had accomplished this mission. And he turned back the powers of dictatorship.

So there was the old-fashioned model of simplicity, the old-fashioned model of one who did not seek power, who did not want power. He did not want the power thrust upon him, but he willingly gave up this power.

So, today, the people of the United States, I am sure, feel that power is what politicians most crave. Isn't it the thirst for power that causes politicians to chase campaign money like a hound on the scent of a fox? Isn't it power that opens doors, rolls out red carpets, and serves up free food and drink? Isn't it really power, more often

than character, that invites the respect of others? So how can the public possibly accept the notion that Congress is actually giving up some of its power—its constitutional power—through fast track?

Now, I am not claiming that the fast track legislation is unconstitutional; I am simply saying that the Congress is willingly giving up much of its power under the Constitution through fast track—not only giving it up, but saying: here it is, take it, relieve me of it.

Perhaps, in this age of television, in which the 30-second sound bite is preferable to a complete and meaningful discussion of issues, some politicians have come to the realization that it is easy, perhaps preferable, to retain the illusion of power, without actually having to be saddled with any of the burdensome responsibility that comes with true power. They would rather not have it because it carries with it responsibilities.

Think about that. If we give up the power of Congress, we no longer have to take the heat for bad decisions, do we? We can just point the finger. We can take those letters from angry constituents and say, "Sorry, not me. It is not my fault. Blame the President. That is his power now. He did that."

How much nicer will our reelection campaigns be? Not having to run for 3 years, it would be much nicer for me, much easier for me, to say, "That wasn't my responsibility." What will our opponents be able to complain about? How can they possibly run negative ads against us when we have given all of our responsibility to somebody else?

I can see the campaign ads now. "Vote for me. I didn't do anything, but I sure looked good not doing it." And our opponents could retort, "Don't vote for him. I cannot attach any blame to him for anything, but he has big ears." So there we have it. If we hand over all of our powers, and thus all of our responsibilities, then we can't be blamed for anything. All we need to do is keep our hair well coiffed, buy fancy suits, have a nip here and a tuck there, keep a list of snappy sound bites in our pocket—that's all it will require to be an invincible political candidate.

Is this what we really want? Is this what the American public out there deserves? Certainly not. We were elected to do a job—to protect and defend the Constitution of the United States. Actually, we took an oath to support and defend the Constitution of the United States. How many of us have read it lately? We certainly are doing a sad job of it when we agree to bind ourselves to fast track and to lie prostrate, waiting for the executive caboose to rumble over us.

I said a few moments ago that history seemed to be repeating itself. And others have said that, and for good reason. Lord Byron said, "History with all its volumes vast hath but one page." Cicero said, "To be ignorant of that

which occurred before you were born is to remain always a child."

So history is repeating itself. I wonder why that is. God created water and other things in the beginning. He created water, H<sub>2</sub>O—two parts of hydrogen and one part of oxygen. And it hasn't changed. It is still the same. It is still H<sub>2</sub>O. It is still two parts of hydrogen and one part oxygen. Well, human nature hasn't changed either from the beginning. It changed through Abel. Abel's blood cried out from the ground. Human nature hasn't changed. We are still a slave of it.

So history seems to be repeating itself because human nature hasn't changed. Today, I urge my colleagues to study history: Stand firm. Do not give up your constitutional responsibility. Do not rise to the bait offered by those who accuse you of protectionism; the cause of freer and fairer trade is not served by Congress abdicating its power. Do not be fooled into thinking that no country will negotiate with the world's foremost economic power because of concern about how that country's legislative branch conducts its debates; the foolishness of that argument should be self-evident. And don't allow the threats, cajolements, incentives, rewards, punishments or imprecations that the administration may cast your way; don't allow these to sway your decision. I hope that the House will stiffen—stiffen its opposition to fast track. It is time to resist the executive's encroachments on the prerogatives of Congress. It is time, Mr. President, for Congress to throw off its cloak of humility and deference and reverence for the executive and to assert its rightful constitutional role in the regulation of commerce with foreign nations.

Mr. President, recent polls have illustrated how ill-informed most Americans are about their Constitution. Oh, they like it, all right, but few of them can accurately answer or debate the questions about it. Even fewer, I would posit, understand how well and how carefully the Constitution balances the powers given to the three branches of Government—a balance constructed by the Founding Fathers as a defense against the evils of one-man rule. Our Founding Fathers wanted to escape the tyranny that a king can impose over a subservient and subjugated people. And that is why our forefathers fought the American Revolution. That is why lives were risked, and that is why lives were lost. Our Founding Fathers knew that every President would be tempted to amass power to himself, and they hoped that the combined strength of the elected representatives in Congress could check those power grabs.

Of course, there were those at the Convention who were concerned about the thirst of the legislative branch for power and how it might encroach on the powers of the President. But they could not foresee the day when we would have political parties. They could not foresee the day when the

President of the United States would be the titular head of a political party; how he would command hundreds and thousands of patronage positions. They could not foresee the day when television would bring to the American people the news of the second—not the news of the minute, but the news of the second.

Isaiah, a great prophet, was right when he said:

Prepare ye the way of the Lord, make straight in the desert a highway for our God.

Every valley shall be exalted, and every mountain and hill shall be made low; and the crooked shall be made straight, and the rough places plain:

And the glory of the Lord shall be revealed, and all flesh shall see it together.

And that is true. Isn't television exalting the valleys and making low the mountains and the hills? Isn't all flesh seeing the glory of the Lord together?

There came a time when the clock struck and we had the underocean cable, the wireless telegraph, the telephone, the diesel motor train, the airplane—all of these things. And by all of these things, radio and television, the printing press—by all of these things, then, the glory of the Lord has been revealed in all of the globe. And Isaiah's prophecy has come true.

So, our Founding Fathers could not possibly have foreseen the time when Americans would have these wonderful inventions. And when the President would have, at the snap of his finger, all of the media in that White House gather around his bully pulpit. They could not foresee these things.

For the most part, this system has worked. And I hope and pray that it will continue to work. Thus, I say to my colleagues in the House and here: Stand firm. Hold fast, and together let us oppose this fast track to nowhere.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### SENATOR BYRD'S 80TH BIRTHDAY

Mr. DASCHLE. Mr. President, on January 8, 1997, the Senate noted the beginning of Senator Robert C. BYRD's 51st year of public service to the people of West Virginia. On that occasion, I spoke of Senator BYRD's public record, of his service in both houses of the West Virginia State legislature, his service in both houses of the U.S. Congress, of the leadership positions he has held in the Senate, and of the remarkable seven consecutive terms to which he has been elected to represent the people of West Virginia as a U.S. Senator. I spoke of the public man, of the fascinating orator seen edifying Senators and C-SPAN audiences alike with

his grasp of history and his love of the Constitution and of this body.

On November 20, Senator BYRD will mark another, more personal, anniversary. On November 20, Senator BYRD will celebrate the completion of his 80th year of life. To celebrate this event, along with his current and many of his former staff members, I want to share with this body and the world some of our reflections on the personal man, the side of Senator BYRD we see, respect, and honor every day.

If the heart of West Virginia is made of coal—that rich, compressed carbon of long-ago life that breathes fire to warm our homes and light our dark nights—then Senator BYRD is a diamond honed over time to be its purest, clearest core. Years of experience and study have cut many facets in his character, each adding a distinctive sparkle.

ROBERT C. BYRD never forgets the people of West Virginia. He cares, deeply, about living up to the trust and confidence that has been placed in him and about setting the best possible example for others that he can in his own life and behavior. He is a tireless worker. Many of his staff members can tell stories about leaving him in his office late at night, still working, and dragging themselves wearily in the next morning, only to be greeted by his chipper, "Good morning." His energy and drive have not lessened over the years. When added to his own natural bent for self-improvement, this tendency can make him a challenging man to work for, but trying to live up to this challenge has made every member of his staff a better and more committed employee.

Senator BYRD speaks often about the old values—about the importance of hard work, the love of family, respect for authority, loyalty to community and country, and about reverence for the Creator. He does not say these things because he believes they are popular or engaging—he talks about them because he believes in them and because he lives by these values. He keeps a King James Bible on his desk and often refers to its passages, seeking ancient wisdom to guide him through the mire of convoluted political issues and diverse viewpoints.

Senator BYRD does not take anything or anyone for granted. Being a Senator and working in the Capitol building has lost none of its importance and none of its magic for Senator BYRD. Often, when the Sun is setting behind the Washington Monument, he will invite his staff to look out the window and down the Mall, so that moment—that special vantage point and that sunset—would not be taken for granted.

To travel with Senator BYRD in West Virginia is to see up-close the tremendous respect and esteem in which he is held. Yet, his stature as a national statesman has not created a chasm between him and those he serves. On the

contrary, all West Virginians feel as if they know him. And, not only do people feel they know him, many have a personal story to tell about him. They often comment on "the night he spent with our family," or when "he had dinner at our house," or when "he spoke at my commencement," or when "he helped my mother to get her widow's benefits after my dad died."

As he values each and every citizen of West Virginia, so does Senator BYRD value everyone who works for him—for themselves and for the job that they do for him and the people of West Virginia. He sets high standards, but he never asks more of anyone than he asks of himself. And, his drive is tempered by thoughtfulness.

He goes out of his way to smile, greet, and speak gently with everyone in his office. When personal or family tragedies strike, he is also there, offering support and encouragement, and living up to his belief that family must come first. Senator BYRD has seen members of his staff through cancer, the birth and death of children, the loss of parents, and all of life's best and worst experiences with characteristic kindness and understanding. In return, he has a loyal group of employees, who belie the common perception that staff turnover on Capitol Hill is frequent. His current staff combine for a total of over 4 centuries of experience in his service and in service to the Nation and the people of West Virginia, and his former staff remain close to him.

Working with Senator BYRD is an honor because he is a legendary figure even in his own time. He is larger than life, not only for the positions he has held and his accomplishments, but for his principles. On many occasions he has quoted Mark Twain: "Fame is vapor, popularity an accident, riches take wings only one thing endures: character." He is a man of principle who is willing to stick to those principles, his experience, and his reason, with his eye always on the unforgiving pen of history and not on polls or interest group calls. He has taken some lonely stands, speaking candidly and thoughtfully about controversial nominations and treaties, and even calling for Senators to step down when their actions were detrimental to the institution of the Senate.

Senator BYRD's legacy to West Virginia is not one that will be measured solely in years of service, or in the number of offices held, or, even, as some might cynically suggest, in dollar signs. More than anyone or anything in memory, Robert C. BYRD has provided West Virginians with hope—hope of a better economy, hope that dreams of well-paying jobs and nice homes do not have to be hooked on the back of a bumper on a winding road leading out of State, hope that the way of life cherished among West Virginia's hills will survive and even flourish, to be passed on to future generations. He has made them feel proud—proud of their way of life, proud of their State and proud of

him. There is a difference in West Virginia today that can be attributed to a renewed feeling of hope and a sense of belief in the State that Senator BYRD has so unselfishly worked to fulfill.

As his 51st year of public service draws to a close, and the beginning of his 81st year dawns, we all offer our heartiest congratulations and best wishes to the man we have been honored to work with, and to learn from. To follow in his example, let us close with a quote, this one from Alexander Pope (1688-1744) in a letter to Mr. Addison, that captures Senator BYRD's essence:

Statesman, yet friend of truth! Of soul sincere,

In action faithful, and in honour clear;  
Who broke no promise, served no private end,

Who gained no title, and who lost no friend.

Working for Senator BYRD is an honor and a privilege of which every member of his staff is mindful each day, and it is a blessing for which each one will always be grateful. The sign of a truly great man is how, by the example of his own daily living, in and out of the public's view, he touches and changes everyone around him for the better. Through him, his staff becomes part of a great and living institution, dedicated like Senator BYRD to the service of the Nation and of the great State of West Virginia.

Today, I join Senator BYRD's staff in wishing him a happy 80th birthday and happy 51st year of public service.

Mr. President, I ask unanimous consent that a list of Senator BYRD's staff, many of whom contributed greatly to this birthday wish, be printed in the RECORD.

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

Ann Adler  
James Allen  
Neyla Arnas  
Alisa Bailey  
Suzanne Bailey  
Mary Bainbridge  
Anne Barth  
Sue Bayliss  
Betsy Benitez  
Elizabeth Blevins  
Pat Braun  
C. Richard D'Amato  
Dionne Davies  
Mary Dewald  
Carol Dunn  
Joan Drummond  
Mary Edwards  
Glenn Elliott  
James English  
Tina Evans  
Elias Gabriel  
Carolyn Giolito  
Patrick Griffin  
Scott Gudes  
Kimberly Hatch  
Marilyn Hill  
Paulette Hodges  
Cynthia Huber  
Susan Huber  
James Huggins  
Gail John  
Helen Kelly  
Peter Kiefhaber

Charles Kinney  
Carol Kiser  
Kevin Kiser  
Catherine Lark-  
Preston  
Angela Lee  
Kathleen Luelsdorff  
Rebecca Roberts-  
Malamis  
Sue Masica  
Martin McBroom  
Lane McIntosh  
Martha Anne  
McIntosh  
Nora Martin  
Joseph Meadows  
Carol Mitchell  
Jennifer O'Keefe  
Nancy Peoples  
Richard Peters  
David Pratt  
Barbara Redd  
Peter Rogoff  
Terrance Sauvain  
Melissa Wolford  
Shelk  
Mary Jane Small  
Elysa Smith  
Terri Smith  
Leslie Staples  
Joe Stewart  
Lesley Strauss  
Brenda Teutsch

Lisa Videnieks  
Jacquie Watkins  
Julie Watkins  
Paul Weinberger  
B.G. Wright

Gail Stanley  
Scott Bunton  
Lula Davis  
Melvin Dube  
Tom Fliter

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. Without objection, the quorum call is rescinded.

#### EXTENSION OF MORNING BUSINESS

The PRESIDING OFFICER. Without objection, morning business will be extended until 5:30 p.m. with Senators permitted to speak for up to 10 minutes each.

In my capacity as a Senator from the State of Alabama, I suggest the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, I ask that I may proceed as in morning business.

The PRESIDING OFFICER. The Senator is recognized.

#### DEPARTMENT OF JUSTICE—CIVIL RIGHTS DIVISION

Mr. SESSIONS. Mr. President, lately, a discussion has been undertaken about the question of civil rights. Some think civil rights means preferences, quotas, and set-asides; others say it principally means equality in the law. That has been a major bone of contention as we have considered the nomination of Bill Lann Lee, an able attorney, for the position of chief of the Civil Rights Division of the U.S. Department of Justice.

We have had a lot of discussions about this question in recent years, and it is an important issue as this Senate considers that nomination. But there are other matters that come before the Civil Rights Division of the Department of Justice. It is a great division; it has played a tremendous role in the changing of race relations in America and has helped break down legal and de facto desegregation throughout this country. It has a great staff of 250 lawyers.

But I think it is also a matter of significance and importance that the chief of the Civil Rights Division maintain clear and firm control and supervision over that Department. In recent years, as the situation in our Nation has changed, legal barriers to equality have been broken down, and actions by that Department have raised questions about the validity of their actions and whether or not the positions they are

taking on a number of cases are worthwhile.

I have heard complaints about that. As a U.S. attorney for 12 years, I saw this division operate. Sometimes the actions taken by the Department were valid, however in many cases their actions can fairly be characterized as questionable. As the attorney general for the State of Alabama, I have seen a number of instances that trouble me about the role and the legal position of the Department of Justice. Just this week, there was a major decision by the U.S. Eleventh Circuit Court of Appeals. That opinion rendered an important decision. One newspaper article, described this opinion as a "stinging rebuke" to the U.S. Department of Justice. The Federal court ordered the Department of Justice to pay \$63,000 in attorney's fees to a Dallas County commission in Alabama over an election dispute that dragged on for 4 years. Let me read you some of the comments from that article. I think it points out the need to make sure that the person we have as chief of the Civil Rights Division is balanced and fair and treats everyone with the justice that the Department contends that they do.

Calling this case "very troubling," the appeals court blasted the Department of Justice for its continued refusal to pay legal fees and for its insistence that the white leadership on the Dallas County commission helped a candidate win an election contest. This is what the court said:

A properly conducted investigation would have quickly revealed there was no basis for the claim of purposeful discrimination against black voters.

The opinion also pointed out that the actual placement of Dallas County voters within districts was made by the predominantly black board of registrars. An attorney, John Kelly, who litigated the case for the county commission, said, "This is the toughest Federal court decision I have ever read."

Indeed, I would have to agree with that. It is remarkable. The decision means that the Federal Government will have to pay to the county commission, out of taxpayers' money, your money and my money, \$62,872.49 into their fund, to pay for the attorneys, which the court found were having to defend a case that was unjustified.

The opinion was written by a U.S. district judge from California who was sitting by designation on the eleventh circuit panel. Although the repayment of the attorneys fees is partial compensation to those aggrieved by the Department's actions, as this judge stated, "Unfortunately, we cannot restore the reputation of the persons wrongfully branded by the Justice Department as the public officials who deliberately deprived their fellow citizens of their voting rights. We also lack the power to remedy the damage done to race relations in Dallas County by the unfounded accusations of purposeful discrimination made by the Department of Justice."

The three-judge panel suggested to the Justice Department that it be "more sensitive" in the future "to the impact on racial harmony that can result from the filing of a claim of purposeful discrimination." The court said it found the Justice Department's actions, "without a proper investigation of the truth, unconscionable."

"Hopefully," the court goes on to say, "we will not again be faced with reviewing a case as carelessly investigated as this one."

Now, Mr. President, I think that the Department of Justice has an important role in this country to ensure equal rights, to make sure everyone has the right to vote, to make sure that there is equal justice under the law. But they also have a responsibility to be fair, to carry on their cases effectively, to be nonpartisan, to be objective, and to be careful in the cases they bring. This case went on for 4 years, when in fact, it could have been disposed of in short order with an effective investigation.

So, whoever is chosen to head the Civil Rights Division of the Department of Justice will have an important task. I asked Mr. Lee when I interviewed him, if he would take control of this Department? Would he make sure that the attorneys in that Department are obeying the law and are actually doing justice and not injustice? Would he make sure that they would not engage in civil wrongs when focusing on civil rights? Yes, this article will tell you that the Department of Justice can do civil wrongs and, in fact, they have done so. As attorney general of the State of Alabama I had occasion to witness this, as the following story illustrates.

There was a question about whether or not the voting rights section of the Department of Justice had the power and the duty and the obligation to preclear—that is, approve—a law change in Alabama in which the judges on a panel went from five members to seven members who would be elected at large. They said that they did have a right to object to that, that that law could not take effect until they had approved it—read it, studied and approved it. We did not believe that was so. There was legal authority present, including a decision made by the U.S. Supreme Court, that clearly indicated to me as attorney general of Alabama that they had no authority to preclear that decision. So I said we were going to proceed with it, and they maintained their objection.

Now, there is an interesting thing about this that you may not know. If you object to a ruling of the Department of Justice, Civil Rights Division, in Washington, DC, and you live in Alabama, you can't file a lawsuit in Federal court in Alabama to get a conclusion of the matter. Under the law, you have to file the lawsuit in Washington, DC, in Federal court, which is a very expensive process. I submit, Mr. President, they didn't think we would do it.

They didn't think we cared enough about that principle to do so. But we told them they were wrong and they were going to lose this opinion, and we would file the suit. They called our bluff and refused to preclear or agree that they did not have control over this position.

So we filed a suit, and the case proceeded for a short time. The U.S. Department of Justice then confessed—admitted—that they had no basis for their case, and conceded our point.

I say to you, Mr. President, that you can say that was a mistake and some might say so. In my opinion, it was a heavyhanded application of the law.

Those were good attorneys. They knew they didn't have to have a good legal basis for the position they took, and they tried to bluff the State of Alabama and force the State of Alabama to capitulate anyway.

So this is the kind of thing that is important. All of us care about justice in America. Also, we care about the law being enforced, and we believe that civil rights attorneys can also make errors; civil rights attorneys can actually do civil wrongs. We believe that they have to obey the law, also.

So I would just say that this points out another reason, as we debate who should be the head of the Civil Rights Division of the Department of Justice, that we select a person who is balanced, who is fair, who is objective, and who will follow the law, including the Constitution of the United States, the laws passed by this Congress, and the case authority of the courts of the United States.

Mr. President, that concludes my remarks. I yield the floor.

Mr. AKAKA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

PRIVILEGE OF THE FLOOR

Mr. AKAKA. Mr. President, I ask unanimous consent that Mr. Jaffer Mohiuddin, a legislative fellow in my office, be granted the privilege of the floor for the remainder of the day.

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

The Senator from Hawaii is recognized.

Mr. AKAKA. I thank the Chair.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 1418 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SESSIONS. 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. SESSIONS. I ask unanimous consent to proceed not to exceed 3 minutes as in morning business.

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

ALABAMA - COOSA - TALLAPOOSA  
AND APALACHICOLA-CHATTA-  
HOOCHEE-FLINT RIVER BASIN  
COMPACTS

Mr. SESSIONS. Mr. President, I would like to take this opportunity to express my gratitude today for the co-operation of my colleagues, and in particular my good friend and home State colleague, Senator RICHARD SHELBY, as well as colleagues from Florida and Georgia and the chairman of the Judiciary Committee, Senator ORRIN HATCH, and the chairman of the Constitution Subcommittee, Senator JOHN ASHCROFT, for their expedited consideration of the Alabama-Coosa-Tallapoosa and Apalachicola-Chattahoochee-Flint River basin compacts that passed the Senate today.

Our citizens in Alabama and the Southeast region have many benefits from an outstanding environment and a generous water supply. But population increases have made water resources extremely valuable. The water compacts passed today by the Senate are the first step in allowing the three States of Alabama, Georgia, and Florida to enter into legal, acceptable agreements which will ensure the water resources of the region are divided in a responsible and equitable way, which protects the environment and ensures a reliable supply of water for drinking, agriculture, and recreation.

Passage of these water compacts is the result of nearly 20 years of work between the States of Alabama, Florida, and Georgia. Today's action represents only the initial step in a challenging process which must ultimately be carried through by these States. The water compacts themselves do not contain the formula for actually dividing the water resources, but serve only to grant permission to the States to create a formula themselves. Without the water compacts, it is likely my home State of Alabama, along with Georgia and Florida, would be forced into Federal court for protracted litigation to determine an equitable way to divide these resources. The action taken today will allow our States to enter into thoughtful negotiations rather than wasteful litigation to determine a permanent solution to our region's water resource problems.

Mr. President, no remarks on this action by me today would be complete without my mentioning the work of Alabama Gov. Fob James and State Representative Richard Laird, who have worked tirelessly toward this end. Governor James has personally given his attention to the matter, and negotiations have been ongoing, as I have noted, for many years. Representative Laird has been very active in this entire process and has been the main spokesman for Alabama's effort for over 3 years. As a former attorney general in the State of Alabama and one who was involved in these activities, I know firsthand the personal commitment that Representative Laird has given to this effort.

I also want to take this opportunity to recognize Mr. Craig Kneisel, the chief of the environmental section of the Alabama Attorney General's office. Craig Kneisel has been the chief of that environmental office since its founding around 20 years ago. He has given leadership and legal advice to this effort that has reached a good conclusion today.

So we have made a major step toward making an equitable resolution of the water problems of these States, but we have to keep on going. There is no doubt that, as our population increases, as our economy grows, there will be greater and greater stress on these wonderful environmental resources. We must protect them and at the same time must make sure that economic growth is facilitated by having a healthy environmental resource such as these two river basins.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KERREY. 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. KERREY. I thank the Chair.

Mr. President, are we in morning business?

The PRESIDING OFFICER. Morning business has just concluded.

Mr. KERREY. It is only 20 to 6.

The PRESIDING OFFICER. It is morning somewhere.

Mr. KERREY. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

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

Mr. KERREY. I thank the Chair.

DRUG CZAR BARRY MCCAFFREY  
AND THE DRUG WAR

Mr. KERREY. Mr. President, 2 years ago Senator SHELBY, the distinguished Senator from Alabama, and I were managing the Treasury-Postal appropriations bill on the floor at about this time of the year, I believe.

And one of the actions that we had taken in our bill was to zero out the drug czar's office. And the reason that we had done that was that we were quite unhappy with the progress and the performance and, especially, the effort made to interdict and the effort here at home to try to get young people to quit consuming drugs.

We were persuaded at the end of the day, Senator HATCH, Senator BIDEN, and the President himself, saying that they were going to make some substantial changes.

Change No. 1 that they made was to bring on Barry McCaffrey, a retired Army general. I do not know how they talked him into it. Somehow they managed to talk him into coming back and being the drug czar.

Yesterday, Mr. President, Barry McCaffrey sent a letter to the Secretary of Defense. Among other things he has done over the past couple years, this justifies both the President's confidence in him and Senator SHELBY's and my confidence that action would occur.

General McCaffrey sent Secretary Cohen, Secretary of Defense, a letter on the 6th of November saying essentially that:

The National Narcotics Leadership Act requires that the Office of National Drug Control Policy review the drug budget of each department and certify whether the amount requested is adequate to implement the drug control program of the President. For [fiscal year] 1999, the Department of Defense has requested \$809 million for drug control programs, approximately the same level as FY 1998. After careful review, ONDCP has determined pursuant to 21 U.S.C. . . . that this budget cannot be certified.

Mr. President, this is a gutsy move. As you know, as everybody around this town very long knows, to send the Department of Defense a letter saying, "We're not going to certify that your budget is adequate to accomplish the strategy that we have all approved in terms of fighting drugs in America," is a rather substantially gutsy move. And I support it 100 percent.

Perhaps Secretary Cohen will have a response to it. I have a great deal of respect for Secretary Cohen as well. Perhaps he will be able to come back and give a justification as to why the additional money for the Andean Coca Reduction Initiative, for the Mexican Initiative, for the Caribbean Violent Crime and Regional Interdiction Initiative, and for the National Guard Counterdrug Operations are fully funded at the \$809 million level.

My guess is, he will not. My guess is that General McCaffrey has done his homework and analyzed it well and understands what the drug policy is supposed to accomplish. And he understands that as drug czar he has authority.

In the past, drug czars have not exercised that authority quite as willingly. Barry McCaffrey did. And I hope this Congress supports him. All of us, when we are home, we will have townhall meetings. And if the subject of drugs comes up of, what are we doing? people say to me, "At least I hear you say it's a war on drugs. Describe the nature of the war we're fighting. Are we winning it? Are we losing it? What kind of resources are we putting into it?" I say, "We've got a drug czar. We've got a drug strategy. And we're implementing that drug strategy. We're not going to hold anything back in order to be successful."

What General McCaffrey has done is he has called upon the Department of Defense to do just that. As I said, I have not seen Secretary Cohen's response to this letter. I am here this evening just to applaud the drug czar for having the courage that previously drug czars have been a little reluctant to show. And if it is shown that these



additional resources are needed in order to be able to answer the question at home in townhall meetings in Nebraska that that is what is needed to get the job done, then I hope the Congress will provide the Department of Defense with the resources and insist that the Department of Defense allocate in 1999 the resources in order to be able to get it done.

I have not read all of them, the three- or four- or five-part series in the Washington Post on the problem of drugs coming across the border—so-called. There is not much of a border between the United States and Mexico. It is over 2,000 miles. And from what I have seen down there, there is not much to let you know when you are in Mexico or in the United States. And there is a tremendous amount of truck and automobile traffic and an awful lot of resources and money behind the effort to get drugs into the United States.

It is corrupting Mexico, making it difficult for them to operate—an extremely violent world. And in this morning's paper, there is a story about Mr. Fuentes' doctors, three of whom were held responsible for his death, apparently, giving him a facelift or something so he would look a little different. They were found in concrete canisters along a road in Mexico.

These guys play for keeps. From their standpoint, it is a war. From their standpoint, they are deploying the maximum amount of resources, their considerable amount of wealth and resources.

Barry McCaffrey, a first-rate military officer, now our drug czar, when he says to me, "We need additional resources in order to be successful in these four areas," I pay attention to him. And I applaud his willingness to be able to come to the Department of Defense and to this Congress and say, "This is what we need to do in order to be successful."

Mr. President, I ask unanimous consent that three documents be printed in the RECORD: One is the letter of November 6 that General McCaffrey sent to Secretary Cohen, and another is the document that indicates the additional resources that are needed, and the third is the "Legal Authority to De-Certify Agency Budgets."

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF NATIONAL DRUG CONTROL POLICY,

Washington, DC, November 6, 1997.

Hon. WILLIAM S. COHEN,

Secretary of Defense, Department of Defense, The Pentagon, Washington, DC.

DEAR SECRETARY COHEN: The National Narcotics Leadership Act requires that the Office of National Drug Control Policy (ONDCP) review the drug budget of each department and certify whether the amount requested is adequate to implement the drug control program of the President. For FY 1999, the Department of Defense (DoD) has requested \$809 million for drug control programs, approximately the same level as FY

1998. After careful review, ONDCP has determined pursuant to 21 U.S.C. §1502(c)(3)(B) that this budget cannot be certified.

To correct the deficiencies in the current FY 1999 proposal, DoD needs to amend its FY 1999 budget to include an additional \$141 million in drug control initiatives, which will enhance operations in the Andes, Mexico, the Caribbean, and along our borders. Details associated with these amendments are highlighted in the enclosed document. Under 21 U.S.C. §1502(c)(5), DoD is required to include this additional funding in its FY 1999 submission to the Office of Management and Budget.

The support of the Department of Defense (DoD) is critical to achieving the goals of the National Drug Control Strategy. Appreciate your leadership of DoD's important counterdrug programs. The outstanding success of these missions in a credit to the dedicated men and women of our armed forces. Working together, the Executive Branch can structure a drug control budget which will reduce drug use and its consequences in America. Look forward to receiving the Department's amended FY 1999 budget proposal. Your support on this issue, which is so vital to our Nation's security and the health of our young people, is critical.

Respectfully,

BARRY R. MCCAFFREY,

Director.

#### FY 1999 DRUG CONTROL BUDGET AMENDMENTS DEPARTMENT OF DEFENSE (AS REQUIRED BY 21 U.S.C. §1502(c)(5))

Andean Coca Reduction Initiative (+\$75 million). This initiative incorporates enforcement and interdiction measures that will disrupt the cocaine export industry. These efforts will include support for host nation programs to interdict the flow of coca base and cocaine in source countries, as well as expanded support to Peruvian and Colombian riverine interdiction programs.

Mexican Initiative (+\$24 million). This proposal will provide additional resources to reduce the flow of illicit drugs from Mexico into the United States and disrupt and dismantle criminal organizations engaging in drug trafficking and money laundering. This effort will help implement the Declaration of the Mexican-U.S. Alliance Against Drugs signed by President Zedillo and President Clinton on May 6, 1997. It will expand U.S. operational support to detection and monitoring missions in Mexican airspace and territorial seas, establish a joint law enforcement investigative capability in the Bilateral Border Task Forces, and aid the Mexican Government in developing a self-sustaining interdiction capability.

Caribbean Violent Crime and Regional Interdiction Initiative (+\$12 million). This effort will target drug trafficking-related criminal activities and violence in the Caribbean Region, including South Florida, Puerto Rico, the U.S. Virgin Islands, and the independent states and territories of the Eastern Caribbean. This will implement commitments made by the President during the Caribbean Summit held in Barbados.

National Guard Counterdrug Operations (+\$30 million). These funds will partially restore reductions incurred since FY 1993 in State Plans funding, which includes support for counterdrug activities along the border.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF NATIONAL DRUG CONTROL POLICY,

Washington, DC, November 6, 1997.

Memorandum for Director

Through: Chief of Staff

From: Charles Blanchard, Director, Office of Legal Counsel

LEGAL AUTHORITY TO DE-CERTIFY AGENCY BUDGETS

At your request, both General Counsel Judith Leonard and I independently reviewed ONDCP's statutes to determine our authority to certify national drug control agency budget.

It is our firm and considered legal opinion that the statute gives you two specific powers:

(1) The power to "certify in writing as to the adequacy of such [agency budget] request in whole or in part . . . and [should a budget not be certified] . . . include in the certification an initiative or funding level that would make this request adequate." [21 U.S.C. §1502(c)(3)(B)]; and

(2) The power to "request the head of a department or agency to include in the department's or agency's budget submission [to OMB] funding requests for specific initiatives that are consistent with the President's priorities for the National Drug Control Strategy" [21 U.S.C. §1502(c)(5)].

Most importantly, the statute makes quite clear that "the department or agency shall comply with such a [ONDCP] request." [21 U.S.C. §1502(c)(5)] In our view, this power to order an agency to place specific initiatives in the budget request is the most important power.

We have reviewed the proposed letter to the Secretary of Defense, and believe that it is fully consistent with this statute.

Mr. KERREY. I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

#### EXTENSION OF MORNING BUSINESS

Mr. BURNS. Mr. President, I ask unanimous consent that the hour for morning business be continued until 6:30 p.m., this date, with Senators able to speak therein for up to 5 minutes.

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

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

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

#### PRIVILEGE OF THE FLOOR

Mr. ROTH. Mr. President, I ask unanimous consent my staffer, Bob Nickel, be permitted to be on the floor during this speech.

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

#### COMMENDING THE SENATE FOR ADDRESSING NATO ENLARGEMENT

Mr. ROTH. Mr. President, I wish to address the great efforts that this

Chamber has undertaken on the matter of NATO enlargement—the extension of the alliance membership to the democracies of Central and Eastern Europe.

It is sometimes charged that Congress has provided serious consideration to this matter. Anyone who makes this argument has not paid attention to the legislation Congress passed on this matter over the last 3 years and have clearly ignored the activities of our committees, particularly the extensive amount of hearings that have been held over the last 2 months. Our leadership on both sides of the aisle is to be commended for the time and effort they have dedicated to this important matter.

Allow me to quickly review the highlights of Congress' role in the NATO enlargement issue. It is important to remember that Congress, in a most bipartisan manner, has led the charge for NATO enlargement.

In 1994, the 104th Congress, then led by a Democratic majority, passed the NATO Enlargement Participation Act, an initiative of then-Senator Hank Brown. This act not only endorsed NATO enlargement, but also called upon the President to establish programs to assist selected Central European democracies prepare for the burdens and responsibilities of alliance membership. This was a bipartisan initiative, one that found strong support in both parties. I might add that NATO enlargement was even a key pillar in the GOP's Contract With America.

In 1996, the Senate passed by recorded vote of 81–16 the NATO Enlargement Facilitation Act, a bill that explicitly endorsed NATO membership for Poland, the Czech Republic, Hungary, and Slovenia.

This summer the alliance finally heeded the urging of Congress. Last July, at the Madrid summit, the North Atlantic Council invited Poland, Hungary, and the Czech Republic to accession negotiations that will culminate in protocols of accessions that should be approved and signed this December at the annual NAC ministerial.

I might add that I had the honor serving as a member of the President's delegation to the Madrid summit along with Senators JOE BIDEN, GORDON SMITH, and BARBARA MIKULSKI. We attended in our capacity as members of the Senate's NATO Observer Group. Our role in this historic summit reflected the bipartisan support behind NATO's policy of enlargement and the degree of consultation and communication occurring on this issue between Congress and the administration.

Since the Madrid summit, and particularly over the last 2 months, this Chamber has focused on NATO enlargement in a manner I believe unprecedented for any realm of issues. I and Senator JOE BIDEN have had the privilege of facilitating 16 NATO Observer Group meetings with administration officials, experts, and foreign officials including NATO Secretary General, Javier Solana.

I want to especially commend the leadership of the Senate committees, whose statutory jurisdictions are far broader, for directing so much of their energies to this matter.

Over the last 2 months alone, the Foreign Relations Committee, the Appropriations Committee, and the Senate Budget Committee have held a total of nine hearings on NATO enlargement. They have addressed such issues as the geopolitical rational behind this initiative, the affect it has on Russia's evolution as international actor and as a democracy, the financial costs, and the military implications, among other issues, and the pro's and con's that one hears on these matters.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of the meetings and hearings that have been conducted by these three Senate committees on NATO enlargement.

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

#### SENATE COMMITTEE HEARINGS ON NATO ENLARGEMENT

October 7: Senate Foreign Relations Committee begins hearing on NATO expansion. Strategic Rationale of NATO Enlargement with Madeleine Albright.

October 9: Senate Foreign Relations Committee hearing on NATO Enlargement. Pros and Cons of NATO Enlargement with Senator Roth, Zbigniew Brzezinski, Jeanne Kirkpatrick, Michael Mandelbaum and Jonathan Dean.

October 21: Appropriations Committee hearing on NATO Enlargement. NATO Enlargement Costs with Madeleine Albright and William Cohen.

October 22: Appropriations Hearing on NATO Enlargement. NATO Enlargement Costs and DoD Readiness Impact with Chairman Joint Chiefs of Staff General Hugh Shelton and SACEUR General Wes Clark.

October 23: Appropriations Committee Hearing on NATO Enlargement. GAO Studies on NATO Enlargement Costs with Henry L. Hinton, Jr., Assistant Comptroller General, General Accounting Office.

October 28: Senate Foreign Relations Committee hearing on NATO Enlargement. Costs, Benefits and Burden Sharing of NATO Enlargement.

October 29: Budget Committee hearing on NATO Enlargement. NATO/EMU Costs with James Baker and Susan Eisenhower.

October 30: Senate Foreign Relations Committee hearing on NATO Enlargement. NATO-Russia Relations with Henry Kissinger.

November 5: Senate Foreign Relations Committee hearing on NATO Enlargement. Public Views on NATO Enlargement.

Mr. ROTH. These hearings have been conducted to the highest standard. They have addressed the most contentious and potentially divisive dimensions of NATO enlargement. They have provided a powerful podium for skeptics and for those who simply want to be sure that all the "i's" have been dotted.

Mr. President, I firmly believe that NATO enlargement will yield a stronger alliance, a more peaceful and more stable Europe, and a Europe that will be an even more effective partner for the United States in a world where our

shared interests are increasingly global in nature.

I am not going to burden this Chamber with another rendition of why I support NATO enlargement.

However, I have followed these hearings closely, and I would like to address what I think one should draw from their deliberations on three of the most important issues of NATO enlargement: the cost; its relationship to America's global interests; and, the future of Russia.

Costs has been the most debated dimension of NATO enlargement. However, the Senate's examination of this issue so far leaves me even more confident that this will be a most worthwhile investment.

Earlier this year, the President, at the request of Congress, estimated that NATO enlargement will cost the United States some \$100–200 million per year over the next decade.

Last month, Secretary Cohen and Secretary Albright testified to the Appropriations Committee that the costs to the United States may be less because some if not much of the infrastructure existing in Poland, the Czech Republic, and Hungary is more capable than previously estimated.

More detail on the costs of NATO enlargement is an urgent priority. NATO will soon complete its own estimate of the costs of integrating the three nations. This report is due before the December NAC ministerial. It is imperative that this study is fully transparent, clear, and specific.

With that said, even if NATO enlargement were to cost the United States some \$500 million a year over the decade, that yearly cost would still amount to about a quarter of the cost of one B-2 bomber. That is not a bad deal considering the gains we will attain in solidifying peace and stability in post-cold-war Europe.

The Senate hearings have also reaffirmed my confidence that NATO enlargement will enhance America's ability to secure its vital interest around the globe—not just those in Europe.

NATO enlargement is critical step toward a more unified and more peaceful Europe. It is, thus, fundamental to Europe's evolution into a partner that will more effectively meet global challenges before to the transatlantic community. An undivided Europe at peace is a Europe that will be better able to look outward, a Europe better able to join with the United States to address necessary global security concerns. A partnership with an undivided Europe in the time-tested architecture of NATO will enable the United States to more effectively meet the global challenges to its vital interests at time when our defense resources are increasingly strained.

This was a, if not the, central theme of former national security advisor Zbigniew Brzezinski's recent presentation before the Senate Foreign Relations Committee. To use his words:

NATO expansion is central to the vitality of the European-American connection, to the

scope of a secure and democratic Europe, and to the ability of the America and Europe to work together in promoting international security.

European instability, which is inherently more likely should we fail to extend Alliance membership to the democracies of Central Europe, portends to be the greatest of drains upon U.S. defense resources, energy, and effort. This has already proven to be the case in Bosnia. We must take the pro-active steps necessary to consolidate and widen the zone of security and, thus, peace and stability in Europe. NATO enlargement is the most effective step we can take toward this end.

Third, these Senate hearings have constructively and aggressively addressed concerns that have been voiced about the potential impact of NATO enlargement upon Russia's future.

Testimony from Under Secretary of State Thomas Pickering, our former Ambassador to Moscow, emphasized that NATO enlargement has not produced a revanchist Russian foreign policy nor undercut democracy in Russia. In fact, let me quote directly from Ambassador Pickering's testimony.

He stated:

Over the last 18 months, precisely, when NATO enlargement has been a salient point of our agenda, Russian reform and security cooperation have moved forward, not backward.

This former ambassador to Russia added that in the course of NATO enlargement, Yeltsin was reelected as Russia's president and that since then he has elevated reformers in his government. Moreover, Yeltsin has appointed a new defense minister, one who publicly supports START II. Most importantly, last May Russia signed the Founding Act, an agreement that offers an unprecedented opportunity for a new era of cooperation and partnership between the Alliance and Russia.

Mr. President, too many times this year Congress has been accused of paying inadequate attention to the policy of NATO enlargement. The fact is that Congress has aggressively addressed this matter. Congress has not only been engaged in this policy its bipartisan leadership on this matter has actually been a catalyst of action.

Much commendation is due to the Senate leadership and the Chamber as a whole for the sustained attention that has been directed to the many facets of this issue. The amount of consultation that has occurred between the administration and Congress makes NATO enlargement a model of how to approach the executive-legislative dimension of U.S. security policy.

I fully recognize that our deliberations on NATO enlargement are far from over. More hearings are sure to be held on this important policy, as they should be. However, I thought it important to highlight the tremendously effective efforts that this Chamber has already directed to this matter of national security.

#### SENATOR BIDEN'S NATO SPEECH

Mr. ROTH. Mr. President, our colleague, Senator JOE BIDEN, addressed the Permanent Representatives to the North Atlantic Council, the so called NAC, during their visit to the United States last month. His speech was an impressive overview of the state of debate here in the United States on NATO enlargement and how that debate is being affected the debate in Europe on issues of transatlantic security. Among these are, of course, the effort to foster reconciliation and peace in the Balkans.

The next coming months will feature a number of important events concerning NATO enlargement, including the NAC ministerial in mid-December which will yield protocols of accession into NATO for Poland, Hungary, and the Czech Republic.

Keeping in mind the debate that we will have early next year on NATO enlargement, I encourage my colleagues to read Senator BIDEN's statement. It is one that should also be closely read by our colleagues in the executive branch.

Mr. President, I ask unanimous consent that Senator BIDEN's outstanding speech on NATO enlargement be printed in the RECORD.

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

#### RATIFICATION OF NATO ENLARGEMENT BY THE U.S. SENATE

(By Senator Joseph R. Biden, Jr.)

I am honored by the invitation of the North Atlantic Council to share my thoughts on the American side of one of the most important foreign policy decisions that our alliance has faced for many decades: ratification of the admission of Poland, the Czech Republic, and Hungary to membership in the North Atlantic Treaty Organization.

First, let me make clear that I am a strong proponent of NATO enlargement. In the interest of brevity, and because there is no need to persuade this audience, I will not go into the details of my rationale.

Let me just say I believe the case for enlargement is overwhelmingly persuasive. First, it is my belief that the inclusion of the three aforementioned countries—if they meet all of NATO's rigid political, military, and economic criteria—would strengthen the alliance and enhance the security of the United States.

Second, the consequences if we fail to act are equally serious. The history of the twentieth century has taught us that if the United States distances itself from European affairs, the result on the continent is instability leading to chaos. Ultimately, dealing with the instability and chaos will cost far more in blood and treasure than the initial costs of staying engaged.

Finally, there is the moral factor. As Secretary of State Albright noted in her testimony before the Senate Foreign Relations Committee:

What possible justification can there be for confirming the old cold war division of Europe by freezing out the new democracies east of Germany?

As most of you know, according to the U.S. Constitution, international treaties must be ratified by a two-thirds majority in the Senate. In this case, we would be ratifying an amendment to the Treaty of Washington of

1949. As the Democratic party's chief foreign policy spokesman in the Senate, I have the responsibility to lead the fight for ratification.

Despite what I believe to be the overwhelming logic for NATO enlargement, ratification will not be easy—it will not be a "slam dunk," as we say in this country. It will be considered, not only in the context of national security policy, but in the context of domestic politics.

And in the context of our debate about engagement versus isolationism. I know most of you are primarily concerned with military matters. But I hope you will convey to the civilian and political leaders in each of your countries the kinds of issues that could derail ratification in the U.S. Senate—to the detriment of all of us.

My principal reasons for being cautious about NATO enlargement revolve around two sides of the same issue: burden-sharing. The first side relates to sharing the costs of NATO enlargement; the second side relates to sharing the military duties in Bosnia.

Contrary to assertions by some European politicians, these cost and burden-sharing issues are not superficial problems. They have direct relevance, not only to the ratification of enlargement, but also to the kind of alliance we will have in the 21st century.

First the costs. There has been a good deal of publicity in the United States about three widely differing cost estimates of NATO enlargement. NATO's own cost-estimate—mandated by the North Atlantic Council at last July's Madrid summit—will not be known until just before the December NATO ministerial. So any firm predictions about how that will come out would be risky and premature.

Nonetheless, the latest estimate from the Clinton administration, offered this week in testimony before the Foreign Relations Committee, was somewhat reassuring. It appears that the NATO estimate may be somewhat lower than the Pentagon's earlier study because only three—not four—countries are to be added to the alliance, and some of their militaries are in a bit better shape than previously thought.

Whatever the final numbers, the atmospherics of the debate over cost-sharing since Madrid have been damaging to Trans-Atlantic solidarity. Public statements from West European leaders that their countries should not—or even will not—pay any additional costs for enlargement given potent ammunition both to neo-isolationists in the U.S. Senate and to those who favor engagement but who have legitimate questions about costs.

Although there have been many warnings in the United States about the possibly huge costs of NATO enlargement, to my knowledge not a single American politician has said that we will not pay our share if enlargement is ratified. Yet when European leaders—before even waiting for the official NATO cost-study to come out in December—threaten not to pay even one additional franc or mark for enlargement, it is waving a red flag in front of my colleagues in the Senate.

Many of my fellow Senators are aware of the fact that West Europeans face competing priorities. We know that the eleven European NATO members who are also members of the European Union are currently engaged in painful budget cutting in order to meet the criteria for a single currency, the Economic and Monetary Union (EMU) on January 1, 1999. And we are aware that Germany and others are insisting that those countries who qualify be held to rigid fiscal discipline thereafter through a so-called "stability pact" without "political" criteria.

We do not underestimate the political stakes: resentment against this belt-tightening played a key role in the defeat of President Chirac's coalition in the French national elections last June and in the one-day temporary fall of Prime Minister Prodi's government in Italy earlier this month. Several other EU member states have also seen anti-austerity demonstrations.

As a politician, I empathize with the challenge my European parliamentary colleagues face. But we all have to make difficult choices. For example, in my country after years of spirited debate we have finally agreed upon a plan to balance the Federal budget by the year 2002. In fact, by having taken extremely painful measures like reducing the civilian Federal workforce by more than a quarter-million individuals we may reach a balanced budget even earlier.

So however difficult it may be, if you—our European allies—want continued American involvement in your security, to use a baseball metaphor, your governments will have to “step up to the plate.” Let me be as frank as I possibly can: Americans simply must not be led to believe that our European allies will cut corners on NATO in order to fulfill their obligations to the European union.

Let me go one step further, if NATO is to remain a vibrant organization with the United States playing a lead role, when the alliance cost figures are issued in December, the non-U.S. members must join the United States in declaring their willingness to assume their fair share of direct enlargement costs.

This includes developing the power projection capabilities to which all alliance members agreed in the “strategic concept” in 1991, before enlargement was even being seriously discussed. The flexibility afforded by these power projection enhancements are central to NATO's ability to carry out its expanded, new mission—to defend our common ideals beyond our borders, while we continue to carry out the core function of defending the territory of alliance members.

Some of our European allies—the United Kingdom, France, Germany, and the Netherlands, in particular—are making strides in improving the deployability and sustainability of their forces. But neither their forces, nor those of the rest of our European partners, are as yet fully deployable.

If our European partners were not to meet these force-projection obligations—and it was this part of the Pentagon study that occasioned the loudest criticism from across the Atlantic—the United States would continue to possess the only fully deployable and sustainable land and air forces in the alliance and would therefore be cast in the permanent role of “the good gendarme of Europe”—a role that neither the American people, nor the Senate of the United States, would accept.

I also would like to comment on the recent call by some West European defense ministers for counting economic assistance to Central and Eastern Europe as a substitute for meeting their countries' current alliance commitments and their future share of enlargement costs. Their proposal makes no sense and is totally counter-productive.

First of all, European statistics on economic assistance typically include healthy components of export credits, tied aid, and investment, making alleged comparisons with U.S. assistance one of “apples versus oranges.” Thus, the difference in the amount of economic aid from Western Europe and from the United States is less significant than some European politicians would have us believe.

Second, even if Western European economic assistance to the East since 1990 has exceeded our own, it would be unwise to con-

sider these contributions as a substitute for obligations related to NATO's military budget: it would only reinforce the “European businessman”/“American gendarme” syndrome. It would widen the military gap between the U.S. and the continent and, not unintentionally, give a comparative advantage to Western European companies in dealing with the East on the economic front. We in the United States simply won't play that game.

Third, and most importantly, such substitution arguments are ultimately self-defeating for Europe. As many of my Senate colleagues are eager to point out, if Western Europe claims security credit for its economic assistance to Eastern Europe, then the United States can justifiably claim credit for its worldwide containment of the threat of nuclear proliferation, for keeping international sea lanes open, and for guaranteeing continued access to Middle East oil.

To be blunt: I don't think you want us to play that game, because we can win it hands down.

The real point is that burden-sharing is not a book-keeping exercise. We would all do well to restrict the NATO burden-sharing discussion to just that—military burden-sharing in the alliance.

One other point related to comparative spending on defense: above and beyond enlargement and power-projection capability, unless you—our European allies—significantly upgrade your militaries, particularly in gathering and real-time processing of information, a “strategic disconnect” between a technologically superior United States military and outdated Western European militaries will eventually make it impossible for NATO to function effectively. From several personal conversations, I believe that this is a worry that many of you share.

There is a second dark cloud looming on the horizon of Trans-Atlantic relations. In the spring of 1998, just when the U.S. Senate is likely to be voting on amending the Treaty of Washington to accept new members, American SFOR ground forces are scheduled to be completing their withdrawal from Bosnia.

As it now stands, our European NATO allies will follow suit, in line with their “in together, out together” policy, despite a U.S. offer to make our air, naval, communications, and intelligence assets available to a European-led follow-on force, with an American rapid reaction force on standby alert “over the horizon” in Hungary or Italy.

My colleagues in the Senate have listened carefully as some European NATO members, led by France, call for more European leadership in the alliance and for a sturdier “European pillar” in NATO. But when they hear those same European voices say they will refuse to maintain troops in Bosnia without U.S. participation, it sounds like unfair burden-sharing and it only reinforces their doubts about NATO itself. After all, if Bosnia is the prototypical crisis the alliance will face in the next century, and internal squabbling prevents it from dealing effectively with Bosnia now, even staunch NATO supporters will be hard-pressed to defend its continued relevance.

France's position on Bosnia is particularly irritating when one considers its insistence on European command of Allied Forces Southern Europe (AFSOUTH) in Naples, the home of the U.S. Sixth Fleet. No matter how Paris tries to dress it up, this demand is perceived by U.S. Senators as a gratuitous poke in the eye. Not only is this idea a non-starter, it simply poisons the Trans-Atlantic atmosphere.

As many of you may know, I have been deeply involved in our policy toward Bosnia since 1991. My own personal view is that it

was unwise to have set a June 1998 date for SFOR's withdrawal and that the United States should agree to a scaled-down ground force in Bosnia beyond that date, with Europeans comprising the overwhelming majority of the ground forces. In short, a C.J.T.F. (combined joint task force), but one in which the United States has at least some forces present in all its components.

But whatever the final mix of post-SFOR forces, it is essential that we settle this issue this fall in order for an orderly redeployment to take place and to clear the air for the parliamentary debates on NATO enlargement. Time is running short.

Let me sum up by giving you my prognosis for ratification of NATO enlargement in the U.S. Senate. The debate has already begun and will continue to be lively. In the end, I believe it will be very difficult for most of my colleagues to vote against admitting the Poles, Czechs, and Hungarians if the final accession negotiations reveal that they are qualified for membership.

But I also believe that unless the United States quickly comes to a satisfactory burden-sharing understanding with our European and Canadian allies, the future of NATO in the next century will be very much in doubt.

In that context, an advance European declaration of willingness to share fairly in the enlargement costs that NATO will announce in December, and a spirit of compromise on a post-SFOR force for Bosnia, would considerably enhance the chances for ratification of NATO enlargement by the U.S. Senate.

Together we can enlarge and strengthen NATO, but only if we fairly share the burden of meeting the challenges of the twenty-first century.

#### THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, November 6, 1997, the Federal debt stood at \$5,431,079,031,652.94 (Five trillion, four hundred thirty-one billion, seventy-nine million, thirty-one thousand, six hundred fifty-two dollars and ninety-four cents).

One year ago, November 6, 1996, the Federal debt stood at \$5,245,748,000,000 (Five trillion, two hundred forty-five billion, seven hundred forty-eight million).

Five years ago, November 6, 1992, the Federal debt stood at \$4,087,224,000,000 (Four trillion, eighty-seven billion, two hundred twenty-four million).

Ten years ago, November 6, 1987, the Federal debt stood at \$2,396,279,000,000 (Two trillion, three hundred ninety-six billion, two hundred seventy-nine million).

Twenty-five years ago, November 6, 1972, the Federal debt stood at \$435,570,000,000 (Four hundred thirty-five billion, five hundred seventy million) which reflects a debt increase of nearly \$5 trillion—\$4,995,509,031,652.94 (Four trillion, nine hundred ninety-five billion, five hundred nine million, thirty-one thousand, six hundred fifty-two dollars and ninety-four cents) during the past 25 years.

# CONGRATULATIONS TO ANNA TAYLOR CELEBRATING HER 100TH BIRTHDAY

Mr. ASHCROFT. Mr. President, I rise today to encourage my colleagues to join me in congratulating Anna Taylor of Grandview, MO, who will celebrate her 100th birthday on November 22. Anna is a truly remarkable individual. Anna has witnessed many of the events that have shaped our Nation into the greatest the world has ever known. The longevity of Anna's life has meant much more, however, to the many relatives and friends whose lives she has touched over the last 100 years.

Anna's celebration of 100 years of life is a testament to me and all Missourians. Her achievements are significant and deserve to be recognized. I would like to join Anna's many friends and relatives in wishing her health and happiness in the future.

## COMMERCIALIZATION OF BIOTECHNOLOGIES

Mr. ABRAHAM. The Federal Government has spent millions of dollars during the past decade to support research laboratories, universities and the private sector to develop technologies to reduce the Nation's reliance on imported oil through the use of renewable energy sources, and to improve the efficiency and reduce the cost of cleaning up federally-owned sites which are contaminated with hazardous waste. This research is extremely valuable and is directed at addressing some of the most serious challenges facing our Nation. Unfortunately, these national research and development initiatives often do not provide maximum benefit to the Federal Government or to the private sector, since the technologies are not demonstrated to be effective on a commercial scale. It is my hope that as we continue to pursue these issues, the Federal Government can do more to help give the lessons learned from this research broader application.

A new program which recently has come to my attention—Acceleration Demonstration of Federally Sponsored Research for Renewable Energy Production and Environmental Remediation—seeks to remedy this problem. It seems to me that through a cooperative effort with the Department of Energy, its laboratories and other federally-sponsored research institutions, non-profit research and business development organizations could help commercialize existing federal research so that Americans could benefit more widely from these Federal initiatives.

Mr. BURNS. I agree with my colleague from Michigan. Commercialization of Federal research, particularly through non-profit organizations, could play a significant role in expanding the benefits from this research and get the most from our Federal research investments.

Mr. DASCHLE. The Senator is right. The Federal Government should do

more to help commercialize the results of federally-sponsored research. DOE should consider what steps it can undertake to better achieve this objective.

Mr. DOMENICI. The Department of Energy has a number of programs by which it might be able to team with non-Federal entities to commercialize technologies developed by the Department. I would encourage the Department of Energy to review the proposal mentioned by my colleagues and, to the extent appropriate within existing Department of Energy technology transfer programs, consider it for possible funding.

Mr. REID. That is correct. Funding is available under this bill for DOE in the Acceleration Demonstration of Federally Sponsored Research for Renewable Energy Production and Environmental Remediation programs account that can be awarded for commercialization of renewable fuels and environmental cleanup technologies on a competitive basis. I would urge DOE to seriously consider supporting this work in fiscal year 1998 up to the \$5 million level.

Mr. BURNS. That is my view as well.

## THE VILLHAUERS OF HOSMER, SOUTH DAKOTA

Mr. DASCHLE. Mr. President, I am looking forward to returning to South Dakota next week to join the citizens of my home state in honoring the men and women who have so faithfully served our nation in the armed forces. While all those who have given themselves to the call of duty will be on our minds on Tuesday, November 11, 1997, there is one family that will especially be on my mind.

The Villhauers of Hosmer, South Dakota hold a distinction that may well separate them from any other family in this nation. Mr. and Mrs. Fred Villhauer raised 7 sons in Hosmer, all of whom served this nation concurrently during World War II. Fred Jr., John, Henry, Albert, Arthur, Edmund and Herman Villhauer all answered the call of this country, and laid their lives on the line for the security and ideals of the United States.

Six of the brothers would survive the second world war and return to the United States. Albert, unfortunately, was killed during the retaking of the Philippine Islands on January 30, 1945. Fred Jr. returned to my hometown of Aberdeen where he lived until several years ago. The 5 other brothers are all alive today.

I should add that an 8th Villhauer brother, Paul, was too young to serve in World War II. But he joined the Army shortly after the war and eventually served during the Korean War. Paul Villhauer has also passed away.

Service to the United States seemed to run in the family for the Villhauers. The grandparents of the 8 brothers would have over 20 of their descendants serve in World War II, including 3 at Pearl Harbor. In all, more than 60

members of this family would join the armed forces of the United States of America. Six generations later, this segment of the Villhauer family boasts more than 1,000 descendants. This information was graciously provided by Emil Vilhauer, a former resident of South Dakota now residing in Wisconsin.

As Veterans' Day draws near, let us remember all who have served this nation, and especially those who were called to make the ultimate sacrifice to preserve our freedom. But this year in particular, I hope my colleagues and all the citizens of our great nation will join me in remembering one very special family that knows the true meaning of love of country: the family of Fred and Catherine Villhauer of Hosmer, South Dakota.

## ENCRYPTION

Mr. ASHCROFT. Mr. President, I wanted to take a moment to associate myself with the comments of the majority leader from October 21, 1997. Senator LOTT has correctly highlighted the FBI's constantly shifting arguments and the Bureau's seemingly relentless attempts to grab more power at the expense of the Constitution, particularly the fourth amendment's protection of privacy and the fifth amendment's guarantee of due process.

The FBI legislative proposal goes far beyond the Commerce Committee's misguided encryption legislation in further disregarding our Constitution. Instead of working with those who understand that S.909 gives the FBI unprecedented and troubling authority to invade lives, the FBI has attempted to grab even broader authority. The Senate would be foolish to pass S.909. In no way can we even consider the ill-advised FBI approach. The reach of the FBI has now extended so far that the President has taken the other side of the issue and supported a free market approach, according to his public comments delivered abroad.

I can only conclude that the FBI has introduced its proposal as a ploy to make S.909 look like a reasonable compromise. The only other explanation for the FBI's proposal is that the Bureau will not be satisfied with S.909, but instead will continue to work to erode our Constitutional protections. In fact, the new proposal only draws attention to the many problems of the commerce Committee language. Neither proposal is acceptable.

The issue of encryption must be revisited in a real and serious way next year, both at the committee level and in the Senate chamber, to examine the many Constitutional implications of the various proposals. I look forward to working with the Majority Leader and other Senators who have expressed interest in encryption legislation.

I yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

# UNANIMOUS CONSENT REQUEST— H.R. 2516

Mr. ABRAHAM. Mr. President, I rise for the purpose of seeking unanimous consent that the Senate now proceed to Calendar No. 189, H.R. 2516.

Mr. WARNER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ABRAHAM. Mr. President, I regret that objection has been raised in this context.

Mr. President, if the Senator will yield for a question, Does his objection to consideration of H.R. 2516 mean that the Senate will not take up this bill in this session?

Mr. WARNER. Mr. President, that is correct.

Mr. ABRAHAM. I am disappointed over that decision, Mr. President, for passage of H.R. 2516 would have provided my State of Michigan with approximately \$200 million more than we averaged under ISTEA. However, I stand by ready to assist the chairman in ensuring all States receive a fair and equitable return on their gas tax dollar.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## COMMENDING SENATOR ROBERTS

Mr. LOTT. Mr. President, I want to say what an excellent job you are doing as Presiding Officer. I understand you are fast approaching the amount of time serving in the chair where you will receive the "Golden Gavel" recognition. I look forward to being able to come to the floor and pay tribute to you when that time is acquired.

The PRESIDING OFFICER. The Senator is correct.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Calendar Nos. 381, 428 through 439, 444 through 447, 451 through 453, 456 and 466. I further ask unanimous consent that the nominations be confirmed; that the motion to reconsider be laid upon the table; that any statements relating to these nominations appear at the appropriate place in the RECORD; that the President be immediately notified of the Senate's action; and that the Senate then return to legislative session.

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

The nominations considered and confirmed are as follows:

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Saul N. Ramirez, Jr., of Texas, to be an Assistant Secretary of Housing and Urban Development.

#### DEPARTMENT OF STATE

Nancy H. Rubin, of New York, for the rank of Ambassador during her tenure of service as Representative of the United States of America on the Human Rights Commission of the Economic and Social Council of the United Nations.

A. Peter Burleigh, of California, to be a Representative of the United States of America to the Sessions of the General Assembly of the United Nations during his tenure of service as Deputy Representative of the United States of America to the United Nations.

Bill Richardson, of New Mexico, to be a Representative of the United States of America to the Sessions of the General Assembly of the United Nations during his tenure of service as Representative of the United States of America to the United Nations.

Richard Sklar, of California, to be an Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations during his tenure of service as Representative of the United States of America to the United Nations for UN Management and Reform.

Betty Eileen King, of Maryland, to be an Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations during her tenure of service as Representative of the United States of America on the Economic and Social Council of the United Nations.

#### UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Kirk K. Robertson, of Virginia, to be Executive Vice President of the Overseas Private Investment Corporation.

Terrence J. Brown, of Virginia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be an Assistant Administrator of the Agency for International Development.

Mark Erwin, of North Carolina, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1999.

Harriet C. Babbitt, of Arizona, to be a Deputy Administrator of the Agency for International Development.

Thomas H. Fox, of the District of Columbia, to be an Assistant Administrator of the Agency for International Development.

#### UNITED STATES INFORMATION AGENCY

Cheryl F. Halpern, of New Jersey, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 1999. (Reappointment)

Carl Spielvogel, of New York, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 1999. (Reappointment)

#### DEPARTMENT OF ENERGY

Linda Kay Breathitt, of Kentucky, to be a Member of the Federal Energy Regulatory Commission for a term expiring June 30, 2004.

Curt Herbert, Jr., of Mississippi, to be a Member of the Federal Energy Regulatory Commission for the remainder of the term expiring June 30, 1999.

#### THE JUDICIARY

John M. Campbell, of the District of Columbia, to be Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

Anita M. Josey of the District of Columbia, to be Associate Judge of the Superior Court

of the District of Columbia for the term of fifteen years.

#### DEPARTMENT OF STATE

Betty Eileen King, of Maryland, to be Representative of the United States of America on the Economic and Social Council of the United Nations, with the rank of Ambassador.

#### DEPARTMENT OF JUSTICE

Seth Waxman, of the District of Columbia, to be Solicitor General of the United States.

#### THE JUDICIARY

Stanley Marcus, of Florida, to be United States Circuit Judge for the Eleventh Circuit.

Jerome B. Friedman, of Virginia, to be United States District Judge for the Eastern District of Virginia.

Norman K. Moon, of Virginia, to be United States District Judge for the Western District of Virginia.

#### NOMINATION OF CURTIS L. HEBERT, JR.

Mr. LOTT. Mr. President, today the Senate is sending two very distinguished and qualified new Commissioners to the Federal Energy Regulatory Commission. I am pleased that my good friend Curtis L. Hebert, Jr. of Pascagoula, MS, is one of them.

Curt has served the State of Mississippi as a member of the Public Service Commission for several years. During that time, he has demonstrated the ability to balance the diverse utility interests in our State. This is no easy task. Mississippi is the home to both public and private power companies, PUHCA's and providers of all sizes. Curt has proven that he has the skills necessary to address the needs of each of these entities, while keeping the best interest of the consumer in mind.

As a former member of the Senate Energy and Natural Resources Committee, I certainly appreciate the high standard that FERC nominees are held to during committee consideration. Throughout the nomination process, Curt has demonstrated that he has not only the knowledge, but the determination and skills to get the job done. He has been a responsible and able steward of the utility industry in Mississippi. I expect that he will serve the FERC and our Nation with the same enthusiasm and foresight.

We all must recognize that electric utility deregulation is on the horizon. How and when a new system will be created remains to be seen. What is certain, however, is that the FERC will be instrumental in guiding Congress toward competition in the utility industry. I am confident that Curt has the experience and insight necessary to help us reach the right balance of interests. Most importantly, Curt understands what deregulation means on the State level.

There is no industry as complex as the utility world—and none that impacts the lives of Americans more directly every day. The challenge ahead are great and must be tackled head on. There is no denying that the FERC Commissioners have their work cut out for them.



Mr. President, I am pleased that the Senate has unanimously confirmed Curt Hebert as a member of the FERC, ensuring that the future of the electric utility industry is in good hands. I congratulate him on this accomplishment and wish him the best of luck in the future.

#### NOMINATION OF JERRY FRIEDMAN

Mr. LEAHY. Mr. President, I commend the majority leader for deciding to take up the nomination of Jerry Friedman to serve as a judge for the Eastern District of Virginia. Judge Friedman's nomination was received by the Judiciary Committee on June 26, 1997. He appeared before us during a nomination hearing on October 28 and was reported favorably out of the committee on November 6.

From June 1985 to January 1991, Judge Friedman sat on the bench of the Juvenile and Domestic Relations District Court in Virginia Beach, VA. Since 1991, he has served as a judge for the Virginia Beach Circuit Court. The American Bar Association gave Judge Friedman a unanimous "well-qualified" evaluation—its highest rating.

I would like to congratulate both Judge Friedman and his family. I look forward to his service on the U.S. District Court.

#### NOMINATION OF NORMAN MOON

I am delighted that the majority leader has taken up the nomination of Norman Moon to serve as a U.S. District Court judge for the Western District of Virginia. Judge Moon has been sitting on the bench of Virginia State courts since 1974. He is currently serving as the chief judge for the Virginia State Appellate Court—a position which he has held since May 1, 1993.

Judge Moon has been a member of several legal and judicial-related organizations, including the National Institute of Trial Advocacy, the State-Federal Judicial Council for Virginia, and the National Council of Chief Judges.

We received Judge Moon's nomination on October 8, 1997. He appeared before the Judiciary Committee during a hearing on October 28 and he was reported favorably out of the Committee on November 6.

I congratulate Judge Moon and his family on his accomplishment and I look forward to his service as a U.S. District Court judge.

I would like to note that the nomination process experienced by Judge Moon has been the exception, not the rule, for this year. I hope that more judicial nominees will enjoy a similar experience in the future.

#### NOMINATION OF STANLEY MARCUS

I am delighted that the majority leader has decided to take up the nomination of Stanley Marcus to serve as a judge for the Eleventh Circuit Court of Appeals. Judge Marcus is a graduate of Queens College of the City University of New York and the Harvard Law School.

Since 1985, Judge Marcus has served as a Federal district court judge for the

Southern District of Florida. Prior to his Federal judgeship, Judge Marcus was employed as a special attorney, deputy chief and chief for the organized crime and racketeering section of the U.S. Department of Justice Detroit strike force.

The committee received Judge Marcus' nomination on September 25, 1997. He appeared before us during a nominations hearing on October 28 and was reported favorably out of the Judiciary Committee on November 6.

I congratulate Judge Marcus and his family, and look forward to his service on the U.S. Court of Appeals. Additionally, I would like to commend my fellow committee members on the expediency of this nomination. If all judicial nominations were advanced as efficiently as Mr. Marcus', the vacancy crisis facing the Federal judiciary would be easily solved.

### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

### MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for morning business until 7:30 p.m. with Senators permitted to speak for up to 10 minutes each.

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

### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a withdrawal and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

### MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on November 7, 1997, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 2367. An Act to amend title 38, United States Code, to provide a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans.

The enrolled bill was signed subsequently by the President pro tempore [Mr. THURMOND].

### MESSAGES FROM THE HOUSE

At 11:32 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 858) to authorize appropriations for fiscal year 1998 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 967. An act to prohibit the use of United States funds to provide for the participation of certain Chinese officials in international conferences, programs, and activities and to provide that certain Chinese officials shall be ineligible to receive visas and excluded from admission to the United States.

H.R. 2358. An act to provide for improved monitoring of human rights violations in the People's Republic of China.

H.R. 2386. An act to implement the provisions of the Taiwan Relations Act concerning the stability and security of Taiwan and United States cooperation with Taiwan on the development and acquisition of defensive military articles.

H.R. 2570. An act to condemn those officials of the Chinese Communist Party, the Government of the People's Republic of China, and other persons who are involved in the enforcement of forced abortions by preventing such persons from entering or remaining in the United States.

H.R. 2605. An act to require the United States to oppose the making of concessional loan by international financial institutions to any entity in the People's Republic of China.

At 7:15 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2616. An act to amend titles VI and X of the Elementary and Secondary Education Act of 1965 to improve and expand charter schools.

H.R. 2647. An act to ensure that commercial activities of the People's Liberation Army of China or any Communist Chinese military company in the United States are monitored and are subject to the authorities under the International Emergency Economic Powers Act.

H.J. Res. 101. Joint resolution making further continuing appropriations for the fiscal year 1998, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2264) making appropriations for the Departments of Labor, Health, and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

## ENROLLED JOINT RESOLUTION SIGNED

The message further announced that the Speaker pro tempore (Mr. LATOURETTE) has signed the following enrolled joint resolution:

H.J. Res. 101. Joint resolution making further continuing appropriations for the fiscal year 1998, and for other purposes.

The enrolled joint resolution was signed subsequently by the Acting President pro tempore [Mr. ROBERTS].

## MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 967. An act to prohibit the use of United States funds to provide for the participation of certain Chinese officials in international conferences, programs, and activities and to provide that certain Chinese officials shall be ineligible to receive visas and excluded from admission to the United States; to the Committee on Foreign Relations.

H.R. 2358. An act to provide for improved monitoring of human rights violations in the People's Republic of China; to the Committee on Foreign Relations.

H.R. 2386. An act to implement the provisions of the Taiwan Relations Act concerning the stability and security of Taiwan and United States cooperation with Taiwan on the development and acquisition of defensive military articles; to the Committee on Foreign Relations.

H.R. 2570. An act to condemn those officials of the Chinese Communist Party, the Government of the People's Republic of China, and other persons who are involved in the enforcement of forced abortions by preventing such persons from entering or remaining in the United States; to the Committee on Foreign Relations.

H.R. 2605. An act to require the United States to oppose the making of concessional loan by international financial institutions to any entity in the People's Republic of China; to the Committee on Foreign Relations.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:

H.R. 2366. A bill to transfer to the Secretary of Agriculture the authority to conduct the census of agriculture, and for other purposes (Rept. No. 105-141).

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment:

S. 1287. A bill to assist in the conservation of Asian elephants by supporting and providing financial resources for the conservation programs of nations within the range of Asian elephants and projects of persons with demonstrated expertise in the conservation of Asian elephants (Rept. No. 105-142).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1115. A bill to amend title 49, United States Code, to improve one-call notification process, and for other purposes (Rept. No. 105-143).

By Mr. THOMPSON, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 222. A bill to establish an advisory commission to provide advice and recommenda-

tions on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies (Rept. No. 105-144).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

H.R. 1787. A bill to assist in the conservation of Asian elephants by supporting and providing financial resources for the conservation programs of nations within the range of Asian elephants and projects of persons with demonstrated expertise in the conservation of Asian elephants.

By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:

S. 845. A bill to transfer to the Secretary of Agriculture the authority to conduct the census of agriculture, and for other purposes.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SHELBY, from the Select Committee on Intelligence:

Robert M. McNamara, Jr., of Maryland, to be General Counsel of the Central Intelligence Agency.

(The above nomination was reported with the recommendation that he be confirmed.)

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

Robert M. Walker, of Tennessee, to be Under Secretary of the Army.

Jerry MacArthur Hultin, of Virginia, to be Under Secretary of the Navy.

F. Whitten Peters, of the District of Columbia, to be Under 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.)

The following Air National Guard of the U.S. officer for appointment in the Reserve of the Air Force, to the grade indicated under title 10, United States Code, section 12203:

*To be brigadier general*

Col. Ronald A. Turner, 0000

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

*To be general*

Lt. Gen. John P. Jumper, 0000

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

*To be lieutenant general*

Lt. Gen. Frank B. Campbell, 0000

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

*To be lieutenant general*

Maj. Gen. David W. McIlvoy, 0000

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of impor-

tance and responsibility under title 10, United States Code, section 601:

*To be lieutenant general*

Maj. Gen. Lansford E. Trapp, Jr., 0000

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

*To be lieutenant general*

Lt. Gen. David J. McCloud, 0000

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

*To be lieutenant general*

Lt. Gen. Patrick K. Gamble, 0000

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, United States Code, section 12203:

*To be brigadier general*

Col. Howard L. Goodwin, 0000

The following-named officers for appointment in the Reserve of the Army to the grades indicated under title 10, United States Code, section 12203:

*To be major general*

Brig. Gen. David R. Bockel, 0000  
Brig. Gen. James G. Browder, Jr., 0000  
Brig. Gen. Melvin R. Johnson, 0000  
Brig. Gen. J. Craig Larson, 0000  
Brig. Gen. Rodney D. Ruddock, 0000

*To be brigadier general*

Col. Celia L. Adolphi, 0000  
Col. Donna F. Barbish, 0000  
Col. Emile P. Bataille, 0000  
Col. Joel G. Blanchette, 0000  
Col. George F. Bowman, 0000  
Col. Gary R. DiLallo, 0000  
Col. Douglas O. Dollar, 0000  
Col. Russell A. Eggers, 0000  
Col. Sam E. Gibson, 0000  
Col. Fred S. Haddad, 0000  
Col. Karol A. Kennedy, 0000  
Col. Dennis E. Klein, 0000  
Col. Duane L. May, 0000  
Col. Robert S. Silverthorn, Jr., 0000  
Col. James T. Spivey, Jr., 0000  
Col. William B. Watson, Jr., 0000  
Col. Charles E. Wilson, 0000

The following-named officer for appointment in the Reserve of the Army to the grade indicated under title 10, United States Code, section 12203:

*To be brigadier general*

Col. David R. Irvine, 0000.

The following-named officer for appointment in the U.S. Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

*To be vice admiral*

Vice Adm. William J. Fallon, 0000

(The above nominations were reported with the recommendations that they be confirmed.)

## 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. HELMS (for himself, Mr. GLENN, Mr. DEWINE, and Mr. FAIRCLOTH):

S. 1397. A bill to establish a commission to assist in commemoration of the centennial of powered flight and the achievements of the Wright brothers; to the Committee on Governmental Affairs.

By Mr. THOMAS (for himself, Mr. KERREY, Mr. ENZI, and Mr. HAGEL):

S. 1398. A bill to extend certain contracts between the Bureau of Reclamation and irrigation water contractors in Wyoming and Nebraska that receive water from Glendo Reservoir; to the Committee on Energy and Natural Resources.

By Mr. BOND:

S. 1399. A bill to authorize the Secretary of the Army to carry out a project to protect and enhance fish and wildlife habitat of the Missouri River and the middle Mississippi River; to the Committee on Environment and Public Works.

By Mr. BOND (for himself, Mr. CHAFEE, Mr. WARNER, Mr. BAUCUS, and Mr. D'AMATO):

S. 1400. A bill to provide a 6-month extension of highway, highway safety, and transit programs pending enactment of a law reauthorizing the Intermodal Surface Transportation Efficiency Act of 1991; to the Committee on Environment and Public Works.

By Mr. BUMPERS (for himself and Mr. GORTON):

S. 1401. A bill to provide for the transition to competition among electric energy suppliers for the benefit and protection of consumers, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI:

S. 1402. A bill to amend the Social Security Act to establish a community health aide program for Alaskan communities that do not qualify for the Community Health Aide Program for Alaska operated through the Indian Health Service; to the Committee on Finance.

S. 1403. A bill to amend the National Historic Preservation Act for purposes of establishing a national historic lighthouse preservation program; to the Committee on Energy and Natural Resources.

By Mr. BROWNBACK (for himself, Mr. MOYNIHAN, Mr. THOMPSON, and Mr. KERREY):

S. 1404. A bill to establish a Federal Commission on Statistical Policy to study the reorganization of the Federal statistical system, to provide uniform safeguards for the confidentiality of information acquired for exclusively statistical purposes, and to improve the efficiency of Federal statistical programs and the quality of Federal statistics by permitting limited sharing of records among designated agencies for statistical purposes under strong safeguards; to the Committee on Governmental Affairs.

By Mr. SHELBY (for himself, Mr. MACK, Mr. FAIRCLOTH, Mr. D'AMATO, Mr. BRYAN, Mr. GRAMS, Mr. KERRY, Mr. BENNETT, Mr. GRAMM, Mr. HAGEL, Mr. ALLARD, Mr. ENZI, and Ms. MOSELEY-BRAUN):

S. 1405. A bill to provide for improved monetary policy and regulatory reform in financial institution management and activities, to streamline financial regulatory agency actions, to provide for improved consumer credit disclosure, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SMITH of Oregon:

S. 1406. A bill to amend section 2301 of title 38, United States Code, to provide for the furnishing of burial flags on behalf of certain deceased members and former members of the Selected Reserve; to the Committee on Veterans Affairs.

By Mr. BURNS:

S. 1407. A bill to allow participation by the communities surrounding Yellowstone Na-

tional Park in decisions affecting the park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 1408. A bill to establish the Lower East Side Tenement National Historic Site, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. COLLINS (for herself, Mr. THOMPSON, and Mr. BENNETT):

S. 1409. A bill for the relief of Sheila Heslin of Bethesda, Maryland; to the Committee on the Judiciary.

By Mr. REED:

S. 1410. A bill to amend section 258 of the Communications Act of 1934 to enhance the protections against unauthorized changes in subscriber selections of telephone service providers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MACK (for himself, Mr. HARKIN, Mr. DEWINE, Mr. SANTORUM, Ms. COLLINS, Ms. SNOWE, Mr. D'AMATO, Mr. SMITH of Oregon, Mrs. BOXER, Mr. KENNEDY, Mrs. FEINSTEIN, Mr. LAUTENBERG, Mr. GRAHAM, Mr. DODD, Mr. DURBIN, and Mr. WELLSTONE):

S. 1411. A bill to amend the Internal Revenue Code of 1986 to disallow a Federal income tax deduction for payments to the Federal Government or any State or local government in connection with any tobacco litigation or settlement and to use any increased Federal revenues to promote public health; to the Committee on Finance.

By Mr. SMITH of Oregon (for himself, Mrs. FEINSTEIN, Mr. WYDEN, Mr. BAUCUS, and Mr. GORTON):

S. 1412. A bill to amend the Internal Revenue Code of 1986 to permit certain tax free corporate liquidations into a 501(c)(3) organization and to revise the unrelated business income tax rules regarding receipt of debt-financed property in such a liquidation; to the Committee on Finance.

By Mr. LUGAR (for himself, Mr. HAGEL, Mr. ROBERTS, Mr. THOMAS, Mr. GRAMS, Mr. KERREY, Mrs. FEINSTEIN, and Mr. CHAFEE):

S. 1413. A bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions; to the Committee on Foreign Relations.

By Mr. MCCAIN (for himself, Mr. HOLLINGS, Mr. BREAUX, and Mr. GORTON):

S. 1414. A bill to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; read the first time.

By Mr. MCCAIN (for himself, Mr. HOLLINGS, Mr. BREAUX, and Mr. GORTON):

S. 1415. A bill to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. McCONNELL:

S. 1416. A bill to amend Federal election laws to repeal the public financing of national political party conventions and Presidential elections and spending limits on Presidential election campaigns, to repeal the limits on coordinated expenditures by political parties, and for other purposes; to the Committee on Finance.

By Mr. DOMENICI (for himself, Mr. BINGAMAN, and Mr. LOTT):

S. 1417. A bill to provide for the design, construction, furnishing and equipping of a

Center for Performing Arts within the complex known as the New Mexico Hispanic Cultural Center and for other purposes; considered and passed.

By Mr. AKAKA (for himself, Mr. CRAIG, and Ms. LANDRIEU):

S. 1418. A bill to promote the research, identification, assessment, exploration, and development of methane hydrate resources, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MACK:

S. 1419. A bill to deem the activities of the Miccosukee Tribe on the Tamiami Indian Reserve to be consistent with the purposes of the Everglades National Park, and for other purposes; to the Committee on Indian Affairs.

By Mrs. FEINSTEIN (for herself and Mr. KYL):

S. 1420. A bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to provide for full reimbursement of States and localities for costs related to providing emergency medical treatment to individuals injured while entering the United States illegally; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. COCHRAN, Mr. DURBIN, Mr. FAIRCLOTH, and Ms. MIKULSKI):

S. 1421. A bill to amend the Public Health Service Act to provide additional support for and to expand clinical research programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MCCAIN (for himself, Mr. BURNS, Mr. CONRAD, and Mr. DORGAN):

S. 1422. A bill to amend the Communications Act of 1934 to promote competition in the market for delivery of multichannel video programming and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HAGEL (for himself, Mr. BENNETT, Mr. KERREY, and Mr. GRAMS):

S. 1423. A bill to modernize and improve the Federal Home Loan Bank System; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MURKOWSKI (for himself, Mr. AKAKA, Mr. STEVENS, and Mr. INOUE):

S. 1424. A bill to amend the Internal Revenue Code of 1986 to modify the air transportation tax changes made by the Taxpayer Relief Act of 1997; to the Committee on Finance.

By Mr. BURNS:

S. 1425. A bill to provide for the preservation and sustainability of the family farm through the transfer of responsibility for operation and maintenance of the Flathead Indian Irrigation Project, Montana; to the Committee on Indian Affairs.

By Mr. LAUTENBERG:

S. 1426. A bill to encourage beneficiary developing countries to provide adequate protection of intellectual property rights, and for other purposes; to the Committee on Finance.

By Mr. FORD:

S. 1427. A bill to amend the Communications Act of 1934 to require the Federal Communications Commission to preserve lowpower television stations that provide community broadcasting, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAHAM (for himself, Mr. MACK, and Mr. BUMPERS):

S. 1428. A bill to waive time limitations specified by law in order to allow the Medal of Honor to be awarded to be awarded to Robert R. Ingram of Jacksonville, Florida, for acts of valor while a Navy Hospital Corpsman in the Republic of Vietnam during

the Vietnam conflict; to the Committee on Armed Services.

By Mr. ROCKEFELLER (for himself, Mr. BURNS, and Mr. DORGAN):

S. 1429. A bill to enhance rail competition and to ensure reasonable rail rates in any case in which there is an absence of effective competition; to the Committee on Commerce, Science, and Transportation.

By Mr. HELMS:

S. 1430. A bill to suspend from January 1, 1998, until December 31, 2002, the duty on SE2SI Spray Granulated (HOE S 4291); to the Committee on Finance.

S. 1431. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Finance.

S. 1432. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Finance.

S. 1433. A bill to suspend temporarily on a certain chemical; to the Committee on Finance.

S. 1434. A bill to suspend until January 1, 2001, the duty on a certain chemical; to the Committee on Finance.

S. 1435. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Finance.

S. 1436. A bill to suspend until January 1, 2001, the duty on a chemical; to the Committee on Finance.

S. 1437. A bill to suspend until January 1, 2001, the duty on a chemical; to the Committee on Finance.

S. 1438. A bill to suspend until January 1, 2001, the duty on a chemical; to the Committee on Finance.

S. 1439. A bill to suspend until January 1, 2001, the duty on a chemical; to the Committee on Finance.

S. 1440. A bill to suspend until January 1, 2001, the duty on a chemical; to the Committee on Finance.

S. 1441. A bill to suspend until January 1, 2001, the duty on a chemical; to the Committee on Finance.

S. 1442. A bill to suspend until January 1, 2001, the duty on a chemical; to the Committee on Finance.

S. 1443. A bill to suspend until January 1, 2001, the duty on a chemical; to the Committee on Finance.

S. 1444. A bill to suspend until January 1, 2001, the duty on a chemical; to the Committee on Finance.

S. 1445. A bill to suspend until January 1, 2001, the duty on a chemical; to the Committee on Finance.

S. 1446. A bill to suspend until January 1, 2001, the duty on a chemical; to the Committee on Finance.

S. 1447. A bill to suspend until January 1, 2001, the duty on a chemical; to the Committee on Finance.

S. 1448. A bill to suspend until January 1, 2001, the duty on a chemical; to the Committee on Finance.

S. 1449. A bill to suspend until January 1, 2001, the duty on a chemical; to the Committee on Finance.

S. 1450. A bill to suspend until January 1, 2001, the duty on a chemical; to the Committee on Finance.

S. 1451. A bill to suspend until January 1, 2001, the duty on a chemical; to the Committee on Finance.

S. 1452. A bill to suspend until January 1, 2001, the duty on a chemical; to the Committee on Finance.

By Mr. DODD:

S. 1453. A bill to establish a Commission on Fairness in the Workplace, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BOND (for himself, Mr. CHAFEE, Mr. WARNER, Mr. BAUCUS, and Mr. D'AMATO):

S. 1454. A bill to provide a 6-month extension of highway, highway safety, and transit programs pending enactment of a law reauthorizing the Intermodal Surface Transportation Efficiency Act of 1991; considered and passed.

By Mr. CHAFEE (for himself and Mr. REED):

S. 1455. A bill to provide financial assistance for the relocation and expansion of Haffenreffer Museum of Anthropology, Providence, Rhode Island; considered and passed.

By Mr. BAUCUS (for himself and Mr. BURNS):

S. 1456. A bill to authorize an interpretive center at Fort Peck Dam, Montana; considered and passed.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER (for himself and Mr. BYRD):

S. Res. 146. A resolution establishing an advisory role for the Senate in the selection of Supreme Court Justices; to the Committee on the Judiciary.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 147. A resolution to authorize testimony, production of documents, and representation in First American Corp., et al. v. Sheikh Zayed Bin Sultan Al-Nahyan, et al; considered and agreed to.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HELMS (for himself, Mr. GLENN, Mr. DEWINE, and Mr. FAIRCLOTH):

S. 1397. A bill to establish a commission to assist in commemoration of the centennial of powered flight and the achievements of the Wright brothers; to the Committee on Governmental Affairs.

##### THE CENTENNIAL OF FLIGHT COMMEMORATIVE ACT

Mr. HELMS. Madam President, I have a bill, S. 1397, at the desk. Now, Senators DEWINE, FAIRCLOTH, GLENN, and I are introducing this legislation, and we are naming it the Centennial of Flight Commemorative Act. As I indicated, the bill number is S. 1397.

This significant legislation will establish a commission to assist the numerous events that will lead up to and include the celebration of the 100th anniversary of powered flight, a feat in all the history books, accomplished in my State of North Carolina by the geniuses, two brothers, Orville and Wilbur Wright, Ohio brothers who were born and raised in Dayton where they operated a bicycle shop.

I don't know whether you have been to Kitty Hawk, particularly in the middle of December, but it is not a comfortable place to be. Wilbur and Orville came to the Outer Banks of North Carolina to conduct their experiments. The first powered flight occurred at Kitty Hawk, NC, on December 17, 1903. In fact, the Wright brothers engaged in four flights that day, and with their effort they changed the concept of travel forever.

About noon on that cold and windy December day, at Kitty Hawk, NC, the aviation age, the air age, began.

So, Madam President, the Wright brothers were indisputably the first pioneers of powered flight, and they became national heroes, justifiably etched in history.

As for our bill, S. 1397, the able Senator from Ohio, Mr. DEWINE, and the able Senator from Ohio, Mr. GLENN, did excellent work in drafting this legislation.

Senator GLENN, I am obliged to mention, and I am glad to do so, is a man of history himself in terms of powered flight. He was the first American, as all of us know, to orbit the Earth. When he walks up and down the corridors, I see mamas and daddies pointing to him saying, "That's Senator GLENN." Senator GLENN and six other pioneers, the Mercury astronauts, got America's space program off the ground.

Madam President, S. 1397—let me say the title again so it will register—the Centennial of Flight Commemorative Act—proposes the establishment of a commission of 21 individuals to plan for and assist in events leading up to and including the commemoration of the 100th anniversary of the Wright brothers' flights at Kitty Hawk. The commission will be composed of the Secretary of the Interior, the Director of the National Air and Space Museum, the Secretary of Defense, the Secretary of Transportation, the NASA Administrator, and each of these officials can name a designee. Then there will be two representatives each from the States of North Carolina and Ohio and 12 other private citizens.

Of these 12 private citizens, the President of the United States will appoint two from a list recommended by the Senate majority leader in consultation with the Senate minority leader, and two from a list recommended by the Speaker of the House in consultation with the House minority leader. The remaining eight will be chosen based on qualifications and/or experience in the fields of history, aerospace, science, industry, or other professions that will enhance the work of the commission.

The commission will represent the United States and take a leadership role with other nations in recognizing the achievement of the Wright brothers and the importance of aviation history.

The commission's activities will be closely coordinated with the First Flight Centennial Commission and the First Flight Centennial Foundation of North Carolina and the 2003 Committee of the State of Ohio. The commission is allowed to retain an executive director and staff that may be required in order to carry out its functions.

S. 1397 authorizes appropriations of \$250,000 for each of the fiscal years 1998 to 2004 to fund the work of the commission.

Additionally, the commission may accept monetary contributions and other in kind contributions, volunteer

services and the like. In order to further defray the expenses of the commission, the legislation gives it exclusive right to names, logos, emblems, seals, and marks, which may be licensed on which proceeds from royalties will be used to offset the operating costs of the commission.

S. 1397 requires that annual audits of the commission be conducted by the Inspector General of the General Services Administration to ensure its financial integrity.

The commission shall be terminated no later than 60 days after the submission of the final audit report.

Senators may ask why establish a Federal commission to commemorate this event? The Wright brothers' triumph at Kitty Hawk on that bone-chilling day of December 17, 1903 has to rank as one of mankind's greatest achievement. The world has not been the same since.

As the development of the airplane progressed so did its uses in warfare and civilian aviation. Its development spawned generations of aviation trailblazers. Names like Eddie Rickenbacker, Billy Mitchell, Charles Lindbergh, Jimmy Doolittle, Chuck Yeager, and the Mercury, Gemini, Apollo, and space shuttle astronauts became household words.

What is even more astonishing is that 66 years later, Neil Armstrong of Ohio became the first man to set foot on the moon. That would not have been possible without the Wright brothers.

Because of the Wright brothers you can get on a jet aircraft at Dulles Airport and be in London in six or seven hours, far less if you are flying the Concorde. You can fly from New York to Tokyo in 14 hours. On the Concorde, you can travel from New York to London in 3 hours and 50 minutes.

We are seeing daily developments in aviation, faster planes, new space technologies, all because of the genius of Wilbur and Orville Wright.

I hope the Senate will swiftly approve this legislation.

Mr. DEWINE. Madam President, I thank the Chair, and I thank my distinguished colleague from North Carolina.

I am delighted to join him, as well as Senator FAIRCLOTH and Senator GLENN, in introducing a bill to create the Centennial of Flight Commission.

In the year 2003, the United States and, indeed, the world will celebrate a truly breathtaking anniversary. That date will mark exactly 100 years of the adventure of human flight. For those of us who are from the State of Ohio, it is an especially important anniversary as Senator HELMS has so ably described—first and foremost because the Wright brothers, the very first pioneers of powered flight, were from Dayton, OH. It was in Dayton, OH, that they grew up. It was in Dayton, OH, that they had a print shop. It was in Dayton, OH, that they had the bicycle shop that was referred to a moment ago by Senator HELMS.

It was at Huffman Prairie, in Montgomery County, actually what is now enclosed in Wright Patterson Air Force Base, technically in Greene County, that the Wright brothers learned to fly. So, those of us from Ohio are very proud of the Wright brothers, as this whole country is.

We are also proud in Ohio that ever since the time of the Wright brothers, Ohio has continued to build a proud aviation history. From the Wright brothers to World War I flying ace David Ingalls, to JOHN GLENN who just walked on to the floor of the Senate, the first man, the first American to orbit the Earth, to Neil Armstrong, the first man to walk on the Moon, to the incredible research being done right now at NASA Lewis Research Center in Cleveland, OH, has continually been a part of the great epic of aviation.

This is, indeed, cause for celebration, and that is what this bill is all about. It would create a commission to coordinate the centennial of flight celebration in the year 2003. The commission will be composed of 21 members: the Secretaries of the Interior, Transportation, and Defense; the Director of the National Air and Space Museum; the Administrator of NASA; two people from North Carolina; the president and chairman of the First Flight Centennial Commission; and two people from the State of Ohio, the Governor and the chairman of the 2003 Committee, and 12 additional Presidential appointees.

Madam President, this commission will help the United States take a leadership role in planning international celebrations of the centennial of flight, promoting participation and sponsorship by the aerospace industry, the commercial aviation industry, educational institutions, and State and local governments.

The commission is going to distribute a calendar, a register of national and international programs and projects concerning the flight centennial.

What I hope most of all is that these celebrations will recognize that the history of flight is not just the story about machines or about the triumph of technology. It is rather a story about people. It is a story of how human creativity overcame one of the most fundamental barriers that humans ever faced.

For hundreds of thousands of years, human beings could not fly, but in this century, thanks to the freedom and spirit of creativity in this country, the human race broke the bonds of Earth. So, from Dayton to Kitty Hawk and beyond the limits of our solar system, this is a story to truly celebrate.

Madam President, I see my distinguished senior Senator from the State of Ohio, the honorable JOHN GLENN, is on the floor. I yield to Senator GLENN.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. Thank you, Madam President. I thank my distinguished colleague.

I rise as a cosponsor of this legislation to establish a national Commission on the Centennial of Flight. We have been very proud through the years to have worked with the people of Dayton, OH, in an effort to recognize the very exceptional contribution of the two brothers who ran the bicycle shop and dreamed of flight. They watched the birds and dreamed of flight, not knowing whether it would ever be possible.

In 1992, it was my privilege to sponsor the legislation that established the Dayton Aviation Heritage National Historical Park which commemorates the extraordinary lives of Wilbur Wright, Orville Wright, and Paul Lawrence Dunbar, a black man, a poet, one of the finest poets, who was a close friend of the Wright brothers.

That park and the memorial in North Carolina recall that on December 17, 1903, Orville Wright flew 120 feet in 12 seconds. Can we imagine that, 120 feet in 12 seconds? But it was under power. It was the airplane that is over in the Smithsonian now. It was under powered flight with an engine and propeller. It was the first sustained flight in a power-driven, heavier-than-air machine.

There were three other flights that day. We don't often hear about those. There were three other flights that day, and Wilbur Wright set a new world record flying on one of those flights 352 feet in 59 seconds. It was more than the length of a football field.

Very little attention was paid at that time. People were very doubtful. Octave Chanute reported the achievement in *Popular Science Monthly* in March 1904. But the first—I think this is very interesting—the first eyewitness report about those flights appeared in a publication called *Gleanings in Bee Culture*, and that was in January 1905. That was the first real eyewitness report of Orville and Wilbur Wright's flights.

The work had begun in 1899 with a serious study of everything the Wrights could find on aeronautics. In 1900, to test their glider, they selected Kitty Hawk on the word of the weather bureau because of the steadiness of the winds and direction of the winds at that time. The test glider in 1900 and 1901 failed to achieve the lifting power that they thought they needed and anticipated.

They went back to Dayton and built a 6-foot wind tunnel to conduct experiments with over 200 different wing models. They developed the first reliable tables on the effects of air pressure on curved surfaces, the principles that we use today and that you see on every airplane, whether it is a general aviation small light airplane or a giant 747 or whether it is the Concorde flying at supersonic speed across the Atlantic Ocean.

They developed these 200 different wing models and experimented with them. They developed the first reliable tables on the effects of air pressure on curved surfaces.

In 1902, they conducted over almost 1,000 tests with a more promising glider. In 1903, the Wright brothers had completed the construction of a larger plane powered by their own lightweight gas-powered engine.

Arriving in Kitty Hawk in September, storms and mechanical difficulties delayed trials until December. On the 17th, four men and a boy witnessed the very first flight, and a memorable photograph, fortunately, was captured. Four men and a boy witnessed that first flight.

Back home in Dayton in 1904 and 1905, the Wright brothers continued testing their invention at Huffman Prairie, which is the area adjacent to what is today Wright Patterson Air Force Base where they first achieved maneuverable flight.

In 1908, Wilbur and Orville signed a contract with the War Department for the first military airplane. In September, Orville circled the parade ground at an altitude of 120 feet just across the Potomac River from us today, over at Fort Meyer in Virginia.

When most people these days think of the Wright brothers, we tend to think of them as having lived a long, long time ago. We tend to think of the Wright brothers as being part of ancient history. We also think of their airplane, the Wright Flyer III, as being an incredibly primitive machine, at least by today's standards. And it was a primitive machine. There were no fancy guidance systems or high-tech controls.

By swiveling their hips from one side to the other, Orville and Wilbur could steer the airplane. To this day, when young people come in, when school groups come to Washington and visit my office and they say they are going over to the Air and Space Museum, I always tell them to get up on the gallery level and look down on the Wright brothers' airplane and see how they controlled flight, because the person flying lay on the lower wing and had a wooden yoke around his hips. That wooden yoke slid back and forth and there was a wire that went to the trailing edge of the upper wing, and they would slide in the direction they wanted to go, slide their hips over, pull that wire and literally warp the trailing edge of the wing down and made more lift on the wing on that side and the airplane would turn in the direction their hips were slid toward.

I am glad they developed later on in aviation a better means of control. We can imagine a 747 pilot today making an approach swiveling his hips back and forth. But that was the way the Wright brothers controlled those very early flights.

The first flight at Kitty Hawk and Huffman Prairie seemed so far removed from what we did later on, from my own experience in orbital flight in 1962, or from the first lunar landing, or from living aboard the orbiting space station for weeks on end, as Shannon Lucid did. She was up there for 188 days. She

will be honored at the Smithsonian this evening, as a matter of fact. Yet, all this occurred within a lifetime.

I know we kid Senator THURMOND around here quite a lot about his age, but Senator THURMOND was born December 5, 1902. The Wright brothers did not fly until a year later, on December 7, 1903. So we have in this body right now a man whose lifetime spans all of manned flight, powered flight, from that first day at Kitty Hawk into space. STROM THURMOND has witnessed the complete history of flight. And we marvel at just how far we have come in an incredibly short period of time. We have literally gone from the Wright brothers to the Moon and beyond in a single lifetime.

That is amazing. In that sense, I think it is fair to say that Orville and Wilbur Wright were our first astronauts, really, because they were the first who really did rise off the Earth's surface in a sustained way and make flight that then advanced to higher and higher altitudes until we are above the Earth's atmosphere now with different kinds of machines; though I think in some ways we could say that they were the first two who, as the poem goes, "slipped the surly bonds of Earth"—slipped the surly bonds of Earth and ventured into the air under the power of a motor.

Everything since then has just been going higher and going faster. I also think it is fair to say the Wright brothers personified something that is behind every single leap or advancement in science or human knowledge since the beginning of time. The one characteristic they had—we could lump it all together and say that is something that is in the heart of all human progress—is curiosity and an innate curiosity about how we can do things differently or whether we can explore and find new shores or whether we can do experiments and do research in new areas.

Whether you look at the voyage of Christopher Columbus, who brought Europeans to the shore of North America, whether you look at the experiments of Alexander Fleming—you know what Alexander Fleming was curious about? It was plain old green mold on bread. He did not know why the patterns formed around the mold the way they did. The green mold, it was a particular pattern. He was curious about that.

You know what that led to? His curiosity led to the discovery of penicillin and the development of modern antibiotics. That curiosity about green mold on bread has led to increased life expectancy of people all around this Earth. We have gone up in life expectancy more in the last 100 years than in the previous 2,000 years, I read in a magazine just a short time ago. So the discovery of penicillin and Alexander Fleming's curiosity about green bread mold that led to that, has really revolutionized this Earth.

Or we go ahead with the unexpected circumstance in a small electronic

switching device that led to the development of the first transistor and ultimately to today's incredibly sophisticated computer systems.

It is clear to me that curiosity isn't what killed the cat. It is also the goose that laid the golden egg for all of humankind. That is going to be true in the future as well as the past. In field after field, in discipline after discipline, in industry after industry, it is curiosity, that insatiable, relentlessly questioning spirit that keeps asking "why" that has moved our species ahead.

The irony, of course, is any time someone or a group such as the Wright brothers, or a group of people undertake an exploration or undertake to demonstrate a new idea, whether in a laboratory, a spaceship, a bicycle shop or on a production line, there are many who question the wisdom of it all. Those naysayers who wanted to know when their bike would be fixed with the Wright brothers believed that if we were to fly God would have given us feathers, they said.

So there was a joke about the Wright brothers at that time. "If God wanted us to fly, why don't we have feathers?" Well, they fortunately laughed along with everybody else, but at the same time went ahead with their work. They were not deterred. But if there is one thing we know for sure about research or any kind of exploration of the unknown, it is that it is impossible to know what we will see at the end or what it may lead to.

I believe that today, as perhaps never before, we cannot afford to lose that kind of curiosity and questing spirit that the Wright brothers had. With it, we can continue to learn new things, first, for this Nation, putting them to practical application, staying ahead of global competition. That has been the story of this country's advancement. Without it, we will quickly become yesterday's leader, yesterday's leader, not tomorrow's leader but yesterday's leader, hopelessly trying to hold back the hands of the clock and to hold on to a past glory that can never be just retained or recaptured.

So the spirit of the Wright brothers is needed as much today as before their very first flight. That is why today I am pleased to join with my colleagues—my colleague from Ohio, my colleagues from North Carolina—in introducing this legislation to establish a national commission to assist in the commemoration of the centennial of powered flight that will occur in 2003 and the achievements of the Wright brothers. Those who worked to build our national parks and memorials to the Wright brothers in Ohio and North Carolina where flight was born and first achieved will now work together to recall and remember the spirit of flight to be commemorated as we approach the centennial of flight in 2003.

The spirit represented by the Wright brothers was captured in their own day by their good friend, Paul Lawrence



Dunbar, who captured in the prophetic verse which he penned the triumphs that are remembered at the Dayton Aviation Heritage National Historical Park. One of his notations was:

What dreams we have  
and how they fly  
like rosy clouds  
across the sky;  
of wealth, of fame  
of sure success . . .

That is certainly what curiosity has brought us and what the Wright brothers brought us.

Think of all that has occurred since that first flight at Kitty Hawk in 1903. Think of aviation today and all it entails and the giant industry. It has revised all the world's transportation, has revised our military, our security. All of that stemmed from that first flight in 1903.

So we are happy to put in this legislation today. We hope that it is supported by all here, not just those from Ohio and North Carolina, because what started there in 1903 is something that affects everyone. It affects every State and every nation around the globe, even these days. And we look forward to this commission doing a great job in assisting in the commemoration of the centennial of powered flight and the achievements of the Wright brothers.

Mr. FAIRCLOTH. Mr. President, today I am pleased to be an original cosponsor of legislation being introduced by Senator HELMS—the two Senators from Ohio—that would establish a National Commission to oversee the 100th anniversary of the first flight.

Mr. President, on a cold, windy December morning in 1903, in the Outer Banks of North Carolina, the Wright brothers changed the history of the world. Orville Wright flew for just 12 seconds—but it was the first manned flight.

Today, many people take for granted what was accomplished by the Wright brothers that day, but at the time it was a historic achievement. Man had been thinking of flight for thousand of years—and yet the Wright brothers, here in the United States, were the first to do it.

The development of flight grew rapidly. A little over a decade later, airplanes were used in the battles of World War I. Two decades after the 12-second first flight—Charles Lindbergh flew over the Atlantic.

And of course, in 1962, in just a half century after the first 12-second flight, our distinguished colleague JOHN GLENN was the first man to fly around the world in space. Seven years after that, we landed a man on the Moon.

It is hard to believe that all of this has taken place in the span of less than 100 years.

This is why the centennial anniversary of first flight is so significant to us, the sponsors of this legislation.

The Commission will coordinate the plans for the celebration. The Wright brothers were from Ohio, of course, where they ran a bicycle shop. The

State of North Carolina's license plates bear the slogan "First in Flight"—so we are especially proud of this achievement in my State. To these two States, the celebration is important.

But much more than that, I think the anniversary should be used to inspire students to learn more about the history of flight. Hopefully, it will remind people that this is a great nation inventors—and that American ingenuity has made us the greatest country in the history of the world. Finally, it should remind our citizens that America is a land of opportunity and freedom—where anyone's imagination can change the world. This is an entrepreneurial spirit that we must keep alive.

I want to thank Senator HELMS and Senators GLENN and DEWINE for joining together today to introduce this legislation. I hope that the Senate will take it up soon.

By Mr. THOMAS (for himself, Mr. KERREY, Mr. ENZI, and Mr. HAGEL):

S. 1398. A bill to extend certain contracts between the Bureau of Reclamation and irrigation water contractors in Wyoming and Nebraska that receive water from Glendo Reservoir; to the Committee on Energy and Natural Resources.

THE IRRIGATION PROJECT CONTRACT EXTENSION ACT OF 1997

Mr. THOMAS. Mr. President, I rise today to introduce the Irrigation Project Contract Extension Act of 1997. I am pleased to be joined in this endeavor by Senators ENZI, KERREY, and HAGEL.

This legislation would extend, for a period of 3 years, certain water contracts between the Bureau of Reclamation and irrigators in Wyoming and Nebraska that receive water from Glendo Reservoir. All contracts are subject to renewal on December 31, 1998. Extending these contracts is considered a major Federal action and, therefore, subject to review of the National Environmental Policy Act [NEPA] and the Endangered Species Act [ESA]. Without a short-term continuation agreement, the irrigators would be responsible for the costs of the analysis and other environmental documentation.

Currently, the States of Wyoming, Nebraska, and Colorado—and the Department of the Interior—are in the process of implementing a comprehensive "Cooperative Agreement for Platte River Research and Other Efforts relating to Endangered Species Habitats along the Central Platte River, Nebraska." The term of this initiative is for 3 years, with an allowable 6-month extension. Upon completion of the cooperative agreement, efforts to enact the Platte River Recovery Implementation Program can begin. This basin wide, three-State plan will help to recover the endangered whooping crane, piping plover, and least tern, and improve critical habitats in the Central Platte River Basin.

I believe it is important for Congress to act on this measure and extend

these contracts for 3 years, or until the cooperative agreement is completed. In that time, the needed NEPA and ESA reviews will be fulfilled—clearing the way for the program to be initiated. It is important to remember that the program cannot be implemented until the environmental studies are completed and the parties have agreed to the results.

Mr. President, this bill does not avoid environmental evaluation. It merely provides some relief to the water users, while allowing the NEPA and ESA documentation to take place through the cooperative agreement process. It is my understanding that once this agreement has expired, and if the Department of the Interior and the three States decide not to pursue the program, the contract renewal process would proceed as a separate Federal action at that time.

This is good and fair legislation. It will benefit the environment and the water users. I look forward to working with my colleagues in the Senate and House to secure its passage.

By Mr. BOND:

S. 1399. A bill to authorize the Secretary of the Army to carry out a project to protect and enhance fish and wildlife habitat of the Missouri River and the middle Mississippi River; to the Committee on Environment and Public Works.

THE FISH AND WILDLIFE HABITAT ACT OF 1997

Mr. BOND. Mr. President, I am pleased to introduce legislation to enhance, preserve and protect habitat for fish and wildlife on the Missouri and Mississippi Rivers. This new 5-year \$50 million authorization is a win-win approach that will implement and expand the use of new and innovative measures developed by the Corps of Engineers to improve habitat conservation without impacting adversely private property and other water-related needs of the rivers including navigation, flood control and water supply.

As I have always maintained, fish and wildlife conservation and commercial activity are not mutually exclusive. Indeed, we cannot afford to abandon either river commerce or the species that live in and on the river. This new approach is a win for man, for nature and for the river.

This legislation is supported by Missouri Farm Bureau, MARC2000, American Rivers, the Missouri Soybean Association, the Missouri Cornrowers Association, and Farmland Industries. While these groups have not always agreed on river policy, that should not preclude us from seeking common ground and working together to address the questions of resource management and I am delighted that we can all come together in support of this commonsense approach.

Without specific authorization and only scarce dollars, the St. Louis Corps of Engineers has been developing and

testing ways in which navigation structures used to guide the river and maintain the channel may be modified to meet environmental as well as navigation goals. These innovations have proven successful earning wide acclaim including a Presidential Design Award and Federal Design Achievement Award.

This legislation seeks to put these successful innovations to work on the Missouri River and expand their use on the middle Mississippi by providing a specific authorization and a dedicated and substantial source of funds. In other words, we are giving the corps the tools they need to put their ideas to work to improve the rivers to benefit fish and wildlife.

The legislation authorizes \$10 million per year to protect, create and enhance side channels, island habitat, sand bars, and other riverine habitat. For example, by notching rock dikes that run perpendicular to the shoreline, sandbars develop between the dikes which has been provided nesting habitat for the endangered least tern and valuable spawning ground for the endangered pallid sturgeon. The Missouri Department of Conservation has run tests validating an increase in diversity and numbers of microinvertebrates surrounding the notched dikes.

Chevron dikes have been developed to improve river habitat and to create beneficial uses of dredge material. These structures are placed in the shallow side of the river channel pointing upstream which improves the river channel while serving as small islands. These islands encourage the development of all four primary river ecosystem habitats and additionally, various micro-organisms cling to the underwater rock structures, providing a food source for fish.

Changing the gradation of rock revetments, used to stabilize eroding riverbanks, has proved to provide greater bank stability and precluded the need to remove bank vegetation so that, for the first time, trees and rock revetment could coexist providing greater habitat diversity.

The draft legislation authorizes \$10 million per year over 5 years to develop and implement a plan including the following activities: Modification and improvement of navigation training structures to protect and enhance fish and wildlife habitat; creation of side channels to protect and enhance fish and wildlife habitat; restoration and creation of island fish and wildlife habitat; creation of riverine fish and wildlife habitat; establishment of criteria to prioritize based on cost-effectiveness and likelihood of success; and physical and biological monitoring for evaluating the success of the project.

The draft provides that the project be coordinated with other related Federal and State activities and that there be public participation in the development and implementation of the project. It requires a 25-percent non-Federal cost share and limits the Federal cost of any single project to \$5 million. Finally, the draft legislation

confers no new regulatory authority and requires compliance with the National Environmental Policy Act.

The legislation is designed to work between the banks of the river and forbids expressly any adverse impacts on private lands and water-related activities including flood control, navigation, and water supply. Additionally, it is designed to compliment other existing programs such as the Missouri River Mitigation project and the Environmental Management Program on the Mississippi River.

I intend to work with the administration and with other Senators and interested groups to build the broad support necessary to enact this legislation in an omnibus Water Resources Development Act the Senate is expected to consider in 1998.

Mr. President, the problems experienced in the Midwest and elsewhere with railroad bottlenecks highlight the need for diverse transportation options. As the fall harvest proceeds, there are reports of grain being piled on the ground in neighboring Kansas and Nebraska. Notwithstanding that I must continue working on behalf of Missouri to preserve river navigation as a transportation option, our joint efforts to pursue this new legislation is a strong indicator that we may be experiencing an episode of domestic detente on river policy between groups that have pursued differing approaches in the past. This legislation offers a significant boost for our need to make the various river uses compatible and an important step toward unifying the river's stakeholders behind a realistic approach for the future.

I thank and congratulate the various groups who have come together behind this legislation and look forward to enacting this consensus legislation.

By Mr. BUMPERS (for himself and Mr. GORTON):

S. 1401. A bill to provide for the transition to competition around electric energy suppliers for the benefit and protection of consumers, and for other purposes; to the Committee on Energy and Natural Resources.

#### THE TRANSITION TO ELECTRIC COMPETITION ACT OF 1997

Mr. BUMPERS. Mr. President, I rise to day to introduce the Transition to Electric Competition Act of 1997 along with my colleague from the State of Washington, Senator GORTON. This bill provides for the transition toward deregulation and competition in the electric utility industry.

While few people find a discussion of the electric utility industry and the many laws and regulations governing the industry exciting, the fact is that electricity is an extremely important commodity which affects everyone on a daily basis. Any event that increases or reduces electric rates can impact: First, the lives of the poor and those on fixed incomes that depend on electricity to heat their homes in the winter and cool them in the summer; second, the price of goods we buy every day; as well as third, the competitive-

ness of our factories. In addition, decisions made by electric generators often have a direct effect on our environment as well as our energy security.

It is not at all inconsequential that the electric utility industry, which has remained relatively static for the last 60 years, is undergoing a fundamental change. Instead of the traditional vertically integrated local utility, which generates power at its own plants, transmits that power over its own lines and sells that power to all consumers in a particular area, consumers in some States are starting to be bombarded with all sorts of offers from companies competing to become their power supplier, and other entrepreneurs will be seeking to buy large blocks of power to serve certain kinds of consumers. Naturally, these changes are bound to create considerable apprehension among both utilities and consumers.

Mr. President, in January I introduced S. 237, the Electric Consumers Protection Act, because I believed that retail electric competition was inevitable and Federal legislation was necessary to ensure that certain consumers were not disadvantaged in the process. Several States were proceeding to introduce competition in their jurisdictions and a number of others were examining the matter. Since that time I have become even more convinced that competition is on the horizon. Eleven States have now enacted legislation or issued regulations requiring retail competition by a time certain. Almost every other State currently has the matter under review.

Some argue that there is no need for the Federal Government to intervene; that the States are doing just fine on their own and they should decide when and how to proceed with retail electric competition. Mr. President, I couldn't disagree more.

A State-by-State approach will likely produce a lot of unintended consequences which will limit the benefits associated with retail competition and could disadvantage certain consumers. Electric generation markets are becoming increasingly regional and even multi-regional. What happens in one State can have direct and indirect impacts on consumers and utilities located in another State. Utilities operating in more than one State can be subjected to conflicting regulatory regimes which could impact the way they operate their systems and the electric rates paid by consumers.

This phenomenon is best illustrated by the multistate utility holding companies registered under the Public Utility Holding Company [PUHCA]. I have had a lot of experience with registered holding companies because two of them serve my home State of Arkansas. These holding companies generally plan for and operate generating facilities on a system-wide basis for the benefit of customers in the entire region

served by the company. If restructuring proceeds on a State-by-State basis, these holding companies would find themselves subjected to different requirements which could negatively impact consumers.

A State-by-State approach to retail competition also present problems where utilities operate entirely within a single State. It would make no sense for a utility in a State that does not require retail competition, to be able to sell power at retail in an adjoining State that requires retail competition, while a utility subjected to retail competition is unable to mitigate its losses by competing for customers in the adjoining State. Such a result both increases stranded costs and distorts the generation marketplace.

Moreover, the States can't adequately address issues associated with the use of transmission lines that provide for the transportation across a number of States or the ability of a utility with significant market power to dominate electricity generation in an entire region. Clearly these are issues that need to be resolved at the Federal level.

When I introduced S. 237 there weren't many calling for Federal action. However, interested observers are increasingly coming to the conclusion that Federal electric restructuring legislation is not only helpful, but is necessary. Even some of the States are calling on the Federal Government to act.

The legislation we are introducing today is an updated version of S. 237. The bill includes the following provisions: All consumers would have the right to choose their power supplier by January 1, 2002. States could choose an earlier date for their residents if they wish. Utilities would be able to recover their legitimate, prudent and verifiable costs that they would have been able to recover from ratepayers if retail competition had not been implemented. Consumers located in States that currently have low cost electricity would be protected from rate increases by ensuring that utilities can't use their existing assets to sell power in more lucrative markets to the disadvantage of their existing customers. All utilities selling retail power would be required to generate a portion of that power using renewable resources. All of the interstate transmission facilities throughout the country would be managed by independent system operators to ensure that electricity flows in an efficient manner and that markets are competitive. FERC would be given greater authority to protect against the use of market power by utilities to inhibit competition. Both the Public Utility Holding Company Act [PUHCA] and the Public Utility Regulatory Policies Act [PURPA] would be repealed in conjunction with the implementation of retail electric competition.

In addition, Mr. President, the legislation attempts to address some of the issues that relate to the impact of re-

tail electric competition on two Federal entities—the Bonneville Power Administration [BPA] and the Tennessee Valley Authority [TVA]. Senator GORTON is especially knowledgeable about the special problems facing BPA and I expect that he will work closely with the other Members of the Senate from the Pacific Northwest in developing a consensus approach.

With regard to TVA, our bill attempts to develop an approach that will enable retail competition to be smoothly introduced in the Tennessee Valley and will help TVA pay off its tremendous debt. The bill also requires the TVA board to prepare a study examining whether TVA should be privatized. I know that some observers may be concerned that this could be a first step toward the privatization of the Federal Power Marketing Administration [PMA's]. Mr. President, there is no connection whatsoever between TVA and the PMA's. The PMA's market power generated at hydroelectric facilities located at Federal dams. These dams perform a variety of public services and cannot be privatized. TVA, on the other hand, generates the bulk of its power from coal and nuclear plants that serve no public purposes. In addition, the Federal PMA's pay for themselves through power sales. TVA, on the other hand, has an enormous level of privately held debt which it must find a way to pay off, since the Federal Government is not responsible for it.

Mr. President, I am especially pleased that Senator GORTON has decided to join with me in the effort to enact comprehensive electric restructuring legislation. He has a reputation as a very bright and thoughtful Member of this body and is a distinguished member of the Energy and Natural Resources Committee, which has jurisdiction over the matter. I know that he shares my desire to move this legislation through Congress quickly next year.

Senator MURKOWSKI, the chairman of the Senate Energy Committee, recently indicated that he expects the committee to mark up electric restructuring legislation next year. Both Senator GORTON and I want to work with him and the other members of the committee in moving forward. I look forward to undertaking this important task.

Mr. President, I want to say how honored I am to have one of our most distinguished Senators, Senator GORTON of Washington, as my chief cosponsor on this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

Mr. President, I ask unanimous consent that a section-by-section analysis of the Transition to Electric Competition Act of 1997 be printed in the RECORD.

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

S. 1401

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

# **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE. This Act may be cited as the "Transition to Electric Competition Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.
- Sec. 4. Severability.
- Sec. 5. Enforcement.

## **TITLE I—RETAIL COMPETITION**

- Sec. 101. Mandatory retail access.
- Sec. 102. Aggregation.
- Sec. 103. Prior implementation.
- Sec. 104. State regulation.
- Sec. 105. Retail stranded cost recovery.
- Sec. 106. Wholesale stranded cost recovery.
- Sec. 107. Lost retail benefits.
- Sec. 108. Universal service.
- Sec. 109. Public benefits.
- Sec. 110. Renewable energy.
- Sec. 111. Determination of local distribution facilities.
- Sec. 112. Transmission.
- Sec. 113. Competitive generation markets.
- Sec. 114. Nuclear decommissioning costs.
- Sec. 115. Right to know.
- Sec. 116. Exemption of Alaska and Hawaii.

## **TITLE II—PUBLIC UTILITY HOLDING COMPANIES**

- Sec. 201. Repeal of the Public Utility Holding Company Act of 1935.
- Sec. 202. Exemptions.
- Sec. 203. Federal access to books and records.
- Sec. 204. State access to books and records.
- Sec. 205. Affiliate transactions.
- Sec. 206. Clarification of regulatory authority.
- Sec. 207. Effect on other regulation.
- Sec. 208. Enforcement.
- Sec. 209. Savings provision.
- Sec. 210. Implementation.
- Sec. 211. Resources.

## **TITLE III—PUBLIC UTILITY REGULATORY POLICIES ACT**

- Sec. 301. Definition.
- Sec. 302. Facilities.
- Sec. 303. Contracts.
- Sec. 304. Savings clause.
- Sec. 305. Effective date.

## **TITLE IV—ENVIRONMENTAL PROTECTION**

- Sec. 401. Study.

## **TITLE V—BONNEVILLE POWER ADMINISTRATION**

- Sec. 501. Findings and purposes.
- Sec. 502. Columbia River fish and wildlife coordination and governance.
- Sec. 503. Pacific Northwest federal transmission access.
- Sec. 504. Transition cost mechanism.
- Sec. 505. Independent system operator participation.
- Sec. 506. Financial obligations.
- Sec. 507. Prohibition on retail sales.
- Sec. 508. Clarification of Commission authority.
- Sec. 509. Repealed statute.

## **TITLE VI—TENNESSEE VALLEY AUTHORITY**

- Sec. 601. Competition in service territory.
- Sec. 602. Ability to sell electric energy.
- Sec. 603. Termination of contracts.
- Sec. 604. Rates for electric energy.
- Sec. 605. Privatization study.

## **SEC. 2. FINDINGS.**

The Congress finds that:

- (a) Congress has the authority to enact laws, under the Commerce Clause of the

United States Constitution, regarding the wholesale and retail generation, transmission, distribution, and sale of electric energy in interstate commerce.

(b) Several States have taken steps to require competition among retail electric supplies and a large number of other States are expected to act.

(c) It has been the policy of Congress and the Commission to promote competition among wholesale electric suppliers.

(d) It is in the public interest that the transition towards competition in electric service ensures that all consumers receive reliable and competitively-priced electric service.

(e) Electric utility companies that prudently incurred costs pursuant to a regulatory structure that required them to provide electricity to consumers should not be penalized during the transition to competition.

(f) Consumers will not benefit from the introduction of competition among electric energy suppliers if certain suppliers have undue market power.

(g) It is important to encourage conservation and the use of renewable resources to reduce reliance on fossil fuels, promote domestic energy security and protect the environment.

(h) Competition among electric energy suppliers should not degrade reliability nor cause consumers to lose electric service.

### SEC. 3. DEFINITIONS.

For purposes of this Act:

(a) The term "affiliate" of a specific company means any company 5 percent or more of whose outstanding voting securities are owned, controlled, or held with power to vote, directly or indirectly, by such specific company.

(b) The term "aggregator" means any person that purchases or acquires retail electric energy on behalf of two or more consumers.

(c) The term "ancillary services" shall have the same meaning assigned to it by the Commission.

(d) The term "associate company" of a company means any company in the same holding company system with such company.

(e) The term "Commission" means the Federal Energy Regulatory Commission.

(f) The term "company" means a corporation, joint stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, or a receiver or receivers, trustee or trustees of any of the foregoing.

(g) The term "corporation" means any corporation, joint-stock company, partnership, association, rural electric cooperative, municipal utility, business trust, organized group of persons, whether incorporated or not, or a receiver or receivers, trustee or trustees of any of the foregoing.

(h) The term "electric utility company" means any company that owns or operates facilities used for the generation, transmission or distribution of electric energy for sale.

(i) The term "gas utility company" means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers) of natural or manufactured gas for heat, light or power.

(j) The term "holding company system" means a holding company together with its subsidiary companies.

(k) The term "large hydroelectric facility" means a facility which has a power production capacity which, together with any other facilities located at the same site, is greater than 80 megawatts.

(l) The term "local distribution facilities" means facilities used to provide retail electric energy for ultimate consumption.

(m) The term "lost retail benefits" means the increased cost of retail electric energy in a retail electric energy provider's service territory resulting from the sale subsequent to the implementation of retail electric competition, outside such service territory, of electric energy generated at facilities the cost of which were included in the retail rate base of the retail electric energy provider prior to the implementation of retail electric competition.

(n) The term "mitigation" means any widely accepted business practice used by an electric utility company to dispose of or reduce uneconomic assets or costs.

(o) The term "municipal utility" means a city, county, irrigation district, drainage district, or other political subdivision or agency of a State competent under the laws thereof to carry on the business of a retail electric energy provider and/or a retail electric energy supplier.

(p) The term "person" means an individual or corporation.

(q) The term "public utility company" means an electric utility company or gas utility company but does not mean a qualifying facility as defined in the Public Utility Regulatory Policies Act, or an exempt wholesale generator or a foreign utility company defined in the Energy Policy Act of 1992.

(r) The term "public utility holding company" means (A) any company that directly or indirectly owns, controls, or holds with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and (B) any person, determined by the Securities and Exchange Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility or holding company as to make it necessary or appropriate for the protection of consumers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed in this title upon holding companies.

(s) The term "renewable energy" means electricity generated from solar, wind, waste, including municipal solid waste, biomass, hydroelectric or geothermal resources.

(t) The term "Renewable Energy Credit" means a tradable certificate of proof that one unit (as determined by the Commission) of renewable energy was generated by any person.

(u) The term "retail electric competition" means the ability of each consumer in a particular State to purchase retail electric energy from any person seeking to sell electric energy to such consumer.

(v) The term "retail electric energy" means electric energy and ancillary services sold for ultimate consumption.

(w) The term "retail electric energy provider" means any person who distributes retail electric energy to consumers regardless of whether the consumers purchase such energy from the provider or an alternative supplier. A retail electric energy provider may also be a retail electric energy supplier.

(x) The term "retail electric energy supplier" means any person which sells retail electric energy to consumers.

(y) The term "retail stranded costs" means all legitimate, prudent, verifiable and non-mitigatable costs incurred by an electric utility company in all of its generation assets which would have been recoverable in retail rates but for the implementation of retail electric competition, less the total market value of these assets after retail electric competition is implemented. Binding power

purchase contracts and regulatory assets, the costs of which would have been recovered but for the implementation of retail electric competition, shall be considered generation assets for purposes of this subsection.

(z) The term "rural electric cooperative" means a corporation that is currently paying off a loan for the purposes of providing electric service from the Administrator of the Rural Electrification Administration or the Rural Utilities Service under the Rural Electrification Act of 1936.

(aa) The term "State" means any State or the District of Columbia.

(bb) The term "State regulatory authority" means the regulatory body of a State or municipality having sole jurisdiction to regulate rates and charges for the distribution of electric energy to consumers within the State or municipality.

(cc) The term "subsidiary company" of a holding company means—

(1) any company 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(2) any person the management or policies of which the Securities and Exchange Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the protection of consumers that such person be subject to the obligations, duties, and liabilities imposed upon subsidiary companies of public utility holding companies.

(dd) The term "transmission system" means all facilities, including federally-owned facilities, transmitting electricity in interstate commerce in a particular region, including all facilities transmitting electricity in the State of Texas and those providing international interconnections, but does not include local distribution facilities as determined by the Commission.

(ee) The term "wholesale electric energy" means electric energy and ancillary services sold for resale.

(ff) The term "wholesale electric energy supplier" means any person which sells wholesale electric energy.

(gg) The term "wholesale stranded costs" shall have the same meaning as in the Commission's Order No. 888.

(hh) The term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

### SEC. 4. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of the Act, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

### SEC. 5. ENFORCEMENT.

(a) VIOLATION OF THE ACT.—If any individual or corporation or any other retail electric energy supplier or provider fails to comply with the requirements of this Act, any aggrieved person may bring an action against such entity to enforce the requirements of this Act in the appropriate Federal district court.

(b) STATE OR COMMISSION ACTION.—Notwithstanding any other provision of law, any person seeking redress from an action taken by a State regulatory authority, the Commission or a regulatory board pursuant to this Act shall bring such action in the appropriate circuit of the United States Court of Appeals.

**TITLE I—ELECTRIC COMPETITION****SEC. 101. MANDATORY RETAIL ACCESS.**

(a) **CUSTOMER CHOICE.**—Beginning on January 1, 2002, each consumer shall have the right to purchase retail electric energy from any person offering to sell retail electric energy to such consumer, subject to any limitations imposed pursuant to section 104(a) of this Act.

(b) **LOCAL DISTRIBUTION AND RETAIL TRANSMISSION FACILITIES.**—Beginning on January 1, 2002, all persons seeking to sell retail electric energy shall have reasonable and nondiscriminatory access, on an unbundled basis, to the local distribution and retail transmission facilities of all retail electric energy providers and all ancillary services.

**SEC. 102. AGGREGATION.**

Subject to any limitations imposed pursuant to section 104(a) of this Act, a group of consumers or any person acting on behalf of such group may purchase or acquire retail electric energy for the members of the group if they are located in a State or States where there is retail electric competition.

**SEC. 103. PRIOR IMPLEMENTATION.**

(a) **STATE ACTION.**—Nothing in the Federal Power Act (16 U.S.C. 824 et seq.) shall be deemed to prohibit a State or State regulatory authority, if authorized under State law, from requiring retail electric energy providers selling retail electric energy to consumers in such State to provide reasonable and nondiscriminatory access, on an unbundled basis, to its local distribution facilities and all ancillary services to any retail electric energy supplier prior to January 1, 2002.

(b) **GRANDFATHER.**—Legislation enacted by a State or a regulation issued by a State regulatory authority which has the effect of providing all consumers in such State the opportunity to purchase retail electric energy from any retail electric energy supplier by January 1, 2002 and provides electric utility companies with the opportunity to recover their retail stranded costs as defined by this Act (unless there is an agreement between a State or State regulatory authority and a retail electric energy provider which provides for a different level of recovery), shall be deemed to be in compliance with the requirements of sections 101 and 105 of this Act.

(c) **RECIPROCITY.**—A State or State regulatory authority that provides for retail electric competition may preclude any retail electric energy provider selling retail electric energy to consumers in another State and their affiliates from selling retail electric energy to consumers in the State with retail electric competition if the retail electric energy provider does not provide reasonable and nondiscriminatory access, on an unbundled basis, to its local distribution facilities to any retail electric energy supplier.

**SEC. 104. STATE REGULATION.**

(a) **STATE REQUIREMENTS.**—A State or a State regulatory authority may impose requirements on persons seeking to sell retail electric energy to consumers in that State which are intended to promote the public interest, including requirements related to generation reliability and the provision of information to consumers and other retail electric energy suppliers. Any such requirements must be applied on a nondiscriminatory basis and may not be used to exclude any class of potential suppliers, such as retail electric energy providers, from the opportunity to sell retail electric energy.

(b) **MAINTENANCE OF STATE AUTHORITY.**—Nothing in this Act is intended to prohibit a State from enacting laws or imposing regulations related to retail electric energy service that are consistent with the requirements of this Act.

(c) **CONTINUED STATE AUTHORITY OVER DISTRIBUTION.**—A State or State regulatory authority may continue to regulate local distribution service currently subject to State regulation, including billing and metering in any manner consistent with this Act.

**SEC. 105. RETAIL STRANDED COST RECOVERY.**

(a) **APPLICATION FOR DETERMINATION.**—Except as provided in subsection (b), an electric utility company subject to the ratemaking jurisdiction of a State regulatory authority prior to the date of enactment of this Act may submit an application to the State regulatory authority seeking a determination of its total stranded costs in that State if:

(1) the State regulatory authority has issued a regulation or the State has enacted legislation requiring retail electric competition which does not provide for the full recovery of retail stranded costs; or

(2) the electric utility company's retail distribution customers have access to retail competition as a result of the requirements of Section 101 of this Act.

(3) If a State regulatory authority fails to determine the electric utility company's retail stranded costs within 18 months after the date upon which the company applied for a determination of its stranded costs, the Commission shall determine the company's retail stranded costs.

(b) **NONREGULATED UTILITIES.**—A municipal or rural electric cooperative that seeks to recover its retail stranded costs may determine its total retail stranded costs.

(c) **RIGHT OF RECOVERY.**—(1) An electric utility company, municipal utility or retail electric cooperative shall be entitled to full recovery of its retail stranded costs, as determined pursuant to subsection (a) or (b), over a reasonable period of time through a non-bypassable Stranded Cost Recovery Charge imposed on its customers.

(2) A rural electric cooperative which sells wholesale electric energy to rural electric cooperative retail electric energy providers or a joint action agency which sells wholesale electric energy to municipal retail electric energy providers may recover wholesale stranded costs from such rural electric cooperative or municipal retail electric energy providers. Such cost recovery shall be deemed a retail stranded cost of the rural electric cooperative or municipal retail electric energy provider.

(d) **PROHIBITION ON COST-SHIFTING.**—(1) No class of consumers in a State shall be assessed a Stranded Cost Recovery Charge that a State regulatory authority or the Commission, whichever is applicable, determines is in excess of the class' proportional responsibility for the retail electric energy provider's costs that existed prior to the implementation of retail electric competition in such State.

(2) Customers of a retail electric energy provider that serves consumers in more than one State or that is affiliated with another retail electric energy provider shall only be responsible for stranded costs associated with retail electric competition in the State or area in which such customers are located.

(e) **PRIOR PRUDENCE DETERMINATIONS.**—Nothing in this Act is intended to affect or modify or permit the modification of a final determination made by the Commission or a State regulatory authority or an agreement entered into by the Commission or a State regulatory authority with regard to the prudence of any costs associated with a particular generating facility or contract.

**SEC. 106. WHOLESALE STRANDED COST RECOVERY.**

(a) **COMMISSION REGULATION.**—The Commission shall have sole jurisdiction to determine and provide for the recovery of wholesale stranded costs associated with wholesale

electric competition with regard to public utilities subject to the jurisdiction of the Commission pursuant to the Federal Power Act.

**(b) REGIONAL GENERATING FACILITIES.**

(1) The consent of Congress is given for the creation of a regional board if—

(A) each State regulatory authority regulating an affiliate of a public utility holding company with affiliate retail electric energy providers serving customers in more than one state elects to join such a board;

(B) an affiliate of the public utility holding company owns and/or operates a generating facility and sells power from that facility to two or more affiliates of the same holding company and did not sell retail electric energy prior to January 30, 1997 (hereinafter referred to as the "wholesale generating company"); and

(C) the public utility holding company notifies each State regulatory authority which regulates a retail electric energy provider affiliated with the holding company that it intends to seek recovery of the wholesale stranded costs associated with the generating facility or facilities (described in subsection (b)(1)(B)) owned by the wholesale generating company affiliated with such holding company.

(2) The regional board shall be formed if each State regulatory authority elects to create the board within six months after receiving the notification described in subsection (b)(1)(C). If such elections are not made within the requisite time period, the Commission shall assume the responsibilities of the board as described in this section.

(3) The regional board shall have 18 months after the date it is formed to determine, on a unanimous basis, the wholesale stranded costs associated with the generating facility which is the subject of the proceeding and to allocate such costs among the retail electric energy provider affiliates of the public utility holding company on a just and reasonable and nondiscriminatory basis.

(4) If the regional board fails to make either or both determinations, as described in subsection (b)(3) in the requisite time period, the Commission shall make the determination or determinations that have yet to be made.

(5) After its level of wholesale stranded costs is determined pursuant to this subsection, the wholesale generating company affiliate of the holding company shall be entitled to fully recover its stranded costs, over a reasonable period of time, from the retail electric energy provider affiliates to which it sells electric energy pursuant to the procedures established by this subsection.

(6) A retail electric energy provider's wholesale stranded cost payment obligations pursuant to this subsection shall be deemed retail stranded costs for the purposes of section 105 of this Act.

**SEC. 107. LOST RETAIL BENEFITS.**

A State may require a retail electric energy provider to compensate its retail customers for lost retail benefits if, after retail competition is implemented, the market value of all of the provider's generating assets in the rate base prior to the implementation of retail electric competition is greater than the total costs of these assets that would have been recoverable in retail rates but for the implementation of retail electric competition. No retail electric energy provider shall be required to compensate its customers in an amount that exceeds the increased market value of its generating assets resulting from the implementation of retail electric competition.

**SEC. 108. UNIVERSAL SERVICE**

(a) **STATE UNIVERSAL SERVICE PROGRAMS.**—A State may establish a Universal Service

Program that ensures that all consumers have access to purchase retail electric energy from at least one retail electric energy supplier at a just and reasonable rate.

(b) **SERVICE OBLIGATION.**—(1) After January 1, 2002, each retail electric energy provider located in a State that has not yet established a Universal Service Program described in subsection (a) shall be obligated to sell retail electric energy to, or purchase retail electric energy on behalf of, any of its customers in a particular geographic area in which a State regulatory authority or the Commission, if the State regulatory authority fails to make a determination pursuant to a request by an affected person, determines that there is not effective retail electric competition in such area and the consumer has not affirmatively chosen a retail electric energy supplier.

(2) The retail electric energy provider performing the service described in subsection (b)(1) is entitled to a just and reasonable rate from the consumer receiving such service.

(c) **UNIVERSAL SERVICE FUND.**—A State or a State regulatory authority, if authorized by the State, may impose a nonbypassable Universal Service Charge on all customers of every retail electric energy provider in such State to fund all or part of the costs of a Universal Service Program, including the partial or full payment of the charges a provider may recover pursuant to subsection (b)(2).

#### SEC. 109. PUBLIC BENEFITS.

Nothing in this Act shall prohibit a State or State regulatory authority from assessing charges on retail consumers of energy to fund public benefits programs such as those designed to aid low-income energy consumers, promote energy research and development or achieve energy efficiency and conservation.

#### SEC. 110. RENEWABLE ENERGY.

(a) **MINIMUM RENEWABLE REQUIREMENT.**—Beginning on January 1, 2004 and each year thereafter, every retail electric energy supplier shall submit to the Commission Renewable Energy Credits in an amount equal to the required annual percentage of the total retail electric energy sold by such supplier in the preceding calendar year.

(b) **STATE RENEWABLE ENERGY PROGRAMS.**—Nothing in this section shall be construed to prohibit any State or any State regulatory authority from requiring additional renewable energy generation in that State under any program adopted by the State.

(c) **REQUIRED ANNUAL PERCENTAGE.**—Beginning in calendar year 2003, the required annual percentage for each retail electric energy supplier shall be 5 percent. Thereafter, the required annual percentage for each such supplier shall be 9 percent beginning in calendar year 2008 and 12 percent beginning in calendar year 2013.

(d) **SUBMISSION OF CREDITS.**—A retail electric energy supplier may satisfy the requirements of subsection (a) through the submission of—

(1) Renewable Energy Credits issued by the Commission under this section for renewable energy sold by such supplier in such calendar year.

(2) Renewable Energy Credits issued by the Commission under this section to any other retail electric energy supplier for renewable energy sold in such calendar year by such other supplier and acquired by such retail electric energy supplier.

(3) Any combination of the foregoing.

A Renewable Energy Credit that is submitted to the Commission for any year may not be used for any other purposes thereafter.

(e) **ISSUANCE OF RENEWABLE ENERGY CREDITS.**—

(1) The Commission shall establish by rule after notice and opportunity for hearing but not later than one year after the date of en-

actment of this Act, a National Renewable Energy Trading Program to issue Renewable Energy Credits to retail electric suppliers. Renewable Energy Credits shall be identified by type of generation and the State in which the facility is located. Under such program, the Commission shall issue—

(A) one-half of one Renewable Energy Credit to any retail electric energy supplier who sells one unit of renewable energy generated at a large hydroelectric facility;

(B) one Renewable Energy Credit to any retail electric energy supplier who sells one unit of renewable energy generated at a facility, other than a large hydroelectric facility, built prior to the date of enactment of this Act; and

(C) two Renewable Energy Credits to any retail electric supplier who sells one unit of renewable energy generated at a facility, other than a large hydroelectric facility, built on or after the date of enactment of this Act.

(2) The Commission shall impose and collect a fee on recipients of Renewable Energy Credits in an amount equal to the administrative costs of issuing, recording, monitoring the sale or exchange, and tracking such Credits.

(f) **SALE OR EXCHANGE.**—Renewable Energy Credits may be sold or exchanged by the person issued or the person who acquires the Credit. A Renewable Energy Credit for any year that is not used to satisfy the minimum renewable sales requirement of this section for that year may not be carried forward for use in another year. The Commission shall promulgate regulations to provide for the issuance, recording, monitoring the sale or exchange, and tracking of such Credits. The Commission shall maintain records of all sales and exchanges of Credits. No such sale or exchange shall be valid unless recorded by the Commission.

(g) **USE OF PROCEEDS BY BPA.**—The Administrator of the Bonneville Power Administration shall use the proceeds from the sale of any Renewable Energy Credit issued to the Bonneville Power Administration under this section for its retail electric energy sales to repay the Administration's outstanding debt to the United States Treasury and bondholders of securities backed by the Bonneville Power Administration.

(h) **RULES AND REGULATIONS.**—The Commission shall promulgate such rules and regulations as may be necessary to carry out this section, including such rules and regulations requiring the submission of such information as may be necessary to verify the annual electric generation and renewable energy generation which is supplied by any person applying for Renewable Energy Credits under this section or to verify and audit the validity of Renewable Energy Credits submitted by any person to the Commission.

(i) **ANNUAL REPORTS.**—The Commission shall gather available data and measure compliance with the requirements of this section and the success of the National Renewable Energy Trading Program established under this section. On an annual basis not later than May 31 of each year, the Commission shall publish a report for the previous year that includes compliance data, National Renewable Energy Trading Program results, and steps taken to improve the Program results.

(j) **SUNSET.**—The requirements of this section shall cease to apply on December 31, 2019.

#### SEC. 111. DETERMINATION OF LOCAL DISTRIBUTION FACILITIES.

(a) **APPLICATION BY STATE REGULATORY AUTHORITY.**—A State regulatory authority may apply to the Commission for a determination whether a particular facility used for the transportation of electric energy located in such State is a local distribution facility subject to the jurisdiction of that State regulatory authority or is a transmission facil-

ity subject to the jurisdiction of the Commission.

(b) **COMMISSION FINDINGS.**—If an application is submitted pursuant to subsection (a) the Commission shall make a determination giving the maximum practicable deference to the position taken by the State regulatory authority, in accordance with the following factors associated with the facility:

- (1) function and purpose;
- (2) size;
- (3) location;
- (4) voltage level and other technical characteristics;
- (5) historic, current and planned usage patterns;
- (6) interconnection and coordination with other facilities; and
- (7) any other factor the Commission deems relevant.

#### SEC. 112. TRANSMISSION.

(a) **TRANSMISSION REGIONS.**—Within two years after the date of enactment of this Act, the Commission shall establish the broadest feasible transmission regions and designate an Independent System Operator to manage and operate the transmission system in each region beginning on January 1, 2002. In establishing transmission regions and designating Independent System Operators the Commission shall give deference to Independent System Operators approved by the Commission prior to the date of enactment of this Act, if it would be consistent with the requirements of this section.

(b) **INDEPENDENT SYSTEM OPERATORS.**—A person designated as an Independent System Operator shall not be subject to the control of—

(1) any person owning any transmission facilities located in the region in which the Independent System Operator will operate; or

(2) any retail electric energy supplier selling retail electric energy to consumers in the region in which the Independent System Operator will operate.

(c) **TRANSMISSION REGULATION.**—

(1) The Commission shall continue to have authority over the transmission of electric energy in interstate commerce by the Independent System Operator within the transmission region designated by the Commission.

(2) The Commission shall have authority over the transmission of electric energy in interstate commerce between two or more transmission regions designated by the Commission.

(3) Sections 212(f) and 212(j) of the Federal Power Act (16 U.S.C. 824k(f) and 824k(j)) are repealed effective January 1, 2002.

(4) Section 212(g) of the Federal Power Act (16 U.S.C. 824k(g)) is amended by adding "prior to January 1, 2002" immediately following "utilities".

(5) Section 212(h) of the Federal Power Act (16 U.S.C. 824k(h))—

(A) shall not apply after the date of enactment of this Act where a retail electric energy supplier is seeking access to a transmission facility for the purpose of selling retail electric energy to a consumer located in a State that has authorized retail electric competition prior to January 1, 2002; or

(B) is repealed effective January 1, 2002.

(f) **RULES.**—On or before January 1, 2001, the Commission shall issue binding rules governing oversight of the Independent System Operators and designed to promote transmission reliability and efficiency and competition among retail and wholesale electric energy suppliers, including rules related to transmission rates that inhibit competition and efficiency.



**SEC. 113. COMPETITIVE GENERATION MARKETS.****(a) MERGERS.—**

(1) Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) is amended by adding "including the promotion of competitive wholesale and retail electric generation markets," immediately following "public interest".

(2) Section 203 of the Federal Power Act (16 U.S.C. 824b) is further amended by adding at the end the following:

"(c) ACQUISITION OF NATURAL GAS UTILITY COMPANY.—No public utility shall acquire the facilities or securities of a natural gas utility company unless the Commission finds that such acquisition is in the public interest.

"(d) DEFINITION.—For purposes of this section, the term "natural gas utility company" means any company that owns or operates facilities used for the transportation at wholesale, or the distribution at retail (other than the distribution only in enclosed portable containers) of natural or manufactured gas for heat, light, or power."

(b) MARKET POWER.—The Commission may take such actions as it determines are necessary, including the following:

(1) ordering the physical connection of generating or transmission facilities,

(2) ordering a transmitting utility (as defined in section 3(23) of the Federal Power Act (16 U.S.C. 796(23)) to provide transmission services (including any enlargement of transmission capacity (consistent with applicable state law) necessary to provide such services), or

(3) requiring the divestiture of generating or transmission facilities, in order to prohibit any retail or wholesale electric energy supplier or retail electric energy provider or any affiliate thereof, from using its ownership or control of resources to maintain a situation inconsistent with effective competition among retail and wholesale electric suppliers.

**SEC. 114. NUCLEAR DECOMMISSIONING COSTS.**

To ensure safety with regard to the public health and safe decommissioning of nuclear generating units, any retail and wholesale electric energy supplier owning nuclear generating units prior to the date of enactment of this Act shall recover all reasonable costs (as determined by the Commission and relevant State regulatory authorities) associated with Federal and State requirements for the decommissioning of such nuclear generating units pursuant to a non-bypassable charge imposed on all consumers located in the service territories purchasing power, or that had purchased power, from such nuclear generating units. In overseeing the non-bypassable charge, a State regulatory authority may take into account the greater cost responsibility of those consumers which continue to purchase power generated at a nuclear unit.

**SEC. 115. RIGHT TO KNOW.**

Beginning on January 1, 2002, the Commission shall ensure that each retail electric energy supplier discloses to the public information on the types of fuel used to generate the electricity sold by the supplier, including the percentage of the electric energy sold by the supplier that is generated by each fuel type.

**SEC. 116. EXEMPTION OF ALASKA AND HAWAII.**

This title shall not apply to any person located in Alaska or Hawaii with regard to any activity or transaction occurring in Alaska or Hawaii.

**TITLE II—PUBLIC UTILITY HOLDING COMPANIES****SEC. 201. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.**

The Public Utility Holding Company Act of 1935, as amended, 15 U.S.C. 79 et seq., is

hereby repealed, effective one year from the date of enactment of this Act.

**SEC. 202. EXEMPTIONS.**

(a) FEDERAL AND STATE AGENCIES.—No provision of this title shall apply to: (1) the United States, (2) a State or any political subdivision of a State, (3) any foreign governmental authority not operating in the United States, (4) any agency, authority, or instrumentality of any of the foregoing, or (5) any officer, agent, or employee of any of the foregoing acting as such in the course of his official duty.

(b) UNNECESSARY PROVISIONS.—The Commission, by rule or order, may conditionally or unconditionally exempt any person or transaction, or any class or classes of persons or transactions, from any provision or provisions of this title or of any rule or regulation thereunder, if the Commission finds that regulation of such person or transaction is not relevant to the rates of a public utility company. The Commission shall not grant such an exemption, except with regard to section 204 of this Act, unless all affected State regulatory authorities consent.

(c) RETAIL COMPETITION.—The provisions of this title shall not apply to a holding company and every associate company of such holding company if the Commission certifies that the retail customers of every public utility subsidiary of such holding company have access to retail electric competition and each State regulatory authority regulating the retail electric energy provider subsidiaries of the holding company certify that they will have sufficient access to the holding company's books and records relevant to their regulatory responsibilities.

**SEC. 203. FEDERAL ACCESS TO BOOKS AND RECORDS.**

(a) PROVISION OF BOOKS AND RECORDS.—Every holding company and associate company thereof shall maintain, and make available to the Commission, such books, records, accounts, and other documents as the Commission deems relevant to costs incurred by a public utility company that is an associate company of such holding company and necessary or appropriate for the protection of consumers with respect to rates.

(b) EXAMINATION OF BOOKS AND RECORDS.—The Commission may examine the books and records of any company in a holding company system, or any affiliate thereof, as the Commission deems relevant to costs incurred by a public utility company within such holding company system and necessary or appropriate for the protection of consumers with respect to rates.

(c) PROTECTED INFORMATION.—No member, officer, or employee of the Commission shall divulge any fact or information that may come to his knowledge during the course of examination of books, accounts, or other information as hereinbefore provided, except insofar as he may be directed by the Commission or by a court.

**SEC. 204. STATE ACCESS TO BOOKS AND RECORDS.**

(a) PROVISION OF BOOKS AND RECORDS.—Every holding company and associate company thereof, shall maintain, and make available to each State regulatory authority regulating the rates of any public utility subsidiary of such holding company, such books, records, accounts, and other documents as the State regulatory authority deems relevant to costs incurred by a public utility company that is an associate company of such holding company and necessary or appropriate for the protection of consumers with respect to rates.

(b) PROTECTED INFORMATION.—No member, officer, or employee of a State regulatory authority shall divulge any fact or information that may come to his knowledge during

the course of examination of books, accounts, or other information as hereinbefore provided, except insofar as he may be directed by the State regulatory authority or a court.

**SEC. 205. AFFILIATE TRANSACTIONS.**

(a) INTERAFFILIATE TRANSACTIONS.—Both the Commission, with regard to wholesale rates, and State regulatory authorities, with regard to retail rates, shall have the authority to determine whether a public utility company may recover in rates any costs of goods and services acquired by such public utility company from an associate company after the date of enactment regardless of when the contract for the acquisition of such goods and services was entered into.

(b) ASSOCIATE COMPANIES.—Both the Commission, with regard to wholesale rates, and State regulatory authorities, with regard to retail rates, shall have the authority to determine whether a public utility company may recover in rates any costs associated with an activity performed by an associate company.

**(c) INTERAFFILIATE POWER TRANSACTIONS.—**

(1) Each State regulatory authority shall have the authority to examine the prudence of a wholesale electric power purchase made by a public utility, which is not an associate company of a public utility holding company, providing retail electric service subject to regulation by the State regulatory authority.

(2) Each State regulatory authority shall have the authority to examine the prudence of a wholesale electric power purchase made by a public utility, which is an associate company of a public utility holding company, providing retail electric service subject to regulation by the State regulatory authority, provided that the costs related to such purchase have not been allocated among two or more associated companies of such public utility holding company, by the Commission prior to the date of enactment and there is no subsequent reallocation after the date of enactment.

**SEC. 206. CLARIFICATION OF REGULATORY AUTHORITY.**

No public utility which is an associate company of a holding company may recover in rates from wholesale or retail customers any costs (other than wholesale or retail stranded costs) not associated with the provision of electric service to such customers, including those direct and indirect costs related to investments not associated with the provision of electric service to those customers, unless the Commission, with regard to wholesale rates, or a State regulatory authority, with regard to retail rates, explicitly consents.

**SEC. 207. EFFECT ON OTHER REGULATION.**

Nothing in this Act shall preclude a State regulatory authority from exercising its jurisdiction under otherwise application law to protect utility consumers.

**SEC. 208. ENFORCEMENT.**

The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825d-825p) to enforce the provisions of this title.

**SEC. 209. SAVINGS PROVISION.**

Nothing in this title prohibits a person from engaging in activities in which it is legally engaged or authorized to engage on the date of enactment of this title provided that it continues to comply with the terms of any authorization, whether by rule or by order.

**SEC. 210. IMPLEMENTATION.**

The Commission shall promulgate regulations necessary or appropriate to implement this title not later than six months after the date of enactment of this Act.

**SEC. 211. RESOURCES.**

All books and records that relate primarily to the function hereby vested in the Commission shall be transferred from the Securities

and Exchange Commission to the Commission.

### **TITLE III—PUBLIC UTILITY REGULATORY POLICIES ACT**

#### **SEC. 301. DEFINITION.**

For purposes of this title, the term "facility" means a facility for the generation of electric energy or an addition to or expansion of the generating capacity of such a facility.

#### **SEC. 302. FACILITIES.**

Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a-3) shall not apply to any facility which begins commercial operation after the effective date of this title, except a facility for which a power purchase contract entered into under such section was in effect on such effective date.

#### **SEC. 303. CONTRACTS.**

After the effective date of this title or after the date on which retail electric competition, as defined in title I of this Act, is implemented in all of its service territories, whichever is earlier, no public utility company shall be required to enter into a new contract or obligation to purchase or sell electric energy pursuant to section 210 of the Public Utility Regulatory Policies Act of 1978.

#### **SEC. 304. SAVINGS CLAUSE.**

Notwithstanding sections 302 and 303, nothing in this title shall be construed:

(a) as granting authority to the Commission, a State regulatory authority, electric utility company, or electric consumer, to reopen, force, the renegotiation of, or interfere with the enforcement of power purchase contracts or arrangements in effect on the effective date of this Act between a qualifying small power producer and any electric utility or electric consumer, or any qualifying cogenerator and any electric utility or electric consumer.

(b) To affect the rights and remedies of any party with respect to such a power purchase contract or arrangement, or any requirement in effect on the effective date of this Act to purchase or to sell electric energy from or to a qualifying small power production facility or qualifying cogeneration facility.

#### **SEC. 305. EFFECTIVE DATE.**

This title shall take effect on January 1, 2002.

### **TITLE IV—ENVIRONMENTAL PROTECTION**

#### **SEC. 401. STUDY.**

The Environmental Protection Agency, in consultation with other relevant Federal agencies, shall prepare and submit a report to Congress by January 1, 2000, which examines the implications of differences in applicable air pollution emissions standards for wholesale and retail electric generation competition and for public health and the environment. The report shall recommend changes to Federal law, if any are necessary, to protect public health and the environment.

### **TITLE V—BONNEVILLE POWER ADMINISTRATION**

#### **SEC. 501. FINDINGS AND PURPOSES.**

(a) **FINDINGS.**—The Congress finds that:

(1) The multi-purpose Federal Columbia River Power System's Federal and non-Federal dams have provided immeasurable benefits to the Pacific Northwest by providing flood control, renewable hydroelectric power, irrigation, navigation, and recreation;

(2) The dams provide the Northwest with a continuing source of clean and renewable power but, along with over-fishing and other natural and human impacts on the ecosystem, have adversely affected the Columbia Basin's fish and wildlife;

(3) Enactment of the Energy Policy Act of 1992 established competition for the wholesale supply of electricity, and market forces have driven the cost of power down nationally, the Northwest included, and has allowed utilities and large users to buy power at rates below those offered by the Bonneville Power Administration;

(4) Realizing the new economic forces impacting electricity, the four Northwest State Governors undertook a year-long review in 1996 of the regional electricity system and made recommendations for the future of the system;

(5) Among these recommendations is the separation of the transmission and power marketing functions of the Bonneville Power Administration, with Commission oversight of access to Bonneville's transmission system, and undertaking this separation in a way that does not impair Bonneville's ability to meet its obligations to the U.S. Treasury, fish and wildlife programs, and bondholders of the Washington Public Power Supply System;

(6) There are ongoing efforts by Bonneville to reduce its costs and require accountability of its funds, including those of its funds used for salmon recovery; and

(7) There is a need to provide a regional process involving the Federal Government, state governments, tribal governments, utilities and other users of the water of the Columbia and Snake River System, to balance the multiple objectives of the river system.

(b) **PURPOSES.**—The purposes of this title are:

(1) To establish authority in a consolidated regional governing body that will balance the multiple uses of the Columbia and Snake river system, for hydroelectric production, for irrigation, for recreation, for the protection and enhancement of fish and wildlife populations, and for flood control, with that body to be responsible and accountable for spending funds for these purposes;

(2) To facilitate the maintenance of an open transmission system in the Northwest based on Commission rules and to ensure its reliability; and

(3) To assure that the Bonneville Power Administration retains the ability to meet its unique financial obligations to the U.S. Treasury, to fish and wildlife projects, to the bondholders of the Washington Public Power Supply System, and to remain a competitive wholesale supplier of electricity.

#### **SEC. 502. COLUMBIA RIVER FISH AND WILDLIFE COORDINATION AND GOVERNANCE.**

This section is reserved.

#### **SEC. 503. PACIFIC NORTHWEST FEDERAL TRANSMISSION ACCESS.**

The Commission's rules on nondiscriminatory open access to transmission services provided by public utilities, including its rules on standards of conduct, shall also apply to transmission services provided by the Bonneville Power Administration, except as otherwise provided by the Commission by rule if it is in the public interest, or except as necessitated by the requirements of section 504 or 506 of this Act. Except as provided in sections 504 and 508 of this Act, rates for transmission imposed by the Administrator shall continue to be established and reviewed and approved in accordance with the provisions of otherwise applicable Federal laws.

#### **SEC. 504. TRANSITION COST MECHANISM.**

If the Bonneville Power Administration proposes a charge to recover its transition costs resulting from this Act, the Energy Policy Act, or the Commission's Order No. 888, a transition cost recovery mechanism shall be developed and adopted by the Commission within 180 days of the filing of the proposal with the Commission.

#### **SEC. 505. INDEPENDENT SYSTEM OPERATOR PARTICIPATION.**

Notwithstanding any other provision of law, the Administrator of the Bonneville Power Administration may participate in a regulated Independent System Operator subject to the jurisdiction of the Commission pursuant to section 112 of this Act.

#### **SEC. 506. FINANCIAL OBLIGATIONS.**

Sections 503, 504 and 505 of this Act shall be interpreted and implemented in a manner that does not adversely affect the security of the Bonneville Power Administration's Washington Public Power Supply System net-billing and other third-party financing arrangements.

#### **SEC. 507. PROHIBITION ON RETAIL SALES.**

Except as provided in section 5(d) of the Northwest Power Act (16 U.S.C. 839c(d)), the Administrator shall not market, sell or dispose of electric power to any end use or retail customers that did not have a contract for the purchase of electric power with the Administrator for services to specific facilities as of October 1, 1997.

#### **SEC. 508. CLARIFICATION OF COMMISSION AUTHORITY.**

Section 7(a)(2) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839e(a)(2)) is amended—

(1) by deleting the word "costs," in paragraph (B);

(2) by striking the period at the end of paragraph (C) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new paragraph:

"(D) insofar as transmission rates are concerned, the rates do not discriminate between transmission users or classes of users in a manner that has the effect of unreasonably denying transmission access under section 503 of this Act."

#### **SEC. 509. REPEALED STATUTE.**

Section 6 of the Federal Columbia River Transmission System Act (16 U.S.C. 838d) is hereby repealed.

### **TITLE VI—TENNESSEE VALLEY AUTHORITY**

#### **SEC. 601. COMPETITION IN SERVICE TERRITORY.**

Notwithstanding any other provision of law, beginning on January 1, 2002, all retail and wholesale electric energy suppliers shall have the right to sell retail and wholesale electric energy to persons that currently purchase retail or wholesale electric energy either directly from the Tennessee Valley Authority or persons purchasing electric energy from the Tennessee Valley Authority.

#### **SEC. 602. ABILITY TO SELL ELECTRIC ENERGY.**

(a) **TVA.**—Notwithstanding any other provision of law, the Tennessee Valley Authority may sell wholesale electric energy to any person, subject to any restrictions imposed pursuant to Section 104(a) of this Act, beginning on January 1, 2002.

(b) **POWER CUSTOMERS.**—Notwithstanding any other provision of law, persons that currently purchase wholesale electric energy from the Tennessee Valley Authority may sell wholesale and retail electric energy to any persons subject to any restrictions imposed pursuant to section 104(a) of this Act, beginning on January 1, 2002.

#### **SEC. 603. TERMINATION OF CONTRACTS.**

(a) **NOTICE.**—Beginning on January 1, 2001, the Tennessee Valley Authority shall allow any person that has executed a contract to purchase retail or wholesale electric energy from it to terminate such contract upon one year's notice.

(b) **STRANDED COSTS.**—Each person holding a contract that is terminated pursuant to subsection (a) shall be responsible for retail or wholesale stranded costs as determined by the Commission.

**SEC. 604. RATES FOR ELECTRIC ENERGY.**

(a) **ESTABLISHMENT.**—Notwithstanding any other provision of law, the Board of Directors of the Tennessee Valley Authority shall establish, and periodically review and revise, rates for the sale and disposition of wholesale and retail electric energy and for the transmission of electric energy by the Tennessee Valley Authority. Such rates shall be established and, as appropriate, revised to recover, in accordance with sound business principles, the costs associated with the generation, acquisition, conservation, transmission, and distribution of electric energy, including the payment of principal and interest on the Authority's bonds over a reasonable period.

(b) **COMMISSION REVIEW.**—Rates established under this section shall become effective only upon confirmation and approval by the Commission, upon a finding by the Commission that such rates are sufficient to ensure repayment of the Authority's bonds over a reasonable number of years after first meeting the Authority's legitimate, prudent, and verifiable costs.

**SEC. 605. PRIVATIZATION STUDY.**

(a) **REQUIREMENT FOR PREPARATION OF STUDY.**—The Board of Directors of the Tennessee Valley Authority shall prepare a study for selling its electric power program (excluding dams and appurtenant works and structures) to private investors and, not later than two years after the date of enactment of this Act, shall submit such plan to the Congress.

(b) **CONTENTS OF STUDY.**—The study shall consider the following—

(1) both the sale of the authority's electric power program as a whole and the sale of some or all of its component parts;

(2) alternative means of selling the Authority's electric power program or its component parts, including a public stock offering, a private placement of stock, or the sale of assets; and

(3) the effect of any sale on—

(A) electric rates and competition in the regional electricity market,

(B) the operation of the Authority's nonpower programs, and

(C) the repayment of the Authority's debt.

(c) **ADDITIONAL ELEMENTS.**—The study shall also include—

(1) An estimate of the amount of revenue that the United States Treasury would receive under each of the alternatives considered;

(2) the Board's analysis of the feasibility of each of the alternatives considered and its recommendation either for retaining the Authority's power program under federal ownership or the preferred alternative for selling it to private investors; and

(3) the Board's recommendation of whether the Authority's dams should—

(A) be transferred to the Department of the Army Corps of Engineers and responsibility for marketing electric energy produced by such dams assigned to the Southeastern Power Marketing Administration, or

(B) continue to be controlled by, and the electric energy they produce continue to be marketed by the Tennessee Valley Authority.

(d) **FURTHER ACTION.**—The Board of Directors shall take no action to implement the sale of the Authority's power program without further legislation authorizing such action.

**TRANSITION TO ELECTRIC COMPETITION ACT OF 1997—SECTION-BY-SECTION ANALYSIS**

**TITLE I—ELECTRIC COMPETITION**

**Section 101—Mandatory Retail Access**

All consumers (including current customers of investor-owned municipal and

rural cooperative electric utilities) have the right to purchase retail electric energy beginning on January 1, 2002.

All retail electric energy suppliers (entities selling retail electric energy) have access to local distribution facilities and all ancillary services beginning on January 1, 2002.

**Section 102—Aggregation**

A group of consumers or any entity acting on behalf of such group is authorized to aggregate to purchase retail electric energy for the members of the group if they live in a State where retail electric competition exists.

**Section 103—Prior Implementation**

Nothing in the Federal Power Act shall prohibit States from requiring retail electric competition prior to January 1, 2002.

A State requiring retail electric competition prior to January 1, 2002 and providing utilities with the opportunity to recover stranded costs is exempt from the Act's requirements related to retail competition and stranded costs.

A State may impose reciprocity requirements if it has provided for retail competition to prevent utilities that aren't subject to retail competition from selling power to retail customers in its state.

**Section 104—State Regulation**

States may impose requirements on retail electric energy suppliers to protect the public interest.

No class of potential retail electric energy suppliers can be excluded from selling retail electric energy.

States may continue to regulate local distribution and retail transmission service provided by retail electric energy providers.

**Section 105—Retail Stranded Cost Recovery**

An investor-owned utility providing retail electric service prior to the date of enactment which is seeking recovery of its stranded costs must request the State regulatory authority to determine the amount of its stranded costs associated with the implementation of retail electric competition.

If a State regulatory authority fails to determine the amount of stranded costs within 18 months of the request, FERC will determine the amount.

A municipal electric utility or a rural electric cooperative may determine the amount of its stranded costs.

A utility is entitled to recover its stranded costs from its customers pursuant to a nonbypassable Stranded Cost Recovery Charge.

A rural electric cooperative or municipal joint action agency that sells wholesale power to rural electric cooperative or municipal distribution companies may recover its stranded costs from the distribution companies.

No class of customers (such as a utility's residential customers) can be required to pay a Stranded Cost Recovery Charge in excess of its proportional responsibility for utility costs prior to the implementation of retail electric competition.

Customers served by utility companies operating in more than one state either directly or through an affiliate are only responsible for stranded costs arising from retail electric competition in the state they reside.

For purposes of determining stranded cost amounts, prior prudence determinations are binding.

**Section 106—Wholesale Stranded Cost Recovery**

FERC has sole jurisdiction to determine and provide for the recovery of the wholesale stranded costs associated with utilities subject to the Federal Power Act.

All of the states regulating utility subsidiaries of a multistate utility holding company may form a regional board to calculate the stranded costs of a wholesale electric supplier subsidiary of the holding company that does not sell any retail electric energy and to allocate such costs among the utility subsidiaries of the holding company.

If the regional board is not formed or if the members of the regional board fail to produce a consensus on either determination required of the board, FERC shall perform the board's responsibilities.

Once the wholesale subsidiary's stranded costs have been determined, the subsidiary is entitled to recover such costs from its affiliated utility companies in the manner allocated by the board or FERC and the utility companies are entitled to recover such costs from its customers.

**Section 107—Lost Retail Benefits**

A state may require a retail electric energy provider to compensate its customers for any increase in power costs resulting from the implementation of retail electric competition if the market value of the provider's generating assets increase and the provider sells power elsewhere due to the implementation of retail electric competition.

**Section 108—Universal Service**

A state may establish a Universal Service Program to ensure that all consumers have access to electric service at a just and reasonable rate.

If a state has not established a Universal Service Program prior to January 1, 2002, each retail electric energy provider located in that state is obligated to sell power to or purchase power on behalf of consumers that do not have sufficient access to competing retail electric energy suppliers.

The retail electric energy provider is entitled to just and reasonable compensation for the service performed.

States may impose a nonbypassable Universal Service Charge to help pay for the retail electric energy provider's compensation.

**Section 109—Public Benefits**

States may impose charges on retail electric energy consumers to fund public benefit programs (i.e. low-income and energy efficiency).

**Section 110—Renewable Energy**

Beginning of 2003, all retail electric energy suppliers are required to either (1) sell at least a minimum amount of renewable energy as part of the total amount of energy it sells or (2) purchase credits from retail electric energy suppliers that sell renewable energy in excess of the minimum requirements.

½ of one Renewable Energy Credit will be provided to retail electric energy suppliers selling power generated from a large hydroelectric facility (more than 80 MW). One Renewable Energy Credit will be provided to retail electric energy suppliers selling power generated at all other renewable electric facilities built prior to the date of enactment. Two Renewable Energy Credits will be provided to retail electric energy suppliers selling power generated at all other renewable electric facilities built subsequent to the date of enactment.

Retail electric energy suppliers are required to have Credits worth 5% of its generation beginning in 2003, 9% of its generation beginning in 2008 and 12% of its generation beginning in 2013.

The Bonneville Power Administration must use proceeds from the sale of Credits issued to it to repay the Administration's outstanding debt to the U.S. Treasury and the Washington Public Power supply System Bondholders.

**Section 111—Determination of Local Distribution Facilities**

A State regulatory authority may apply with FERC for a determination of whether a

particular facility constitutes a local distribution facility.

FERC will give the position of the State regulatory authority maximum practicable deference.

#### *Section 112—Transmission*

Within two years of the date of enactment FERC must establish transmission regions and designate an Independent System Operator (ISO) to manage and operate all of the transmission facilities in each region beginning on January 1, 2002.

The ISO can't be affiliated with any person owning transmission facilities in the region or any retail electric energy supplier selling retail electric energy in the region.

FERC is required to issue rules by January 1, 2001 applicable to its oversight of the ISO's to promote transmission reliability and efficiency and competition among retail and wholesale electric energy suppliers.

The Federal Power Act prohibition on FERC requiring transmission access for the purposes of retail wheeling is repealed on January 1, 2002 or at an earlier date for a particular retail wheeling request in a State that retail electric competition prior to January 1, 2002.

#### *Section 113—Competitive Generation Markets*

FERC's authority over utility mergers pursuant to the Federal Power Act is extended to electric utility mergers with natural gas utility companies.

FERC review of mergers must take into account the impact of a merger on competitive wholesale and retail electric generation markets.

FERC has authority to take actions necessary to prohibit retail electric energy suppliers and providers from using their control of resources to inhibit retail and wholesale electric competition.

#### *Section 114—Nuclear Decommissioning Costs*

Utilities owning nuclear power plants prior to the date of enactment are entitled to recover costs to fund decommissioning of the plants from their customers pursuant to a non-bypassable charge.

#### *Section 115—Right to Know*

Each retail electric energy supplier must publicly disclose information on the types of fuel used to generate the electricity sold by the supplier.

#### *Section 116—Exemption of Alaska and Hawaii*

Title I does not apply to any transaction occurring in Alaska or Hawaii.

#### **TITLE II—PUBLIC UTILITY HOLDING COMPANIES**

##### *Section 201—Repeal of PUHCA*

PUHCA is repealed one year from the date of enactment of the Act.

##### *Section 202—Exemption*

Title II does not apply to federal or state agencies or foreign governmental authorities not operating in the U.S.

FERC may exempt anyone from any of the requirements of the Title if the Commission finds the particular regulation not relevant to public utility company rates and the affected States consent.

The provisions of the Title don't apply to a particular holding company when retail electric competition exists in the service territory of each utility subsidiary of the holding company.

##### *Section 203—Federal Access to Books and Records*

Each holding company and associate company of the holding company must make its books and records available to FERC.

##### *Section 204—State Access to Books and Records*

Each holding company and associate company of the holding company must make its books and records available to each State

regulatory authority regulating a utility subsidiary of the holding company.

#### *Section 205—Affiliate Transactions*

FERC, with regard to wholesale rates and States, with regard to retail rates, have the authority to determine whether a public utility affiliate of a holding company may recover its costs associated with a non-power transaction with an affiliated company if such costs arose after the date of enactment.

State regulatory authorities have the authority to review the prudence of a utility's wholesale power purchases from non-affiliated sellers.

State regulatory authorities have the authority to review the prudence of a utility's wholesale power purchase from an affiliated seller in the same holding company system unless FERC has allocated the costs of the purchase among two or more utility subsidiaries of the holding company prior to the date of enactment and there is no subsequent reallocation.

#### *Section 206—Clarification of Regulatory Authority*

FERC, with regard to wholesale rates, and State regulatory authorities, with regard to retail rates, must explicitly consent, before a utility affiliate of a utility holding company can recover costs in rates that are not directly related to the provision of electric service to its customers.

#### *Section 207—Effect on Other Regulation*

State regulatory authorities can exercise their jurisdiction under otherwise applicable law to protect utility consumers.

#### *Section 208—Enforcement*

FERC has the same enforcement authority under this Title as it does under the Federal Power Act.

#### *Section 209—Savings Provision*

A person engaging in an activity it was legally entitled to engage in on the date of enactment may continue to be entitled to engage in the activity.

#### *Section 210—Implementation*

FERC must promulgate regulations to implement the Title within 6 months of the date of enactment.

#### *Section 211—Resources*

The SEC must transfer its books and records related to holding company regulation to the FERC.

#### **TITLE III—PUBLIC UTILITY REGULATORY POLICIES ACT**

##### *Section 301—Definition*

##### *Section 302—Facilities*

Section 210 of PURPA doesn't apply to facilities beginning commercial operation after the effective date of this Title unless the power purchase contract related to the facility was in effect on the effective date.

##### *Section 303—Contracts*

Public utilities are no longer required to enter into new purchase contracts under Section 210 of PURPA once there is retail electric competition in their service territories.

##### *Section 304—Savings Clause*

This Title does not affect existing power purchase contracts under PURPA.

##### *Section 305—Effective Date*

The effective date of this Title is January 1, 2002.

#### **TITLE IV—ENVIRONMENTAL PROTECTION**

##### *Section 401—Study*

EPA must submit a study to Congress by January 1, 2002, which examines the implications of wholesale and retail electric competition on the emission of pollutants and recommends changes to law, if any are necessary to protect public health and the environment.

#### **TITLE V—BONNEVILLE POWER ADMINISTRATION**

##### *Section 501—Findings and Purposes*

##### *Section 502—Columbia River Fish and Wildlife Coordination and Governance*

This section is reserved for future versions of the bill.

##### *Section 503—Pacific Northwest Federal Transmission Access*

BPA is subject to FERC's open access transmission requirements unless FERC determines it is not in the public interest or it would prevent BPA from paying its debt.

##### *Section 504—Transition Cost Mechanism*

FERC is required to develop a transition cost recovery mechanism for BPA if BPA makes a proposal.

##### *Section 505—Independent System Operator Participation*

BPA is not prohibited from participating in an Independent System Operator.

##### *Section 506—Financial Obligations*

The use of BPA's transmission facilities for competitive generation transmission shall not adversely affect BPA's ability to pay its debt.

##### *Section 507—Prohibition on Retail Sales*

BPA is prohibited from selling retail electric energy to customers that did not have a contract with BPA as of October 1, 1997.

##### *Section 508—Clarification of Commission Authority*

Pacific Northwest transmission rates can't be used to unreasonably deny transmission access.

##### *Section 509—Repealed Statute*

Section 6 of the Federal Columbia River Transmission System is repealed.

#### **TITLE VI—TENNESSEE VALLEY AUTHORITY**

##### *Section 601—Competition in Service Territory*

Beginning on January 1, 2002, TVA's retail and wholesale customers are permitted to purchase power from other sellers.

##### *Section 602—Ability to Sell Electric Energy*

Beginning on January 1, 2002, TVA may sell wholesale electric energy outside of its current service territory.

##### *Section 603—Termination of Contracts*

Any person that currently holds a wholesale or retail contract with TVA may cancel the contract with one year notice beginning on January 1, 2001.

##### *Section 604—Rates for Electric Energy*

TVA's Board of Directors will establish the rates for the sale and transmission of electric energy by TVA.

The rates must be sufficient to recover TVA's costs, including the payment of principal and interest on its bonds over a reasonable period.

FERC must review and approve the Board's rates if they are sufficient to ensure the repayment of TVA's legitimate, prudent and verifiable costs over a reasonable period of time and ensure the recovery of TVA's stranded retail and wholesale costs.

##### *Section 605—Privatization Plan*

TVA's Board of Directors must prepare a plan within two years of the date of enactment for selling its electric power program to private investors.

No action on the sale of TVA may occur without subsequent congressional actions.

Mr. GORTON. Mr. President, the Senator from Arkansas has eloquently and adequately described the bill which we are introducing jointly today. He is a leader in this field, and introduced the bill on this subject early this year. He and I, and the occupant of the Chair, have had the opportunity to go

through seven workshops on electric power marketing restructuring. During the course of this time, the Senator from Arkansas and I found that we thought very similarly in this field, and we are here together on the floor today to introduce a bill that modifies somewhat, but not in its general philosophy, the proposal that he introduced almost a year ago.

The goal that we set in this bill is to provide for competition for choice, and ultimately for lower prices for electric power consumers from the largest industry to the individual homeowner all across the 50 States of the United States. We set a deadline for that competition to exist on the 1st of January of the year 2002. We encourage States, several of which have already acted, to provide for their own free and open competition by allowing States that have met the general requirements of this bill before 2002 to do it in their own way—in the way in which their legislatures have decided or may have decided.

We cover, as the Senator from Arkansas pointed out, the legitimate stranded costs of utilities that have been required to build facilities, some of which may not be completely competitive in an entirely free and open market. We set up a system of independent system operators so that the entire transmission system of the United States will be free and open on equal terms to all potential competitors.

We encourage the increased use of renewable energy sources by requiring certain minimums increasing in three steps throughout the course of the next 15 years or so but providing credit for those who already have renewable resources—hydropower, solar power, and the other forms of renewable resources which exist at the present time and may exist in the future, and allow the sale of credit from those who already meet or exceed the renewable requirements of the bill—credits that they can sell to others.

Senator BUMPERS has been a true leader in this field, and I am honored and delighted to now join with him in what I believe is the first bipartisan approach to this subject, a bipartisan approach which is going to be absolutely essential to any success.

At the same time that he has been working with his constituents across the country, I have been listening to my own, and my privately owned and public utility districts, those that produce electricity and those that do not, and the wide range of other existing utilities or potential competitors in the Northwest.

I represent a State that already has very low power charges. We want to be a part of this process, not so that we can slow down the benefits to others—the entire American economy must and will benefit from this bill—but so that my constituents and consumers will benefit as well from the advent of competition. I am convinced that the outline of this bill does just exactly that.

We must deal with the peculiar challenges of the largest power marketing authority, the Bonneville Power Administration. We do so in a way that reflects the regional review sponsored by the four Governors of the four Pacific Northwest States during the course of last year. We also call in general terms for a more effective and broad-based management of the Columbia River State System, reflecting all of the multitude of uses of water in that system, and calling for a far more effective use of the billions of dollars that we are spending on salmon recovery.

So I believe for my own region that we can provide lower power costs, greater competition, better salmon recovery, and a more rational management of the Columbia-Snake River System.

I believe for the people of the United States as a whole that we can provide for lower power costs, a greater use of renewable energy, more competition, and a better America.

For those reasons, I am delighted to have been a part at this point of a joint operation with my friend from Arkansas.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I thank my distinguished colleague from Washington State for his eloquent remarks. I just wanted to say how honored I am to have him join me on this bill, and reiterate one other thing because Senator GORTON and I want to be totally honest to the people of this country as we go forward with this bill.

I think one thing that I must say is that, in my opinion, this \$220 billion industry can cope with this bill—not only cope with it, but that industry, business, and the consumers of this country will all benefit from this, and the Nation will benefit because it is a global economy where we are competing so strenuously with the other nations of the world.

Electricity is such a big part of our producing industry, and the less they pay the more competitive we become. That ought to be a real incentive for the people of this body to look very seriously at this bill.

By Mr. MURKOWSKI:

S. 1402. A bill to amend the Social Security Act to establish a community health aide program for Alaskan communities that do not qualify for the Community Health Aide Program for Alaska operated through the Indian Health Service; to the Committee on Finance.

THE ALASKAN COMMUNITY HEALTH AIDE PROGRAM EXPANSION ACT OF 1997

Mr. MURKOWSKI. Mr. President, I am pleased to rise to introduce legislation relative to the benefits of community health aides. This particular legislation would be titled the Alaskan Community Health Aide Program Expansion Act of 1997. The purpose of the

act would be to provide a link to health care for rural communities, primarily in my State.

The Alaskan Community Health Aide Program Expansion Act would enable the health aides to have access to rural, non-Native communities throughout Alaska. The act will authorize training and continuing education of Alaskans as community health aides to small communities that do not currently qualify for the Indian Health Services' Community Health Aide Program.

Mr. President, some 50 years ago, this unique system of community health aides was formed in my State. In the early 1940's, due to an extreme outbreak of tuberculosis across Alaska, volunteers were selected by local communities and trained as community health aides. These communities, of course, suffered from distance, extreme isolation. They were often located hundreds of miles from the nearest physician. And the community health aides, through radio contact to a distant hospital in the region, became the eyes, the ears and hands of a physician and administered life-saving medications to remote patients throughout the State.

Today, through the Indian Health Services, the aides reside in 176 Alaskan-Native communities, small isolated communities throughout our State—which if you spread Alaska across the United States, in a proportional map it would run from Canada to Mexico, from California to Florida. So we are talking about a big piece of real estate, Mr. President.

These aides, today, through telecommunications capability with physicians in Anchorage, Fairbanks, and other urban areas, provide health care, provide disease prevention throughout our State. The health aides are broadly acknowledged as the backbone of rural health delivery for Alaska's Native people.

However, Mr. President, there is a large void in Alaska's Community Health Aide Program. Approximately 50 of our local Alaskan communities do not have community health aides because the people who live there are non-Native, and thus they do not qualify for the service under current law.

In these 50, 51 communities, there is no physician, there is no other health care provider of any kind. Instead, these communities are served by public health care nurses who come and go on an itinerant basis. In other words, Mr. President, health care access in these communities is infrequent at best.

Often these non-Native communities are characterized by geographic isolation and cultural isolation, especially in areas such as the Russian communities of Nikolaevsk, Vosnesenda, Katchmaksiel, and Rassdonla.

Most of these communities are completely unconnected by roads. Access is only available by airplane, boat, and sometimes snowmachine or dogsled. The needs of these communities is a daunting task.

The Community Health Aide Program Expansion Act would remedy this dilemma. For the first time in the history of our State, all communities and villages will have the opportunity to have health care available within a village. This legislation will enable the trained health aide to live within a community, teach basic disease prevention and health promotion, in other words, the basic skills for good health.

Mr. President, this legislation will enable affordable and consistent access to health care to all Alaskan communities.

I ask my colleagues to join in support of this legislation.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

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

S. 1402

*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 "Alaskan Community Health Aide Program Expansion Act of 1997".

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) Numerous communities in Alaska have no physicians or health care providers of any kind.

(2) While those communities are served by Alaskan public health nurses on an itinerant basis, Alaskan law prohibits those nurses from treating patients for individual health concerns.

(3) Physical and cultural isolation is so severe in those communities that private health care providers often opt not to serve those communities.

(4) Not enough Native Alaskans reside in such communities to warrant placement of a community health aide pursuant to the Community Health Aide Program for Alaska operated through the Indian Health Service.

#### SEC. 3. EXPANSION OF THE COMMUNITY HEALTH AIDE PROGRAM FOR ALASKA.

Part A of title XI of the Social Security Act (42 U.S.C. 1301-1320b-16), as amended by section 4321(c) of the Balanced Budget Act of 1997 (42 U.S.C. 1320b-16), is amended by adding at the end the following:

"ALASKAN COMMUNITY HEALTH AIDE PROGRAM

"SEC. 1147. Not later than October 1, 1998, the Secretary shall establish an Alaskan Community Health Aide Program (in this section referred to as the 'Program') under which the Secretary shall—

"(1) provide for the training of Alaskans as community health aides or community health practitioners;

"(2) use such aides or practitioners in the provision of health care, health promotion, and disease prevention services to Alaskans living in communities that do not qualify for the Community Health Aide Program for Alaska operated through the Indian Health Service and established under section 119 of the Indian Health Care Improvement Act (25 U.S.C. 16161);

"(3) provide for the establishment of teleconferencing capacity in health clinics located in or near such communities for use by community health aides or community health practitioners;

"(4) using trainers accredited under the Program, provide a high standard of training to community health aides and community

health practitioners to ensure that such aides and practitioners provide quality health care, health promotion, and disease prevention services to the Alaskan communities served by the Program;

"(5) develop a curriculum for the training of such aides and practitioners that—

"(A) combines education in the theory of health care with supervised practical experience in the provision of health care; and

"(B) provides instruction and practical experience in the provision of acute care, emergency care, health promotion, disease prevention, and the efficient and effective management of clinic pharmacies, supplies, equipment, and facilities;

"(6) establish and maintain a Community Health Aide Certification Board to certify as community health aides or community health practitioners individuals who have successfully completed the training described in paragraphs (4) and (5), or can demonstrate equivalent experience;

"(7) develop and maintain a system which identifies the needs of community health aides and community health practitioners for continuing education in the provision of health care, including the areas described in paragraph (5)(B), and develop programs that meet the needs for such continuing education;

"(8) develop and maintain a system that provides close supervision of community health aides and community health practitioners; and

"(9) develop a system under which the work of community health aides and community health practitioners is reviewed and evaluated to ensure the provision of quality health care, health promotion, and disease prevention services in accordance with this section."

By Mr. MURKOWSKI:

S. 1403. A bill to amend the National Historic Preservation Act for purposes of establishing a national historic lighthouse preservation program; to the Committee on Energy and Natural Resources.

#### THE NATIONAL HISTORIC LIGHTHOUSE PRESERVATION ACT OF 1997

Mr. MURKOWSKI. Mr. President, I rise today to introduce legislation to establish the historic lighthouse preservation bill. This legislation would amend the National Historic Preservation Act to establish a historic lighthouse preservation program within the Department of the Interior.

The legislation would direct the Secretary of the Interior and the Administrator of General Services to establish a process for conveying historic lighthouses which are around our coastal areas and Great Lakes when these lighthouses have been deemed to be in excess of Federal needs of the agency owning and operating the lighthouse.

For entities eligible to receive a historic lighthouse, it would be for the uses of educational, park, recreation, cultural, and historic preservation. And the agencies that would be included would be Federal or State agencies, local governments, nonprofit corporations, educational agencies, and community development organizations, and so forth.

There is no question that the historic lighthouses would be conveyed in a nonfee structure to selected entities which would have the obligation to

maintain these historic structures and maintain their integrity.

The historic lighthouses would revert back to the United States if a property ceases to be used for education, park, recreation, cultural or historic preservation purposes, or failed to be maintained in compliance with the National Historic Preservation Act.

Mr. President, as I said, I rise today to introduce legislation that will establish a national historic light station program.

Lighthouses are among the most romantic reminders of our country's maritime heritage. Marking dangerous headlands, shoals, bars, and reefs, these structures played a vital role in indicating navigable waters and supporting this Nation's maritime transportation and commerce. These lighthouses served the needs of the early mariners who navigated by visual sightings on landmarks, coastal lights, and the heavens. Hundreds of lighthouses have been built along our sea coasts and on the Great Lakes, creating the world's most complex aids to navigation system. No other national lighthouse system compares with that of the United States in size and diversity of architectural and engineering types.

My legislation pays tribute to this legacy and establishes a process which will ensure the protection and maintenance of these historic lighthouses so that future generations of Americans will be able to appreciate these treasured landmarks.

The legislation authorizes the Secretary of the Department of the Interior, through the National Park Service, to establish a historic lighthouse preservation program. The Secretary is charged with collecting and sharing information on historic lighthouses; conducting educational programs to inform the public about the contribution to society of historic lighthouses; and maintaining an inventory of historic lighthouses.

A historic light station is defined as a lighthouse, and surrounding property, at least 50 years old, which has been evaluated for inclusion on the National Register of Historic Places, and included in the Secretary's listing of historic light stations.

Most important, the Secretary, in conjunction with the Administrator of General Services, is to establish a process for identifying, and selecting among eligible entities to which a historic lighthouse could be conveyed. Eligible entities will include Federal agencies, State agencies, local communities, nonprofit corporations, and educational and community development organizations financially able to maintain a historic lighthouse, including conformance with the National Historic Preservation Act. When a historic lighthouse has been deemed excess to the needs of the Federal agency which manages the lighthouse, the General Services Administration will convey it, for free, to a selected entity for education, park, recreation, cultural, and historic preservation purposes.



My legislation also recognizes the value of lighthouse friends groups. Often, these groups have spent significant time and resources on preserving the character of historic lighthouses only to have this work go to waste when the lighthouse is transferred out of Federal ownership. Under current General Services Administration regulations, these friends groups are last on the priority list to receive a surplus light station in spite of their efforts to protect it. My bill gives priority consideration to public entities who submit applications in which the public entity partners with a nonprofit friends group.

Everyone agrees that the historic character of these lighthouses needs to be maintained. But the cost of maintaining these historic structures is becoming increasingly high for Federal agencies in these times of tight budgetary constraints. These lighthouses were built in an age when they had to be manned continuously. Today's advanced technology makes it possible to build automated aids to navigation that do not require around-the-clock manning. This technology has made many of these historic lighthouses expensive anachronisms which Federal agencies must maintain even if they no longer use them as navigational aids.

My legislation ensures that the historic character of these lighthouses are maintained when the lighthouses are no longer needed by the Federal Government. When the historic lighthouse is conveyed out of Federal ownership, the entity which receives the lighthouse must maintain it in accordance with historic preservation laws and standards. A lighthouse would revert to the United States, at the option of the General Services Administration, if the lighthouse is not being used or maintained as required by the law.

In the event no government agency or nonprofit organization is approved to receive a historic lighthouse, it would be offered for sale by the General Services Administration. The proceeds from these sales would be transferred to the National Maritime Heritage Grant Program within the National Park Service. Congress established the National Maritime Heritage Grant Program in 1994 to provide grants for maritime heritage preservation and education projects. Unfortunately, funding for this program has been nonexistent so the proceeds from any historic lighthouse sales would help ensure the program's viability.

It is my intent to ensure that coastal towns, where a historic lighthouse is an integral part of the community, would receive a historic lighthouse when it is no longer needed by the Federal Government. These historic lighthouses could be used by the community as a local park, a community center, or a tourist bureau. It also would ensure that historic lighthouse friends groups or lighthouse preservation societies, which have voluntarily helped to maintain the historic character of the light-

house, could receive an excess light-house.

Mr. President, I know firsthand the importance and allure of these historic lighthouses. When I was in the Coast Guard, I helped maintain lighthouses and other navigational aids. These lights were critical to safe maritime traffic and I took my responsibilities seriously knowing that lives were dependent on it.

By preserving historic lighthouses, we preserve a symbol of that era in American history when maritime traffic was the lifeblood of the Nation, tying isolated coastal towns through trade to distant ports around the world. Hundreds of historic lighthouses are owned by the Federal Government and many of these are difficult and expensive to maintain. This legislation provides a process to ensure that these historic lighthouses are maintained and publicly accessible.

I urge all my colleagues to support this legislation, and I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 1403

*Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the 'National Historic Lighthouse Preservation Act of 1997.'

#### SEC. 2. PRESERVATION OF HISTORIC LIGHT STATIONS.

Title III of the National Historic Preservation Act (16 U.S.C. 470w-470w-6) is amended by adding at the end the following new section:

##### "§ 308. Historic Lighthouse Preservation

"(a) IN GENERAL.—In order to provide a national historic light station program, the Secretary shall—

"(1) collect and disseminate information concerning historic light stations, including historic lighthouses and associated structures;

"(2) foster educational programs relating to the history, practice, and contribution to society of historic light stations;

"(3) sponsor or conduct research and study into the history of light stations;

"(4) maintain a listing of historic light stations; and

"(5) assess the effectiveness regarding the conveyance of historic light stations.

"(b) CONVEYANCE OF HISTORIC LIGHT STATIONS.—

"(1) Within one year of enactment, the Secretary and the Administrator of General Services (hereinafter Administrator) shall establish a process for identifying, and selecting, an eligible entity to which a historic light station could be conveyed for education, park, recreation, cultural and historic preservation purposes.

"(2) The Secretary shall review all applicants for the conveyance of a historic light station, when the historic light station has been identified as excess to the needs of the agency with administrative jurisdiction over the historic light station, and forward to the Administrator a single approved application for the conveyance of the historic light station. When selecting an eligible entity, the Secretary may consult with the State Historic Preservation Officer of the state in

which the historic light station is located. A priority of consideration shall be afforded public entities that submit applications in which the public entity enters into a partnership with a nonprofit organization whose primary mission is historic light station preservation.

"(3) The Administrator shall convey, by quit claim deed, without consideration, all right, title, and interest of the United States in and to the historic light station, together with any related real property, subject to the conditions set forth in subsection (c) upon the Secretary's selection of an eligible entity. The conveyance of a historic light station under this section shall not be subject to the provisions of 42 U.S.C. 11301 *et seq.*

"(c) TERMS OF CONVEYANCE.—

"(1) The conveyance of a historic light station shall be made subject to any conditions as the Administrator considers necessary to ensure that—

"(A) the lights, antennas, sound signal, electronic navigation equipment, and associated light station equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States for as long as needed for this purpose;

"(B) the eligible entity to which the historic light station is conveyed under this section shall not interfere or allow interference in any manner with aids to navigation without the express written permission of the head of the agency responsible for maintaining the aids to navigation;

"(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to the property conveyed under this section as may be necessary for navigation purposes;

"(D) the eligible entity to which the historic light station is conveyed under this section shall maintain the property in accordance with the National Historic Preservation Act of 1966, 16 U.S.C. 470-470x, the Secretary's Historic Preservation Standards, and other applicable laws; and

"(E) the United States shall have the right, at any time, to enter property conveyed under this section without notice for purposes of maintaining and inspecting aids to navigation and ensuring compliance with paragraph (C), to the extent that it is not possible to provide advance notice.

"(2) The Secretary, the Administrator, and any eligible entity to which a historic light station is conveyed under this section, shall not be required to maintain any active aids to navigation associated with a historic light station.

"(3) In addition to any term or condition established pursuant to this subsection, the conveyance of a historic light station shall include a condition that the property in its existing condition, at the option of the Administrator, revert to the United States if—

"(A) the property or any part of the property ceases to be available for education, park, recreation, cultural, and historic preservation purposes for the general public at reasonable times and under reasonable conditions which shall be set forth in the eligible entity's application;

"(B) the property or any part of the property ceases to be maintained in a manner that ensures its present or future use as an aid to navigation or compliance with the National Historic Preservation Act, 16 U.S.C. 470-470x, the Secretary's Historic Preservation Standards, and other applicable laws; or

"(C) at least 30 days before the reversion, the Administrator provides written notice to the owner that the property is needed for national security purposes.

"(d) DESCRIPTION OF PROPERTY.—The legal description of any historic light station, and any real property and improvements associated therewith, conveyed under this section

shall be determined by the Administrator. The Administrator may retain all right, title, and interest of the United States in and to any historical artifact, including any lens or lantern, that is associated with the historical light station whether located at the light station or elsewhere.

“(e) RESPONSIBILITIES OF CONVEYEEES.—Each eligible entity to which a historic light station is conveyed under this section shall use and maintain the light station in accordance with this section, and have such terms and conditions recorded with the deed of title to the light station and any real property conveyed therewith.

“(f) DEFINITIONS.—For purposes of this section:

“(1) HISTORIC LIGHT STATION.—The term ‘historic light station’ includes the light tower, lighthouse, keepers dwelling, garages, storage sheds, support structures, piers, walkways, and underlying land; provided that the light tower or lighthouse shall be—

“(A) at least 50 years old;

“(B) evaluated for inclusion in the National Register of Historic Places; and

“(C) included on the Secretary’s listing of historic light stations.

“(2) ELIGIBLE ENTITY.—The term ‘eligible entity’ shall mean any department or agency of the Federal government, any department or agency of the state in which the historic light station is located, the local government of the community in which the historic light station is located, nonprofit corporation, educational agency, or community development organization that—

“(A) has agreed to comply with the conditions set forth in subsection (c) and to have those conditions recorded in the conveyance documents to the light station and any real property and improvements that may be conveyed therewith;

“(B) is financially able to maintain the light station (and any real property and improvements conveyed therewith) in accordance with the conditions set forth in subsection (c); and

“(C) can indemnify the Federal government to cover any loss in connection with the light station and any real property and improvements that may be conveyed therewith, or any expenses incurred due to reversion.

#### SEC. 3. SALE OF SURPLUS LIGHT STATIONS.

Title III of the National Historic Preservation Act (16 U.S.C. 470w-470w-6) is amended by adding at the end the following new section:

##### “§ 309. Historic Light Station Sales

“In the event no applicants are approved for the conveyance of a historic light station pursuant to section 308, the historic light station shall be offered for sale. Terms of such sales shall be developed by the Administrator of General Services. Conveyance documents shall include all necessary covenants to protect the historical integrity of the site. Net sale proceeds shall be transferred to the National Maritime Heritage Grant Program, established by the National Maritime Heritage Act of 1994, Public Law 103-451, within the Department of the Interior.

#### SEC. 4. TRANSFER OF HISTORIC LIGHT STATIONS TO FEDERAL AGENCIES.

Title III of the National Historic Preservation Act of 1966, 16 U.S.C. 470-470x, is amended by adding at the end the following new section:

“§310. Transfer of Historic Light Stations to Federal Agencies

“After the date of enactment, any department or agency of the Federal government, to which a historic light station is conveyed, shall maintain the historic light station in accordance with the National Historic Preservation Act of 1966, 16 U.S.C. 470-470x, the

Secretary’s Historic Preservation Standards, and other applicable laws.

#### SEC. 5. FUNDING.

There are hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to carry out this Act.

By Mr. BROWNBAC (for himself, Mr. MOYNIHAN, Mr. THOMPSON, and Mr. KERREY):

S. 1404. A bill to establish a Federal Commission on Statistical Policy to study the reorganization of the Federal statistical system, to provide uniform safeguards for the confidentiality of information acquired for exclusively statistical purposes, and to improve the efficiency of Federal statistical programs and the quality of Federal statistics by permitting limited sharing of records among designated agencies for statistical purposes under strong safeguards; to the Committee on Governmental Affairs.

THE FEDERAL STATISTICAL SYSTEM ACT OF 1997

Mr. MOYNIHAN. Mr. President, I join my distinguished colleagues, Senator SAM BROWNBAC of Kansas, Senator FRED THOMPSON of Tennessee, and Senator BOB KERREY of Nebraska, in introducing legislation to establish a commission to study the Federal statistical system. Congressman STEPHEN HORN of California and Congresswoman CAROLYN MALONEY of New York plan on introducing identical legislation in the House of Representatives. This legislation is similar to bills I introduced in September 1996, and again at the beginning of this Congress.

The commission to study the Federal statistical system would consist of 15 Presidential and congressional appointees with expertise in fields such as actuarial science, finance, and economics. Its members would conduct a thorough review of the U.S. statistical system, and issue a report including recommendations on whether statistical agencies should be consolidated.

Of course, we have an example of a consolidated statistical agency just across the northern border. Statistics Canada, the most centralized statistical agency among OECD countries, was established in November, 1918 as a reaction to a familiar problem. At that time, the Canadian Minister of Industry was trying to obtain an estimate of the manpower resources that Canada could commit to the war effort. And he got widely different estimates from statistical agencies scattered throughout the government. Consolidation seemed the way to solve this problem, and so it happened—as it can in a parliamentary government—rather quickly, just as World War I ended.

Last spring, a member of my staff met in Ottawa with the Assistant Chief Statistician of Statistics Canada. He reported that Statistics Canada is doing quite well. Decisions about the allocation of resources among statistical functions are made at the highest levels of government because the Chief Statistician of Statistics Canada holds a position equivalent to Deputy Cabi-

net Minister. He communicates directly with Deputy Ministers in other Cabinet Departments. In contrast, in the United States, statistical agencies are buried several levels below the Cabinet Secretaries, so it is difficult for the heads of these statistical agencies to bring issues to the attention of high-ranking administration officials and Congress.

Statistics are part of our constitutional arrangement, which provides for a decennial census that, among other purposes, is the basis for apportionment of membership in the House of Representatives. I quote from article I, section I:

... enumeration shall be made within three Years after the first meeting of the Congress of the United States, and within ever subsequent Term of ten Years, in such Manner as they shall by Law direct.

But, while the Constitution directed that there be a census, there was, initially, no Census Bureau. The earliest censuses were conducted by U.S. Marshals. Later on, statistical bureaus in State governments collected the data, with a Superintendent of the Census overseeing from Washington. It was not until 1902 that a permanent Bureau of the Census was created by the Congress, housed initially in the Interior Department. In 1903 the Bureau was transferred to the newly established Department of Commerce and Labor.

The Statistics of Income Division of the Internal Revenue Service, which was originally an independent body, began collecting data in 1866. It too was transferred to the new Department of Commerce and Labor in 1903, but then was put in the Treasury Department in 1913 following ratification of the 16th amendment, which gave Congress the power to impose an income tax.

A Bureau of Labor, created in 1884, was also initially in the Interior Department. The first Commissioner, appointed in 1885, was Col. Carroll D. Wright, a distinguished Civil War veteran of the New Hampshire Volunteers. A self-trained social scientist, Colonel Wright pioneered techniques for collecting and analyzing survey data on income, prices, and wages. He had previously served as chief of the Massachusetts Bureau of Statistics, a post he held for 15 years, and in that capacity had supervised the 1880 Federal Census in Massachusetts.

In 1888, the Bureau of Labor became an independent agency. In 1903, it was once again made a bureau, joining other statistical agencies in the Department of Commerce and Labor. When a new Department of Labor was formed in 1913, giving labor an independent voice—as labor was removed from the Department of Commerce and Labor—what we now know as the Bureau of Labor Statistics was transferred to the newly created Department of Labor.

And so it went. Statistical agencies sprung up as needed. And they moved back and forth as new executive departments were formed. Today, some 89

different organizations in the Federal Government comprise parts of our national statistical infrastructure. Eleven of these organizations have as their primary function the generation of data. These 11 organizations are:

Agency	Department	Date established
National Agricultural Statistical Service	Agriculture .....	1863
Statistics of Income Division, IRS	Treasury .....	1866
Economic Research Service .....	Agriculture .....	1867
National Center for Education Statistics	Education .....	1867
Bureau of Labor Statistics .....	Labor .....	1884
Bureau of the Census .....	Commerce .....	1902
Bureau of Economic Analysis .....	Commerce .....	1912
National Center for Health Statistics	Health and Human Services .....	1912
Bureau of Justice Statistics .....	Justice .....	1968
Energy Information Administration	Energy .....	1974
Bureau of Transportation Statistics	Transportation .....	1991

#### NEED FOR LEGISLATION

President Kennedy once said:

Democracy is a difficult kind of government. It requires the highest qualities of self-discipline, restraint, a willingness to make commitments and sacrifices for the general interest, and also it requires knowledge.

That knowledge often comes from accurate statistics. You cannot begin to solve a problem until you can measure it.

This legislation would require the Commission to conduct a comprehensive examination of the current statistical system and focus particularly on whether three agencies that produce data as their primary product—the Bureau of Economic Analysis [BEA] and the Bureau of the Census in the Commerce Department, and the Bureau of Labor Statistics [BLS] in the Labor Department—should be consolidated into a Federal statistical service.

In September 1996, prior to when I first introduced a bill establishing a commission to study the U.S. statistical system, I received a letter from nine former chairmen of the Council of Economic Advisers [CEA] endorsing this legislation. Excluding two recent chairs, who at that time were still serving in the Clinton administration, the signatories include virtually every living former chair of the CEA. While acknowledging that the United States possesses a first-class statistical system, these former chairmen remind us that problems periodically arise under the current system of widely scattered responsibilities. They conclude as follows:

Without at all prejudging the appropriate measures to deal with these difficult problems, we believe that a thoroughgoing review by a highly qualified and bipartisan Commission as provided in your bill has great promise of showing the way to major improvements.

The letter is signed by Michael J. Boskin, Martin Feldstein, Alan Greenspan, Paul W. McCracken, Raymond J. Saulnier, Charles L. Schultze, Beryl W. Sprinkel, Herbert Stein, and Murray Weidenbaum. I ask unanimous consent that the full text of this letter be printed in the RECORD following my statement.

It happens that this Senator's association with the statistical system in the executive branch began over three decades ago. I was Assistant Secretary of Labor for Policy and Planning in the administration of President John F. Kennedy. This was a new position in which I was nominally responsible for the Bureau of Labor Statistics. I say nominally out of respect for the independence of that venerable institution, which as I noted earlier long predated the Department of Labor itself. The then-Commissioner of the BLS, Ewan Clague, could not have been more friendly and supportive. And so were the statisticians, who undertook to teach me to the extent I was teachable. They even shared professional confidences. And so it was that I came to have some familiarity with the field.

For example, we had just received a report on price indexes from a committee led by a Nobel laureate, George Stigler. The committee stressed the importance of accurate and timely statistics noting that:

The periodic revision of price indexes, and the almost continuous alterations in details of their calculation, are essential if the indexes are to serve their primary function of measuring the average movements of prices.

While the final report of the Advisory Commission to Study the Consumer Index, the Boskin Commission, focused primarily on the extent to which changes in the CPI overstate inflation, the commission also addressed issues related to the effectiveness of Federal statistical programs and recommended that:

Congress should enact the legislation necessary for the Department of Commerce and Labor to share information in the interest of improving accuracy and timeliness of economic statistics and to reduce the resources consumed in their development and production.

And last week, we were again reminded of the importance of accurate and timely government statistics. The front page of the Wall Street Journal carried this headline on Tuesday October 29: "An Extra \$46 Billion in Treasury's Coasters Puzzles Washington".

No one knows for sure the answer to this puzzle. Surely though, a changing economy which produces more and more services—which are harder to measure the value of than the goods it replaces—needs a top to bottom review of its statistical infrastructure. For if the public loses confidence in our statistics, they are likely to lose confidence in our policies as well.

There is, of course, a long history of attempts to reform our Nation's statistical infrastructure. From the period 1903 to 1990, 16 different committees, commissions, and study groups have convened to assess our statistical infrastructure, but in most cases little or no action has been taken on their recommendations. The result of this inaction has been an ever expanding statistical system. It continues to grow in order to meet new data needs, but with little or no regard for the overall objec-

tives of the system. Janet L. Norwood, former Commissioner of the BLS, writes in her book "Organizing to Count":

The U.S. system has neither the advantages that come from centralization nor the efficiency that comes from strong coordination in decentralization. As presently organized, therefore, the country's statistical system will be hard pressed to meet the demands of a technologically advanced, increasingly internationalized world in which the demand for objective data of high quality is steadily rising.

In this era of Government downsizing and budget cutting, it is unlikely that Congress will appropriate more funds for statistical agencies. It is clear that to preserve and improve the statistical system we must consider reforming it, yet we must not attempt to reform the system until we have heard from experts in the field.

#### SUMMARY OF LEGISLATION

The legislation establishes a commission to study the Federal statistical system. The commission would consist of 15 members. Two—the Chief Statistician of the Office of Management and Budget and a high-level government official—serve ex officio on the commission. The high-level official, selected by the President from among Cabinet officers, the Chairman of the Board of Governors of the Federal Reserve, the Comptroller General, or the Chairman of the Council of Economic Advisers—will serve as chairman.

The other 13 members of the commission will be appointed as follows: Five by the President, no more than three of whom are to be from the same political party, four by the President pro tempore of the Senate, no more than two of whom are to be from the same political party, and four by the Speaker of the House, no more than two of whom are to be from the same political party.

In an initial 18-month period, the commission would determine whether and how to consolidate the Federal statistical system, and would also make recommendations with respect to ways to achieve greater efficiency in carrying out Federal statistical programs. If the commission recommends consolidation of the Bureau of Labor Statistics, the Bureau of the Census, and the Bureau of Economic Analysis into a newly established independent Federal agency, designated as the Federal Statistical Service, the commission's report would contain draft legislation incorporating such recommendations. The legislation would then be considered by the Congress under fast-track procedures.

If legislation establishing a Federal statistical service is enacted by the Congress, the commission then would become a permanent body that would:

Make recommendations for nominations for the appointment of an Administrator and Deputy Administrator of the Federal Statistical Service; serve

as an advisory body to the Federal Statistical Service on confidentiality issues; and conduct comprehensive studies, and submit reports to Congress on all matters relating to the Federal statistical infrastructure, including:

An examination of the methodology involved in producing official data; a review of information technology and recommendations of appropriate methods for disseminating statistical data; and a comparison of our statistical system with the systems of other nations.

This legislation is only a first step, but an essential one. The commission will provide Congress with the blueprint for reform. It will be up to us to finally take action after nearly a century of inattention to this very important issue.

By Mr. SHELBY (for himself, Mr. MACK, Mr. FAIRCLOTH, Mr. D'AMATO, Mr. BRYAN, Mr. GRAMS, Mr. KERRY, Mr. BENNETT, Mr. GRAMM, Mr. HAGEL, Mr. ALLARD, Mr. ENZI, and Ms. MOSELEY-BRAUN):

S. 1405. A bill to amend titles 17 and 18, United States Code, to provide greater copyright protection by amending copyright infringement provisions, and for other purposes; to the Committee on the Judiciary.

THE FINANCIAL REGULATORY RELIEF AND ECONOMIC EFFICIENCY ACT OF 1997

Mr. SHELBY. Mr. President, I rise today to introduce a bipartisan bill with my colleague from Florida, Senator CONNIE MACK, and 11 other original cosponsors from the Banking Committee. Entitled the "Financial Regulatory Relief and Economic Efficiency Act of 1997," the bill is designed to promote greater access to capital and credit for businesses and consumers, while ensuring the safety and soundness of our financial system.

The acronym for the bill, FRREE, is actually indicative of the bill itself. If enacted, the bill would free valuable resources at financial institutions now being used to comply with the bureaucratic maze of current rules and regulations, and instead allow institutions to commit more of those resources to the business of lending. This is especially important, now that we are entering the 80th month of the current economic expansion. The 9 completed expansions since the end of World War II have averaged 50 months. Thus, many professional economists, businessmen, and academics worry how much longer the expansion of the current business cycle can go. Because this bill frees up resources that are inefficiently being used in the private sector, I believe this bill could have a substantial positive impact on extending the current business cycle as well as minimize any future economic downturn.

One key provision would repeal an antiquated law that disallows banks to pay interest on business checking accounts. Due to sophisticated and expensive technology, big corporations

can get around this problem by employing sweep accounts. However, smaller, family owned businesses cannot take advantage of this expensive technology and are forced to keep their money in noninterest bearing checking accounts. The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision, concluded in their 1996 Joint Report, "Streamlining of Regulatory Requirements," that the statutory prohibition against paying interest on demand deposits no longer serves a public purpose. Today, the repeal also has the support of the Chamber of Commerce, the National Federation of Independent Business, and the American Farm Bureau Federation.

The bill also allows the Federal Reserve to pay interest on reserve balances, thus reducing potential volatility in short-term lending rates. Given the historical importance of price stability, it is imperative we give the Federal Reserve this tool in order to better conduct monetary policy.

In short, Mr. President, the bill repeals outdated laws that hinder the management practices of institutions; cuts bureaucratic red tape; eliminates unnecessary bookkeeping; increases funds available for residential mortgage lending; and eliminates unnecessary restrictions on the discounting, and bundling of financial services to consumers.

The bill enjoys the overwhelming support of the Senate Banking Committee and the chairman of the committee, Chairman D'AMATO, is committed to having hearings on this bill when we return early next year.

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. 1405

*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 "Financial Regulatory Relief and Economic Efficiency Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—IMPROVING MONETARY POLICY AND FINANCIAL INSTITUTION MANAGEMENT PRACTICES**

Sec. 101. Payment of interest on reserves at Federal reserve banks.

Sec. 102. Amendments relating to savings and demand deposit accounts at depository institutions.

Sec. 103. Repeal of savings association liquidity provision.

Sec. 104. Repeal of dividend notice requirement.

Sec. 105. Thrift service companies.

Sec. 106. Elimination of thrift multistate multiple holding company restrictions.

Sec. 107. Noncontrolling investments by savings association holding companies.

Sec. 108. Repeal of deposit broker notification and recordkeeping requirement.

Sec. 109. Uniform regulation of extensions of credit to executive officers.

Sec. 110. Expedited procedures for certain reorganizations.

Sec. 111. National bank directors.

Sec. 112. Amendment to Bank Consolidation and Merger Act.

Sec. 113. Loans on or purchases by institutions of their own stock; affiliations.

Sec. 114. Depository institution management interlocks.

Sec. 115. Purchased mortgage servicing rights.

Sec. 116. Cross marketing restriction; limited purpose bank relief.

Sec. 117. Divestiture requirement.

Sec. 118. Daylight overdrafts incurred by Federal home loan banks.

Sec. 119. Federal home loan bank governance amendments.

Sec. 120. Collateralization of advances to members.

**TITLE II—STREAMLINING ACTIVITIES OF INSTITUTIONS**

Sec. 201. Updating of authority for community development investments.

Sec. 202. Acceptance of brokered deposits.

Sec. 203. Federal Reserve Act lending limits.

Sec. 204. Eliminate unnecessary restrictions on product marketing.

Sec. 205. Business purpose credit extensions.

Sec. 206. Affinity groups.

Sec. 207. Fair debt collection practices.

Sec. 208. Restriction on acquisitions of other insured depository institutions.

Sec. 209. Mutual holding companies.

Sec. 210. Call report simplification.

**TITLE III—STREAMLINING AGENCY ACTIONS**

Sec. 301. Scheduled meetings of Affordable Housing Advisory Board.

Sec. 302. Elimination of duplicative disclosure of fair market value of assets and liabilities.

Sec. 303. Payment of interest in receiverships with surplus funds.

Sec. 304. Repeal of reporting requirement on differences in accounting standards.

Sec. 305. Agency review of competitive factors in Bank Merger Act filings.

Sec. 306. Termination of the Thrift Depositor Protection Oversight Board.

**TITLE IV—DISCLOSURE SIMPLIFICATION**

Sec. 401. Alternative compliance method for APR disclosure.

Sec. 402. Alternative compliance methods for advertising credit terms.

**TITLE V—MISCELLANEOUS**

Sec. 501. Positions of Board of Governors of Federal Reserve System on the Executive Schedule.

Sec. 502. Consistent coverage for individuals enrolled in a health plan administered by the Federal banking agencies.

Sec. 503. Federal Housing Finance Board.

**TITLE VI—TECHNICAL CORRECTIONS**

Sec. 601. Technical correction relating to deposit insurance funds.

Sec. 602. Rules for continuation of deposit insurance for member banks converting charters.

Sec. 603. Amendments to the Revised Statutes.

Sec. 604. Conforming change to the International Banking Act.

**TITLE I—IMPROVING MONETARY POLICY AND FINANCIAL INSTITUTION MANAGEMENT PRACTICES**

**SEC. 101. PAYMENT OF INTEREST ON RESERVES AT FEDERAL RESERVE BANKS.**

(a) IN GENERAL.—Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended

by adding at the end the following new paragraph:

“(12) EARNINGS ON RESERVES.—

“(A) IN GENERAL.—Balances maintained at a Federal reserve bank by or on behalf of a depository institution to meet the reserve requirements of this subsection applicable with respect to such depository institution may receive earnings to be paid by the Federal reserve bank at least once each calendar quarter at a rate or rates not to exceed the general level of short-term interest rates.

“(B) REGULATIONS RELATING TO PAYMENTS AND DISTRIBUTION.—The Board may prescribe regulations concerning—

“(i) the payment of earnings in accordance with this paragraph;

“(ii) the distribution of such earnings to the depository institutions which maintain balances at such banks or on whose behalf such balances are maintained; and

“(iii) the responsibilities of depository institutions, Federal home loan banks, and the National Credit Union Administration Central Liquidity Facility with respect to the crediting and distribution of earnings attributable to balances maintained, in accordance with subsection (c)(1)(B), in a Federal reserve bank by any such entity on behalf of depository institutions which are not member banks.”.

(b) AUTHORIZATION FOR PASS THROUGH RESERVES FOR MEMBER BANKS.—Section 19(c)(1)(B) of the Federal Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by striking “which is not a member bank”.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 19 of the Federal Reserve Act (12 U.S.C. 461) is amended—

(1) in subsection (b)(4) (12 U.S.C. 461(b)(4)), by striking subparagraph (C) and redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(2) in subsection (c)(1)(A) (12 U.S.C. 461(c)(1)(A)), by striking “subsection (b)(4)(C)” and inserting “subsection (b)”.

#### SEC. 102. AMENDMENTS RELATING TO SAVINGS AND DEMAND DEPOSIT ACCOUNTS AT DEPOSITORY INSTITUTIONS.

(a) NOW ACCOUNTS AUTHORIZED FOR ALL BUSINESSES.—Section 2 of Public Law 93-100 (12 U.S.C. 1832) is amended to read as follows:

#### “SEC. 2. WITHDRAWALS BY NEGOTIABLE OR TRANSFERABLE INSTRUMENTS FOR TRANSFERS TO THIRD PARTIES.

“Notwithstanding any other provision of law, any depository institution (as defined in section 3 of the Federal Deposit Insurance Act) may permit the owner of any deposit or account to make withdrawals from such deposit or account by negotiable or transferable instruments for the purpose of making payments to third parties.”.

(b) REPEAL OF PROHIBITIONS ON PAYMENT OF INTEREST ON DEMAND DEPOSITS.—

(1) FEDERAL RESERVE ACT.—Section 19 of the Federal Reserve Act (12 U.S.C. 371a) is amended by striking subsection (i).

(2) HOME OWNERS' LOAN ACT.—The first sentence of section 5(b)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(b)(1)(B)) is amended by striking “savings association may not—” and all that follows through “(ii) permit any” and inserting “savings association may not permit any”.

(3) FEDERAL DEPOSIT INSURANCE ACT.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by striking subsection (g).

#### SEC. 103. REPEAL OF SAVINGS ASSOCIATION LIQUIDITY PROVISION.

(a) REPEAL OF LIQUIDITY PROVISION.—Section 6 of the Home Owners' Loan Act (12 U.S.C. 1465) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) SECTION 5.—Section 5(c)(1)(M) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(1)(M)) is amended to read as follows:

“(M) LIQUIDITY INVESTMENTS.—Investments identified by the Director, including cash, funds on deposit at a Federal reserve bank or a Federal home loan bank, or bankers' acceptances.”.

(2) SECTION 10.—Section 10(m)(4)(B)(iii) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(B)(iii)) is amended by striking “liquid assets” and all that follows through “Loan Act,” and inserting “cash and marketable securities identified by the Director.”.

#### SEC. 104. REPEAL OF DIVIDEND NOTICE REQUIREMENT.

Section 10(f) of the Home Owners' Loan Act (12 U.S.C. 1467a(f)) is amended to read as follows:

“(f) [Reserved].”.

#### SEC. 105. THRIFT SERVICE COMPANIES.

(a) STREAMLINING THRIFT SERVICE COMPANY INVESTMENT REQUIREMENTS.—Section 5(c)(4)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(4)(B)) is amended—

(1) in the subparagraph heading, by striking “CORPORATIONS” and inserting “COMPANIES”; and

(2) in the first sentence, by striking “corporation organized” and all that follows through “such State.” and inserting “company, if such company engages or will engage only in activities reasonably related to the activities of financial institutions, as the Director may determine and approve. For purposes of this subparagraph, the term ‘company’ includes any corporation and any limited liability company (as defined in section 1(b)(7) of the Bank Service Company Act).”.

(b) REGULATION AND EXAMINATION OF SERVICE PROVIDERS.—Section 5(d) of the Home Owners' Loan Act (12 U.S.C. 1464(d)) is amended by adding at the end the following new paragraphs:

“(7) REGULATION AND EXAMINATION OF SAVINGS ASSOCIATION SERVICE COMPANIES.—

“(A) SERVICE PERFORMED BY CONTRACT OR OTHERWISE.—If a savings association, subsidiary, or any savings and loan affiliate or entity, as identified by section 8(b)(9) of the Federal Deposit Insurance Act, that is regularly examined or subject to examination by the Director, causes to be performed for itself, by contract or otherwise, any services authorized under this Act or other applicable Federal law, whether on or off its premises—

“(i) such performance shall be subject to regulation and examination by the Director to the same extent as if such services were being performed by the savings association on its own premises;

“(ii) the Director may authorize any other Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) that supervises such subsidiary, savings and loan affiliate, or entity to perform an examination referred to in clause (i); and

“(iii) the savings association shall notify the Director of the existence of the service relationship not later than 30 days after the earlier of the date of the making of such service contract or the date of initiation of the service.

“(B) ADMINISTRATION BY THE DIRECTOR.—The Director may issue such regulations and orders, including those issued pursuant to section 8 of the Federal Deposit Insurance Act, as may be necessary to enable the Director to administer and carry out this paragraph and to prevent evasion of this paragraph.”.

(c) CONFORMING AMENDMENTS TO SECTION 8 OF THE FEDERAL DEPOSIT INSURANCE ACT.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(1) in subsection (b)(9), by striking “to any service corporation of a savings association and to any subsidiary of such service corporation”; and

(2) in subsection (e)(7)(A)(ii), by striking “(b)(8)” and inserting “(b)(9)”.

#### SEC. 106. ELIMINATION OF THRIFT MULTISTATE MULTIPLE HOLDING COMPANY RESTRICTIONS.

Section 10(e) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively.

#### SEC. 107. NONCONTROLLING INVESTMENTS BY SAVINGS ASSOCIATION HOLDING COMPANIES.

Section 10(e)(1)(A)(iii) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)(1)(A)(iii)) is amended—

(1) by inserting “, except with the prior approval of the Director,” after “or to retain”; and

(2) by striking “to so acquire or retain” and inserting “to acquire, by purchase or otherwise, or to retain”.

#### SEC. 108. REPEAL OF DEPOSIT BROKER NOTIFICATION AND RECORDKEEPING REQUIREMENT.

Section 29A of the Federal Deposit Insurance Act (12 U.S.C. 1831f-1) is repealed.

#### SEC. 109. UNIFORM REGULATION OF EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS.

Section 22(g)(4) of the Federal Reserve Act (12 U.S.C. 375a(4)) is amended by striking “member bank's appropriate Federal banking agency” and inserting “Board”.

#### SEC. 110. EXPEDITED PROCEDURES FOR CERTAIN REORGANIZATIONS.

The National Bank Consolidation and Merger Act (12 U.S.C. 215 et seq.) is amended—

(1) by redesignating section 5 as section 7; and

(2) by inserting after section 4 the following new section:

#### “SEC. 5. EXPEDITED PROCEDURES FOR CERTAIN REORGANIZATIONS.

“(a) IN GENERAL.—A national banking association may, with the approval of the Comptroller, pursuant to rules and regulations promulgated by the Comptroller, and upon the affirmative vote of the shareholders of such association owning at least two-thirds of its capital stock outstanding, reorganize so as to become a subsidiary of a bank holding company or a company that will, upon consummation of such reorganization, become a bank holding company.

“(b) REORGANIZATION PLAN.—A reorganization authorized under subsection (a) shall be carried out in accordance with a reorganization plan that—

“(1) specifies the manner in which the reorganization shall be carried out;

“(2) is approved by a majority of the entire board of directors of the association;

“(3) specifies—

“(A) the amount of cash or securities of the bank holding company, or both, or other consideration, to be paid to the shareholders of the reorganizing association in exchange for their shares of stock of the association;

“(B) the date as of which the rights of each shareholder to participate in such exchange will be determined; and

“(C) the manner in which the exchange will be carried out; and

“(4) is submitted to the shareholders of the reorganizing association at a meeting to be held on the call of the directors in accordance with the procedures prescribed in connection with a merger of a national bank under section 3.

“(c) RIGHTS OF DISSENTING SHAREHOLDERS.—If, pursuant to this section, a reorganization plan has been approved by the shareholders and the Comptroller, any shareholder of the association who has voted

against the reorganization at the meeting referred to in subsection (b)(4), or has given notice in writing at or prior to that meeting to the presiding officer that the shareholder dissents from the reorganization plan, shall be entitled to receive the value of his or her shares, as provided by section 3 for the merger of a national bank.

“(d) EFFECT OF REORGANIZATION.—The corporate existence of an association that reorganizes in accordance with this section shall not be deemed to have been affected in any way by reason of such reorganization.”.

#### SEC. 111. NATIONAL BANK DIRECTORS.

(a) AMENDMENTS TO THE REVISED STATUTES.—Section 5145 of the Revised Statutes (12 U.S.C. 71) is amended—

(1) by striking “for one year” and inserting “for a period of not more than 3 years,”; and

(2) by adding at the end the following: “In accordance with regulations issued by the Comptroller of the Currency, an association may adopt bylaws that provide for staggering the terms of its directors.”.

(b) AMENDMENT TO THE BANKING ACT OF 1933.—Section 31 of the Banking Act of 1933 (12 U.S.C. 71a) is amended in the first sentence, by inserting before the period “, except that the Comptroller of the Currency may, by regulation or order, exempt a national banking association from the 25-member limit established by this section”.

#### SEC. 112. AMENDMENT TO BANK CONSOLIDATION AND MERGER ACT.

The National Bank Consolidation and Merger Act (12 U.S.C. 215 et seq.) is amended by inserting after section 5, as added by section 110 of this Act, the following new section:

##### “SEC. 6. MERGERS AND CONSOLIDATIONS WITH SUBSIDIARIES AND NONBANK AFFILIATES.

“(a) IN GENERAL.—Upon the approval of the Comptroller, a national banking association may merge with 1 or more of its subsidiaries or nonbank affiliates.

“(b) SCOPE.—Nothing in this section shall be construed—

“(1) to affect the applicability of section 18(c)(1) of the Federal Deposit Insurance Act; or

“(2) to grant a national banking association any power or authority that is not permissible for a national banking association under other applicable provisions of law.

“(c) REGULATIONS.—The Comptroller shall promulgate regulations to implement this section.”.

#### SEC. 113. LOANS ON OR PURCHASES BY INSTITUTIONS OF THEIR OWN STOCK; AFFILIATIONS.

(a) AMENDMENT TO REVISED STATUTES.—Section 5201 of the Revised Statutes of the United States (12 U.S.C. 83) is amended to read as follows:

##### “SEC. 5201. LOANS BY BANK ON ITS OWN STOCK.

“(a) GENERAL PROHIBITION.—No national banking association shall make any loan or discount on the security of the shares of its own capital stock.

“(b) EXCLUSION.—For purposes of this section, an association shall not be deemed to be making a loan or discount on the security of the shares of its own capital stock if it acquires the stock to prevent loss upon a debt contracted for in good faith before the date of the loan or discount transaction.”.

(b) AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

“(t) LOANS BY INSURED INSTITUTIONS ON THEIR OWN STOCK.—

“(1) GENERAL PROHIBITION.—No insured depository institution shall make any loan or discount on the security of the shares of its own capital stock.

“(2) EXCLUSION.—For purposes of this subsection, an insured depository institution shall not be deemed to be making a loan or discount on the security of the shares of its own capital stock if it acquires the stock to prevent loss upon a debt contracted for in good faith before the date of the loan or discount transaction.”.

(c) REMOVAL OF PROHIBITION ON CERTAIN AFFILIATIONS.—Section 18(s)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1828(s)) is amended by striking “be an affiliate of.”.

#### SEC. 114. DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS.

Section 205(8) of the Depository Institution Management Interlocks Act (12 U.S.C. 3204(8)) is amended by striking “director” each place it appears and inserting “management official”.

#### SEC. 115. PURCHASED MORTGAGE SERVICING RIGHTS.

Section 475(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1828 note) is amended—

(1) by striking “purchased”;

(2) by striking “rights” each place it appears and inserting “assets”; and

(3) by striking “90” and inserting “100”.

#### SEC. 116. CROSS MARKETING RESTRICTION; LIMITED PURPOSE BANK RELIEF.

(a) CROSS MARKETING RESTRICTION.—Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended by striking paragraph (3).

(b) DAYLIGHT OVERDRAFTS.—Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended by inserting after paragraph (2) the following:

“(3) PERMISSIBLE OVERDRAFTS DESCRIBED.—For purposes of paragraph (2)(C), an overdraft is described in this paragraph if—

“(A) such overdraft results from an inadvertent computer or accounting error that is beyond the control of both the bank and the affiliate;

“(B) such overdraft—

“(i) is permitted or incurred on behalf of an affiliate that is monitored by, reports to, and is recognized as a primary dealer by the Federal Reserve Bank of New York; and

“(ii) is fully secured, as required by the Board, by bonds, notes, or other obligations that are direct obligations of the United States or on which the principal and interest are fully guaranteed by the United States or by securities and obligations eligible for settlement on the Federal Reserve book entry system; or

“(C) such overdraft—

“(i) is permitted or incurred by, or on behalf of, an affiliate that is engaged in activities that are so closely related to banking, or managing or controlling banks, as to be a proper incident thereto; and

“(ii) does not cause the bank to violate any provision of section 23A or 23B of the Federal Reserve Act, either directly, in the case of a bank that is a member of the Federal Reserve System, or by virtue of section 18(j) of the Federal Deposit Insurance Act, in the case of a bank that is not a member of the Federal Reserve System.”.

(c) CONFORMING AMENDMENT.—Section 4(f)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(2)) is amended by striking “Paragraph (1) shall cease to apply to any company described in such paragraph if—” and inserting “Subject to paragraph (3), a company described in paragraph (1) shall no longer qualify for the exemption provided under that paragraph if—”.

(d) ACTIVITIES LIMITATIONS.—Section 4(f)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(2)) is amended by striking subparagraph (B) and inserting the following:

“(B) any bank subsidiary of such company engages in any activity in which the bank was not lawfully engaged as of March 5, 1987;

“(C) any bank subsidiary of such company that—

“(i) accepts demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties; and

“(ii) engages in the business of making commercial loans (and, for purposes of this clause, loans made in the ordinary course of a credit card operation shall not be treated as commercial loans); or

“(D) after the date of enactment of the Competitive Equality Amendments of 1987, any bank subsidiary of such company permits any overdraft (including any intraday overdraft), or incurs any such overdraft in the account of the bank at a Federal reserve bank, on behalf of an affiliate, other than an overdraft described in paragraph (3).”.

#### SEC. 117. DIVESTITURE REQUIREMENT.

(a) IN GENERAL.—Section 4(f)(4) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(4)) is amended to read as follows:

“(4) DIVESTITURE IN CASE OF LOSS OF EXEMPTION.—If any company described in paragraph (1) fails to qualify for the exemption provided under such paragraph by operation of paragraph (2), such exemption shall cease to apply to such company and such company shall divest control of each bank it controls before the end of the 180-day period beginning on the date that the company receives notice from the Board that the company has failed to continue to qualify for such exemption, unless before the end of such 180-day period, the company has—

“(A) either—

“(i) corrected the condition or ceased the activity that caused the company to fail to continue to qualify for the exemption; or

“(ii) submitted a plan to the Board for approval to cease the activity or correct the condition in a timely manner (which shall not exceed 1 year); and

“(B) implemented procedures that are reasonably adapted to avoid the reoccurrence of such condition or activity.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 4(f)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(2)) is amended by striking “Paragraph (1) shall cease to apply to any company described in such paragraph if—” and inserting “A company described in paragraph (1) shall no longer qualify for the exemption provided under such paragraph if—”.

#### SEC. 118. DAYLIGHT OVERDRAFTS INCURRED BY FEDERAL HOME LOAN BANKS.

The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 11A the following new section:

##### “SEC. 11B. DAYLIGHT OVERDRAFTS INCURRED BY FEDERAL HOME LOAN BANKS.

“(a) IN GENERAL.—Any policy or regulation adopted by the Board governing payment system risk or intraday credit shall—

“(1) include—

“(A) the establishment of net debit caps appropriate to the credit quality of each Federal Home Loan Bank; and

“(B) the imposition of normal fees for daylight overdrafts, calculated in the same manner as fees for other users; or

“(2) exempt Federal Home Loan Banks from such policy or regulation.

“(b) DEFINITION.—For purposes of this section, the term ‘Federal Home Loan Bank’ has the same meaning as in section 2 of the Federal Home Loan Bank Act.”.

#### SEC. 119. FEDERAL HOME LOAN BANK GOVERNANCE AMENDMENTS.

The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended—

(1) in section 7(i) (12 U.S.C. 1427(i)), by striking “, subject to the approval of the board”;

(2) in section 12(a) (12 U.S.C. 1432(a))—



(A) by striking “, but, except” and all that follows through “ten years”;

(B) by striking “and by its board of directors” and all that follows through “enjoyed subject to the approval of the Board” and inserting “and, by its board of directors, to prescribe, amend, and repeal bylaws governing the manner in which its affairs may be administered, consistent with this Act”; and

(C) by adding at the end the following: “A Federal home loan bank shall not be required to submit to the board of directors of the bank for its approval, budget or business plans, including annual operating and capital budgets, strategic plans, or business plans.”;

(3) in section 9 (12 U.S.C. 1429)—

(A) in the second sentence, by striking “with the approval of the Board”; and

(B) in the third sentence, by striking “, subject to the approval of the Board.”;

(4) in section 10(a)(5) (12 U.S.C. 1430(a)(5))—

(A) by striking “and the Board”; and

(B) by striking “by the Board” and inserting “by the Federal home loan bank”.

(5) in section 10(c) (12 U.S.C. 1430(c)), by striking “Board” and inserting “Federal home loan bank”;

(6) in section 10(d) (12 U.S.C. 1430(d))—

(A) by striking “and the approval of the Board”; and

(B) by striking “Subject to the approval of the Board, any” and inserting “Any”; and

(7) in section 16(a) (12 U.S.C. 1436(a)), by striking “, and then only with the approval of the Federal Housing Finance Board”.

#### SEC. 120. COLLATERALIZATION OF ADVANCES TO MEMBERS.

Section 10(a) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended—

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

“(1) Fully disbursed, whole first mortgages on improved residential property that are not more than 90 days delinquent, mortgages on improved residential property insured or guaranteed by the United States Government or any agency thereof, or securities representing a whole interest in such mortgages.”; and

(2) in paragraph (4), by striking “If an advance” and all that follows through “is appropriate.”.

#### TITLE II—STREAMLINING ACTIVITIES OF INSTITUTIONS

##### SEC. 201. UPDATING OF AUTHORITY FOR COMMUNITY DEVELOPMENT INVESTMENTS.

Section 5(c)(3)(A) of the Home Owners’ Loan Act (12 U.S.C. 1464(c)(3)(A)) is amended by striking “located” and all that follows through “1974” and inserting “for the primary purpose of promoting the public welfare, including the welfare of low- and moderate-income communities or families (including the provision of housing, services, or jobs)”.

##### SEC. 202. ACCEPTANCE OF BROKERED DEPOSITS.

Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended—

(1) by striking subsections (e) and (h);

(2) by redesignating subsections (f) through (g) as subsections (e) through (f), respectively;

(3) in subsection (f), as redesignated, by striking paragraph (3) and redesignating paragraph (4) as paragraph (3); and

(4) by adding at the end the following new subsection:

“(g) DEPOSIT SOLICITATIONS RESTRICTED.—

“(1) IN GENERAL.—An insured depository institution may not solicit deposits by offering rates of interest that are significantly higher than the national rate of interest on insured deposits, as established by the Corporation, if—

“(A) the institution is undercapitalized or adequately capitalized, as those terms are defined in section 38; or

“(B) the Corporation has been appointed conservator for the institution.

“(2) EXCLUSION.—Paragraph (1) does not apply to an insured depository institution that is well capitalized, as defined in section 38.”.

##### SEC. 203. FEDERAL RESERVE ACT LENDING LIMITS.

Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended—

(1) by striking subsection (m); and

(2) by redesignating subsection (o) as subsection (m).

##### SEC. 204. ELIMINATE UNNECESSARY RESTRICTIONS ON PRODUCT MARKETING.

Section 106(b) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972) is amended—

(1) by striking paragraph (1);

(2) in paragraph (2)—

(A) by striking “(2)”;

(B) by redesignating subparagraphs (A) through (I) as paragraphs (1) through (9), respectively;

(3) in paragraph (6), as redesignated—

(A) by redesignating clauses (i) through (ix) as subparagraphs (A) through (I), respectively;

(B) by striking “clause (i)” each place it appears and inserting “subparagraph (A)”;

(C) in subparagraph (B), as redesignated—

(i) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively;

(ii) by striking “(aa)” each place it appears and inserting “(I)”;

(iii) by striking “(bb)” each place it appears and inserting “(II)”;

(iv) by striking “(cc)” each place it appears and inserting “(III)”;

(D) in subparagraph (C), as redesignated—

(i) by striking “clauses (i) and (ii)” and inserting “subparagraphs (A) and (B)”;

(ii) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively;

(iii) in clause (i), as redesignated, by redesignating items (aa) through (cc) as subclauses (I) through (III), respectively; and

(iv) by striking “clause (iv)” and inserting “subparagraph (D)”;

(E) in subparagraph (D), as redesignated—

(i) by striking “clause (iii)” each place it appears and inserting “subparagraph (C)”;

(ii) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively;

(iii) by striking “(aa)” and inserting “(I)”;

(iv) by striking “(bb)” and inserting “(II)”;

(F) in subparagraph (E), as redesignated—

(i) by striking “(ii) or (iii)” and inserting “(B), or (C)”;

(ii) by redesignating subclauses (I) through (III) as clauses (i) through (iii), respectively;

(4) in paragraph (7), as redesignated—

(A) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(B) in subparagraph (A), as redesignated—

(i) by redesignating paragraphs (1) through (4) as clauses (i) through (iv), respectively;

(ii) by striking “(a)” each place it appears and inserting “(I)”;

(iii) by striking “(b)” each place it appears and inserting “(II)”;

(iv) by striking “(c)” each place it appears and inserting “(III)”;

(5) by striking “this paragraph” each place it appears and inserting “this subsection”;

(6) by striking “this subparagraph” each place it appears and inserting “this paragraph”.

##### SEC. 205. BUSINESS PURPOSE CREDIT EXTENSIONS.

Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by adding at the end the following new subsection:

“(k) BUSINESS PURPOSE CREDIT EXTENSIONS.—

“(1) IN GENERAL.—An institution referred to in section 2(c)(2)(F) or 4(f)(3) may engage

in the provision of credit card accounts for business purposes, including the issuance of such accounts to small businesses.

“(2) DEFINITION.—For purposes of this subsection, the term ‘credit card’ has the same meaning as in section 103 of the Truth In Lending Act (15 U.S.C. 1602).”.

##### SEC. 206. AFFINITY GROUPS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term “affinity group” means any person, other than an individual, that—

(A) is established for a common objective or purpose;

(B) is not established by 1 or more settlement service providers for the principal purpose of endorsing the products or services of a settlement service provider;

(C) the common objective or purpose of which is not principally the conduct of settlement services; and

(D) does not consist of member organizations whose principal business is providing settlement services; and

(2) the terms “person”, “settlement services”, and “thing of value” have the meanings given those terms in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602).

(b) MARKETING MODERNIZATION.—Notwithstanding any other provision of law, it shall not be unlawful to make a payment or otherwise transfer any thing of value to an affinity group for or in connection with an endorsement (written or oral), either through an advertisement or through a communication addressed to a consumer by name or by mailing address, of the products or services of a settlement service provider, if disclosure is clearly made at the time of the first written communication with the consumer of the fact that a payment has been made or may be made or any other thing of value may accrue to the affinity group for the endorsement.

##### SEC. 207. FAIR DEBT COLLECTION PRACTICES.

(a) EXEMPTION FOR COMMUNICATIONS INVOLVING LEGAL PROCEEDINGS.—Section 803 of the Fair Debt Collection Practices Act (15 U.S.C. 1692a) is amended—

(1) in paragraph (2)—

(A) by striking “communication” means the” and inserting the following: “communication”

“(A) means the”; and

(B) by striking the period at the end and inserting the following: “; and

“(B) does not include communications made pursuant to the Federal Rules of Civil Procedure, in the case of a proceeding in a State court, the rules of civil procedure available under the laws of that State, or a nonjudicial foreclosure proceeding.”; and

(2) in paragraph (5)—

(A) by striking “debt” means any” and inserting the following: “debt”

“(A) means any”; and

(B) by striking the period at the end and inserting the following: “; and

“(B) does not include a draft drawn on a bank for a sum certain, payable on demand and signed by the maker.”.

(b) COLLECTION ACTIVITY FOLLOWING INITIAL NOTICE.—Section 809 of the Fair Debt Collection Practices Act (15 U.S.C. 1692(g)) is amended by adding at the end the following new subsection:

“(d) CONTINUATION DURING PERIOD.—Collection activities and communications may continue during the 30-day period described in subsection (a) unless the consumer requests the cessation of such activities.”.

(c) DEFINITION OF “COMMUNICATION”.—Section 803 of the Fair Debt Collection Practices Act (15 U.S.C. 1692a) is amended—

(1) by striking "title—" and inserting "title, the following definitions shall apply:"; and

(2) in paragraph (2)—

(A) by striking "term 'communication' means" and inserting "term 'communication'—

"(A) means";

(B) by striking the period at the end and inserting "; and

"(B) does not include any communication made or action taken to collect on loans made, insured, or guaranteed under the Higher Education Act of 1965."

#### **SEC. 208. RESTRICTION ON ACQUISITIONS OF OTHER INSURED DEPOSITORY INSTITUTIONS.**

Section 4(f)(12) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(12)) is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(C) in an acquisition in which the insured institution has been found to be undercapitalized by the appropriate Federal or State authority."

#### **SEC. 209. MUTUAL HOLDING COMPANIES.**

Section 10(o) of the Home Owners' Loan Act (12 U.S.C. 1467a(o)) is amended—

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

"(1) REORGANIZATION.—A savings association operating in mutual form may reorganize so as to become a holding company—

"(A) by chartering a savings association, the stock of which is to be wholly owned, except as otherwise provided in this section, directly or indirectly by the mutual association and by transferring the substantial part of its assets and liabilities, by merger or otherwise, including all of its insured liabilities, to the interim savings association;

"(B) by converting to a stock association charter and simultaneously forming a subsidiary stock holding company that owns 100 percent of the voting stock of the converting association; or

"(C) in any other manner approved by the Director, including by the formation of a subsidiary stock holding company, transferring assets and liabilities by merger or otherwise to the subsidiary stock holding company, or through the use of one or more interim institutions."

(2) in paragraph (3)(D)—

(A) by striking "savings association" and inserting "the mutual holding company or subsidiary stock holding company";

(B) by striking "such capital" and inserting "the capital of the association";

(C) by striking "association's"; and

(D) by inserting "of the association" before "established";

(3) in paragraph (5)—

(A) by inserting "or subsidiary stock holding company" before "may engage";

(B) in subparagraph (A)—

(i) by inserting "or acquiring" after "Investing in"; and

(ii) by inserting ", savings bank, or bank" before the period; and

(C) in subparagraph (C), by inserting "or bank" before the period;

(4) by striking paragraph (7) and inserting the following:

"(7) CHARTERING AND REGULATION.—

"(A) IN GENERAL.—A mutual holding company shall be chartered by the Director, and a subsidiary stock holding company may be chartered under State law, and such holding companies shall be subject to such regulations as the Director may prescribe. Unless the context otherwise requires, a mutual

holding company shall be subject to the other requirements of this section regarding regulation of holding companies.

"(B) CONVERSION TO STATE CHARTER.—A mutual holding company organized pursuant to paragraph (1) may convert its charter to a State mutual holding company charter.

"(C) CONVERSION TO FEDERAL CHARTER.—Notwithstanding any other provision of Federal law, a mutual holding company organized under State law may convert its State mutual holding company charter to a Federal mutual holding company charter."

(5) in paragraph (8)—

(A) in subparagraph (A), by inserting "or subsidiary stock holding company" after "company"; and

(B) by striking subparagraph (B) and inserting the following:

"(B) ISSUANCE OF SHARES.—This section shall not prohibit a savings association or subsidiary stock holding company chartered as part of a transaction described in paragraph (1) from—

"(i) issuing any nonvoting shares or less than 50 percent of the voting share of such association or subsidiary stock holding company to any person other than the mutual holding company;

"(ii) issuing all of the voting shares of such association to a subsidiary stock holding company, if more than 50 percent of the voting shares of the subsidiary stock holding company are owned by the mutual holding company; and

"(iii) issuing to any person other than the mutual holding company, in connection with the formation of the mutual holding company or at a later date, a separate class of voting shares, the rights and preferences of which are identical to those of the class of voting shares issued to the mutual holding company, except with respect to the payment of dividends.

"(C) MUTUAL SAVINGS ASSOCIATION.—In the case of a mutual savings association in which holders of accounts or obligors exercise voting rights, such holders of accounts or obligors shall have the right to subscribe on a priority basis for voting shares of the subsidiary stock holding company or savings association chartered pursuant to paragraph (1), pursuant to regulations of the Director, but only with respect to the voting shares issued in connection with the initial reorganization pursuant to paragraph (1). The priority subscription rights applicable to voting shares issued to the mutual holding company in connection with the initial reorganization pursuant to paragraph (1) shall be exercisable at such time as the shares are subsequently sold by the subsidiary savings association or subsidiary stock holding company."

(6) in paragraph (9)(A)(i)(I), by inserting ", directly or indirectly," after "owned"; and

(7) in paragraph (10)—

(A) by striking "subsection—" and inserting "subsection, the following definitions shall apply:"; and

(B) by adding at the end the following:

"(D) SUBSIDIARY STOCK HOLDING COMPANY.—The term 'subsidiary stock holding company' means a stock holding company organized under applicable State law, that is wholly owned, except as otherwise provided in this section, by the mutual holding company."

#### **SEC. 210. CALL REPORT SIMPLIFICATION.**

(a) MODERNIZATION OF CALL REPORT FILING AND DISCLOSURE SYSTEM.—In order to reduce the administrative requirements pertaining to bank reports of condition, savings association financial reports, and bank holding company consolidated and parent-only financial statements, and to improve the timeliness of such reports and statements, the Federal banking agencies shall—

(1) work jointly to develop a system under which—

(A) insured depository institutions and their affiliates may file such reports and statements electronically; and

(B) the Federal banking agencies may make such reports and statements available to the public electronically; and

(2) not later than 1 year after the date of enactment of this Act, report to the Congress and make recommendations for legislation that would enhance efficiency for filers and users of such reports and statements.

(b) UNIFORM REPORTS AND SIMPLIFICATION OF INSTRUCTIONS.—The Federal banking agencies shall, consistent with the principles of safety and soundness, work jointly—

(1) to adopt a single form for the filing of core information required to be submitted under Federal law to all such agencies in the reports and statements referred to in subsection (a); and

(2) to simplify instructions accompanying such reports and statements and to provide an index to the instructions that is adequate to meet the needs of both filers and users.

(c) REVIEW OF CALL REPORT SCHEDULE.—Each Federal banking agency shall—

(1) review the information required by schedules supplementing the core information referred to in subsection (b); and

(2) eliminate requirements that are not warranted for reasons of safety and soundness or other public purposes.

#### **TITLE III—STREAMLINING AGENCY ACTIONS**

##### **SEC. 301. SCHEDULED MEETINGS OF AFFORDABLE HOUSING ADVISORY BOARD.**

Section 14(b)(6)(A) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended—

(1) by striking "4 times a year, or more frequently if requested" and inserting "2 times a year, or as requested"; and

(2) by striking "In each year" and all that follows through "located."

##### **SEC. 302. ELIMINATION OF DUPLICATIVE DISCLOSURE OF FAIR MARKET VALUE OF ASSETS AND LIABILITIES.**

Section 37(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831n(a)(3)) is amended by striking subparagraph (D).

##### **SEC. 303. PAYMENT OF INTEREST IN RECEIVERSHIPS WITH SURPLUS FUNDS.**

Section 11(d)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(10)) is amended by adding at the end the following new subparagraph:

"(C) RULEMAKING AUTHORITY OF CORPORATION.—The Corporation may prescribe such rules, including definitions of terms, as it deems appropriate to establish the interest rate for or to make payments of postinsolvency interest to creditors holding proven claims against the receivership estates of insured Federal or State depository institutions following satisfaction by the receiver of the principal amount of all creditor claims."

##### **SEC. 304. REPEAL OF REPORTING REQUIREMENT ON DIFFERENCES IN ACCOUNTING STANDARDS.**

Section 37 of the Federal Deposit Insurance Act (12 U.S.C. 1831n) is amended by striking subsection (c).

##### **SEC. 305. AGENCY REVIEW OF COMPETITIVE FACTORS IN BANK MERGER ACT FILINGS.**

(a) REPORT REQUIRED.—Section 18(c)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(4)) is amended by striking "request reports" and all that follows through the end of the paragraph and inserting the following: "request a report on the competitive factors involved from the Attorney General. The report shall be furnished not later than 30 calendar days after the date on which it is requested, or not later than 10 calendar days

after such date if the requesting agency advises the Attorney General that an emergency exists requiring expeditious action.”.

(b) **TIMING OF TRANSACTION.**—Section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended by striking the third sentence and inserting the following: “If the agency has advised the Attorney General of the existence of an emergency requiring expeditious action and has requested a report on the competitive factors within 10 days, the transaction may not be consummated before the fifth calendar day after the date of approval by the agency.”.

(c) **EVALUATION OF COMPETITIVE EFFECT.**—

(1) **AMENDMENTS TO BANK HOLDING COMPANY ACT OF 1956.**—Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended—

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

“(6) **EVALUATION OF COMPETITIVE EFFECT.**—The Board may not disapprove of a transaction pursuant to paragraph (1)(B) unless the Board takes into account—

“(A) competition from institutions, other than depository institutions (as defined in section 3 of the Federal Deposit Insurance Act), that provide financial services;

“(B) efficiencies and cost savings that the transaction may create;

“(C) deposits of the participants in the transaction that are not derived from the relevant market;

“(D) the capacity of savings associations to make small business loans;

“(E) lending by institutions other than depository institutions to small businesses; and

“(F) such other factors as the Board deems relevant.”; and

(B) in paragraph (1), by striking “restraint or trade” and inserting “restraint of trade”.

(2) **AMENDMENTS TO FEDERAL DEPOSIT INSURANCE ACT.**—Section 18(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(5)) is amended—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by inserting “(A)” after “(5)”;

(C) by striking “In every case” and inserting the following:

“(B) In every case under this subsection”;

and

(D) by adding at the end the following:

“(C) The responsible agency may not disapprove of a transaction pursuant to subparagraph (A), unless the agency takes into account—

“(i) competition from institutions that provide financial services;

“(ii) efficiencies and cost savings that the transaction may create;

“(iii) deposits of the participants in the transaction that are not derived from the relevant markets;

“(iv) the capacity of the institutions to make small business loans;

“(v) lending by institutions other than depository institutions to small businesses; and

“(vi) such other factors as the responsible agency deems relevant.”.

#### **SEC. 306. TERMINATION OF THE THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.**

(a) **IN GENERAL.**—Effective 3 months after the date of enactment of this Act, the Thrift Depositor Protection Oversight Board established under section 21A of the Federal Home Loan Bank Act (hereafter in this section referred to as the “Board”) is terminated.

(b) **DISPOSITION OF AFFAIRS.**—

(1) **IN GENERAL.**—Effective on the date of enactment of this Act, the Chairman of the Board (or the designee of the Chairman) may exercise on behalf of the Board any power of the Board necessary to settle and conclude the affairs of the Board.

(2) **AVAILABILITY OF FUNDS.**—Funds available to the Board shall be available to the Chairman of the Board to pay expenses incurred in carrying out paragraph (1).

(c) **SAVINGS PROVISION.**—

(1) **EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.**—Nothing in this Act affects the validity of any right, duty, or obligation of the United States, the Board, the Resolution Trust Corporation, or any other person, that—

(A) arises under or pursuant to the Federal Home Loan Bank Act, or any other provision of law applicable with respect to the Board; and

(B) existed on the day before the effective date of the termination of the Board under this Act.

(2) **CONTINUATION OF SUITS.**—No action or other proceeding commenced by or against the Board with respect to any function of the Board shall abate by reason of the enactment of this Act.

(3) **LIABILITIES.**—All liabilities arising out of the operation of the Board during the period beginning on August 9, 1989, and ending on the date that is 3 months after the date of enactment of this Act shall remain the direct liabilities of the United States. The Secretary of the Treasury shall not be substituted for the Board as a party to any such action or proceeding.

(4) **CONTINUATIONS OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS PERTAINING TO THE RESOLUTION FUNDING CORPORATION.**—

(A) **IN GENERAL.**—Each order, resolution, determination, and regulation regarding the Resolution Funding Corporation shall continue in effect according to its terms until modified, terminated, set aside, or superseded in accordance with applicable law, if such order, resolution, determination, or regulation—

(i) was issued, made, and prescribed, or allowed to become effective by the Board or by a court of competent jurisdiction, in the performance of functions transferred by this Act; and

(ii) is in effect on the date that is 3 months after the date of enactment of this Act.

(B) **ENFORCEABILITY.**—All orders, resolutions, determinations, and regulations pertaining to the Resolution Funding Corporation are enforceable by and against—

(i) the United States prior to the effective date of the transfer of responsibilities to the Secretary of the Treasury under this Act; and

(ii) the Secretary of the Treasury on and after the effective date of the transfer of responsibilities to the Secretary of the Treasury under this Act.

(d) **TRANSFER OF CERTAIN RESOLUTION FUNDING CORPORATION RESPONSIBILITIES TO SECRETARY OF TREASURY.**—Effective 3 months after the date of enactment of this Act, the authorities and duties of the Board under sections 21A(a)(6)(I) and 21B of the Federal Home Loan Bank Act are transferred to the Secretary of the Treasury (or the designee of the Secretary).

(e) **MEMBERSHIP OF THE AFFORDABLE HOUSING ADVISORY BOARD.**—Effective on the date of enactment of this Act, section 14(b)(2) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended by striking subparagraph (C) and redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

#### **TITLE IV—DISCLOSURE SIMPLIFICATION**

##### **SEC. 401. ALTERNATIVE COMPLIANCE METHOD FOR APR DISCLOSURE.**

Section 127A(a)(2)(G) of the Truth in Lending Act (15 U.S.C. 1637a(a)(2)(G)) is amended by inserting before the semicolon “or, at the option of the creditor, a statement that the

periodic payments may increase or decrease substantially”.

##### **SEC. 402. ALTERNATIVE COMPLIANCE METHODS FOR ADVERTISING CREDIT TERMS.**

(a) **DOWNPAYMENT AMOUNTS.**—Section 144(d) of the Truth in Lending Act (15 U.S.C. 1664(d)) is amended—

(1) by striking “or the number of installments or the period of repayment, then”; and

(2) by inserting “or” before “the dollar”.

(b) **ALTERNATIVE DISCLOSURES.**—Chapter 3 of the Truth in Lending Act (15 U.S.C. 1661 et seq.) is amended by adding at the end the following new section:

##### **“SEC. 148. ALTERNATIVE DISCLOSURES.**

“(a) **IN GENERAL.**—A radio or television advertisement to aid, promote, or assist, directly or indirectly, any extension of consumer credit may satisfy the disclosure requirements in sections 143, 144(d), 147(a), or 147(e), by complying with all of the requirements in subsections (b) and (c) of this section.

“(b) **INFORMATION TO BE DISCLOSED.**—A radio or television advertisement referred to in subsection (a) complies with this subsection if it clearly and conspicuously sets forth, in such form and manner as the Board may require—

“(1) the annual percentage rate of any finance charge, and with respect to an open-end credit plan, the simple interest rate or the periodic rate in addition to the annual percentage rate;

“(2) whether the interest rate may vary;

“(3) if the advertisement states an introductory rate (or states with respect to a variable-rate plan an initial rate that is not based on the index and margin used to make later rate adjustments)—

“(A) with equal prominence, the annual percentage rate that will be in effect after the introductory or initial rate period expires (or for a variable-rate plan, a reasonably current annual percentage rate that would have been in effect using the index and margin); and

“(B) the period during which the introductory or initial rate will remain in effect;

“(4) the amount of any annual fee for an open-end credit plan;

“(5) a telephone number established in accordance with subsection (c) that may be used by consumers to obtain all of the information otherwise required to be disclosed pursuant to sections 143 and 144(d), and subsections (a) and (e) of section 147; and

“(6) a statement that the consumer may use the telephone number established in accordance with subsection (c) to obtain further details about additional terms and costs associated with the offer of credit.

“(c) **REQUIREMENTS FOR TELEPHONE NUMBERS.**—In the case of an advertisement described in subsection (b) that refers to a telephone number—

“(1) the creditor shall establish the telephone number for a broadcast area not later than the date on which the advertisement is first broadcast in that area;

“(2) the required information shall be available by telephone for a broadcast area for a period of not less than 10 days following the date of the final broadcast of the advertisement in that area;

“(3) the creditor shall provide all of the information that is otherwise required pursuant to sections 143 and 144(d), and subsections (a) and (e) of section 147 orally by telephone or, if requested by the consumer, in written form; and

“(4) the consumer shall obtain the required information by telephone without incurring any long-distance charges.”.

**TITLE V—MISCELLANEOUS****SEC. 501. POSITIONS OF BOARD OF GOVERNORS OF FEDERAL RESERVE SYSTEM ON THE EXECUTIVE SCHEDULE.**

(a) IN GENERAL.—

(1) POSITIONS AT LEVEL I OF THE EXECUTIVE SCHEDULE.—Section 5312 of title 5, United States Code, is amended by adding at the end the following:

“Chairman, Board of Governors of the Federal Reserve System.”.

(2) POSITIONS AT LEVEL II OF THE EXECUTIVE SCHEDULE.—Section 5313 of title 5, United States Code, is amended—

(A) by striking “Chairman, Board of Governors of the Federal Reserve System.”; and

(B) by adding at the end the following:

“Members, Board of Governors of the Federal Reserve System.”.

(3) POSITIONS AT LEVEL III OF THE EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by striking “Members, Board of Governors of the Federal Reserve System.”.

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the first day of the first pay period for the Chairman and Members of the Board of Governors of the Federal Reserve System beginning on or after the date of enactment of this section.

**SEC. 502. CONSISTENT COVERAGE FOR INDIVIDUALS ENROLLED IN A HEALTH PLAN ADMINISTERED BY THE FEDERAL BANKING AGENCIES.**

(a) ENROLLMENT IN CHAPTER 89 PLAN.—For purposes of chapter 89 of title 5, United States Code, any period of enrollment shall be deemed to be a period of enrollment in a health benefits plan under chapter 89 of such title, if such enrollment is—

(1) in a health benefits plan administered by the Federal Deposit Insurance Corporation before the termination of such plan on January 3, 1998; or

(2) subject to subsection (c), in a health benefits plan (not under chapter 89 of such title) with respect to which the eligibility of any employees or retired employees of the Board of Governors of the Federal Reserve System terminates on January 3, 1998.

(b) ENROLLMENT; CONTINUED COVERAGE.—

(1) ENROLLMENT.—Subject to subsection (c), any individual who, on January 3, 1998, is enrolled in a health benefits plan described in paragraph (1) or (2) of subsection (a) may enroll in an approved health benefits plan under chapter 89 of title 5, United States Code, either as an individual or for self and family, if, after taking into account the provisions of subsection (a), such individual—

(A) meets the requirements of that chapter 89 for eligibility to become so enrolled as an employee, annuitant, or former spouse (within the meaning of that chapter); or

(B) would meet the requirements of that chapter 89 if, to the extent such requirements involve either retirement system under such title 5, such individual satisfies similar requirements or provisions of the Retirement Plan for Employees of the Federal Reserve System.

(2) DETERMINATIONS.—Any determination under paragraph (1)(B) shall be made under guidelines established by the Office of Personnel Management in consultation with the Board of Governors of the Federal Reserve System.

(3) CONTINUED COVERAGE.—Subject to subsection (c), any individual who, on January 3, 1998, is entitled to continued coverage under a health benefits plan described in paragraph (1) or (2) of subsection (a) shall be deemed to be entitled to continued coverage under section 8905a of title 5, United States Code, but only for the same remaining period as would have been allowable under the health benefits plan in which such individual was enrolled on January 3, 1998, if—

(A) the individual had remained enrolled in that plan; and

(B) that plan did not terminate, or the eligibility of such individual with respect to that plan did not terminate, as described in subsection (a).

(4) COMPARABLE TREATMENT.—Subject to subsection (c), any individual (other than an individual under paragraph (3)) who, on January 3, 1998, is covered under a health benefits plan described in paragraph (1) or (2) of subsection (a) as an unmarried dependent child, but who does not then qualify for coverage under chapter 89 of title 5, United States Code, as a family member (within the meaning of that chapter) shall be deemed to be entitled to continued coverage under section 8905a of that title, to the same extent and in the same manner as if such individual had, on January 3, 1998, ceased to meet the requirements for being considered an unmarried dependent child of an enrollee under such chapter.

(5) EFFECTIVE DATE.—Coverage under chapter 89 of title 5, United States Code, pursuant to an enrollment under this section shall become effective on January 4, 1998.

(c) ELIGIBILITY FOR FEHBP LIMITED TO INDIVIDUALS LOSING ELIGIBILITY UNDER FORMER HEALTH PLAN.—Nothing in subsection (a)(2) or any paragraph of subsection (b) (to the extent that paragraph (2) relates to the plan described in subsection (a)(2)) shall be considered to apply with respect to any individual whose eligibility for coverage under the plan does not involuntarily terminate on January 3, 1998.

(d) TRANSFERS TO THE EMPLOYEES HEALTH BENEFITS FUND.—The Federal Deposit Insurance Corporation and the Board of Governors of the Federal Reserve System shall transfer to the Employees Health Benefits Fund, under section 8909 of title 5, United States Code, amounts determined by the Director of the Office of Personnel Management, after consultation with the Federal Deposit Insurance Corporation and the Board of Governors of the Federal Reserve System, to be necessary to reimburse the Fund for the cost of providing benefits under this section not otherwise paid for by the individuals covered by this section. The amounts so transferred shall be held in the Fund and used by the Office of Personnel Management in addition to amounts available under section 8906(g)(1) of title 5, United States Code.

(e) ADMINISTRATION AND REGULATIONS.—The Office of Personnel Management—

(1) shall administer the provisions of this section to provide for—

(A) a period of notice and open enrollment for individuals affected by this section; and

(B) no lapse of health coverage for individuals who enroll in a health benefits plan under chapter 89 of title 5, United States Code, in accordance with this section; and

(2) may prescribe regulations to implement this section.

**SEC. 503. FEDERAL HOUSING FINANCE BOARD.**

Section 2A(b)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1422a(b)(2)) is amended—

(1) by striking subparagraph (B); and

(2) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

**TITLE VI—TECHNICAL CORRECTIONS****SEC. 601. TECHNICAL CORRECTION RELATING TO DEPOSIT INSURANCE FUNDS.**

(a) IN GENERAL.—Section 2707 of the Deposit Insurance Funds Act of 1996 (Public Law 104-208; 110 Stat. 3009-496) is amended by striking “7(b)(2)(C)” and inserting “7(b)(2)(E)”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be deemed to have the same effective date as section 2707 of the Deposit Insurance Funds Act of 1996.

**SEC. 602. RULES FOR CONTINUATION OF DEPOSIT INSURANCE FOR MEMBER BANKS CONVERTING CHARTERS.**

Section 8(o) of the Federal Deposit Insurance Act (12 U.S.C. 1818(o)) is amended in the second sentence, by striking “subsection (d) of section 4” and inserting “subsection (c) or (d) of section 4”.

**SEC. 603. AMENDMENTS TO THE REVISED STATUTES.**

(a) WAIVER OF CITIZENSHIP REQUIREMENT FOR NATIONAL BANK DIRECTORS.—Section 5146 of the Revised Statutes of the United States (12 U.S.C. 72) is amended in the first sentence, by inserting before the period “, and waive the requirement of citizenship in the case of not more than a minority of the total number of directors”.

(b) TECHNICAL AMENDMENT TO THE REVISED STATUTES.—Section 329 of the Revised Statutes of the United States (12 U.S.C. 11) is amended by striking “to be interested in any association issuing national currency under the laws of the United States” and inserting “to hold an interest in any national bank”.

(c) REPEAL OF UNNECESSARY CAPITAL AND SURPLUS REQUIREMENT.—Section 5138 of the Revised Statutes of the United States (12 U.S.C. 51) is repealed.

**SEC. 604. CONFORMING CHANGE TO THE INTERNATIONAL BANKING ACT.**

Section 4(b) of the International Banking Act of 1978 (12 U.S.C. 3102(b)) is amended in the second sentence, by striking paragraph (1) and by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively.

Ms. MOSELEY-BRAUN. Mr. President, today, Senator SHELBY and several of my other colleagues on the Banking Committee are introducing the Financial Regulatory Relief and Economic Efficiency Act of 1997. I am cosponsoring this legislation because I have long been committed to the process of reducing unnecessary regulatory burdens on financial institutions. Many of the provisions were drafted in consultation with the banking regulatory agencies and will remove duplicative, unnecessary restrictions that no longer make sense and are no longer appropriate, given this era of great change in the financial services industry. This bill will allow the banks to be more efficient and cost-effective in their activities. It will also allow them to better meet the needs of the users of the system, the individuals, the communities, the businesses, the exporters, the farmers, and all those who depend on our financial system. We live in capital-scarce times and that means that it is imperative that our financial system provides capital to those who need it in the most cost-effective manner possible. We can be longer tolerate inefficiencies due to outmoded regulation.

However, it is important to note that I do not support every provision of this bill, and in fact I have serious concerns about portions of it. I believe that certain sections of the bill will need to be changed significantly as it works its way through the Banking Committee and the Senate floor. That said, I want to be a part of this process, because I believe in the objectives of the bill: reducing unnecessary regulatory burden. Furthermore, I think the issue should be addressed in a bipartisan manner.

This type of effort needs to be a priority for Banking Committee and the Senate as a whole, and that is why I am an original cosponsor of the Financial Regulatory Relief and Economic Efficiency Act of 1997.

By Mr. SMITH of Oregon:

S. 1406. A bill to amend section 2301 of title 38, United States Code, to provide for the furnishing of burial flags on behalf of certain deceased members and former members of the Selected Reserve; to the Committee on Veterans Affairs.

**BURIAL FLAGS FOR MEMBERS OF THE GUARD AND RESERVES LEGISLATION**

Mr. SMITH of Oregon. Mr. President, several months ago, one of my constituents, Gilbert Miller, a retired Air Force senior master sergeant, walked into my Medford, OR office to share an idea with me. After doing some research, he discovered that some military reserve component members who had honorably served their country as Selected Reservists were not eligible for funeral burial flags. In response to this inequity, and in recognition of Veterans' Day, I rise to introduce a bill authorizing the Department of Veterans' Affairs to issue burial flags to deceased members of the reserve component.

Mr. President, National Guard and Reserve units and individual members increasingly share the day-to-day burden of our national defense. Their service is routinely performed in a drill or short active duty tour status alongside an active component service member. Their status, however, does not make their contribution to our national defense any less important or less critical. Simply put, many requirements could not be met without the direct involvement of Reserve forces, either in a drill status or on short active duty tours.

In view of this reality, I believe it is time to expand the current law regarding burial flags to include these members of the total force. Therefore, my bill permits the issuance of a burial flag to those National Guard and Reserve members who honorably served in the reserve component.

Mr. President, I would like to thank the Non Commissioned Officers Association and all the veterans' groups for their support of this bill.

Finally, Mr. President, I would like to pay tribute to our veterans as we prepare to celebrate Veterans' Day. Each day as I drive to work at the U.S. Senate, I cannot help but notice the beautiful monuments of our Nation's capital. These monuments were built to honor great people and great events, and each has its own inspirational story to tell. What you will find in the stories is that the greatness of our country and of its leaders was founded in the willingness of common men and women, our veterans, to risk their lives defending the principle of right. Serving both at home and on foreign soil, their service must always be remembered.

Working in Washington in this great institution and among these beautiful monuments, I frequently am reminded of the sacrifices of our veterans. Even outside of Washington, in almost every town across America, there are monuments dedicated to our veterans. I urge each American to discover their story, not only from a historical perspective, but also through the eyes of the veterans living in their communities, where you will find common men and women who simply did the right thing when called upon. And because of them, we live in a world where there is more peace than ever before. They deserve our thanks.

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. 1406**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ISSUANCE OF BURIAL FLAGS FOR DECEASED MEMBERS AND FORMER MEMBERS OF THE SELECTED RESERVE.**

Section 2301(a)(2) of title 38, United States Code, is amended to read as follows:

“(2) deceased individual who—

“(A) was serving as a member of the Selected Reserve (as described in section 10143 of title 10) at the time of death;

“(B) had served at least one enlistment, or the period of initial obligated service, as a member of the Selected Reserve and was discharged from service in the Armed Forces under conditions not less favorable than honorable; or

“(C) was discharged from service in the Armed Forces under conditions not less favorable than honorable by reason of a disability incurred or aggravated in line of duty during the individual's initial enlistment, or period of initial obligated service, as a member of the Selected Reserve.”.

By Mr. BURNS:

S. 1407. A bill to allow participation by the communities surrounding Yellowstone National Park in decisions affecting the park, and for other purposes; to the Committee on Energy and Natural Resources.

**THE YELLOWSTONE NATIONAL PARK COMMUNITY PARTICIPATION ACT**

Mr. BURNS. Madam President, I rise today to introduce the Yellowstone National Park Community Participation Act. This is a bill to require the National Park Service to work in conjunction and consult with the communities surrounding Yellowstone National Park in both Montana and Wyoming.

The communities surrounding Yellowstone National Park, are as directly affected by actions within the park, as anything in the park itself. These communities' stability and economic viability are in a large part dependent on the actions within the park. Their future is dependent upon the actions taken both by local park management, and the management of the National Park Service in Washington, DC.

The Department of the Interior and the Director of the National Park Serv-

ice have stated that the management of the parks and the Park Service itself should work in a cooperative effort to make sure that the local communities, affected by actions in the parks, are consulted before action occurs. Well unfortunately this is not always the case.

Last year in the 104th Congress, authority was given to the National Park Service to provide for a demonstration project as it relates to fees charged to enter our national park. This was done with the understanding that this would assist the parks in coming up with additional funding for the backlog of construction and maintenance in each individual parks. Dollars which are sorely needed in the parks and which it is hoped would be put to good use.

Communities surrounding our parks, especially Yellowstone, understand the need for the repairs to the infrastructure in the parks. They are all very willing to work with park management to do what they can to assist in maintaining the parks and assisting management in working on a means for caring for the parks.

Yet, when the Park Service asked for input and provided each individual park with an opportunity to use and develop a new fee structure for the parks not all the communities were asked or informed of the increases in the fees. This was the case in Yellowstone National Park.

While the management of Grand Teton, just a few miles south of Yellowstone, worked with and notified the communities affected by the future fee changes. Providing these communities an opportunity to prepare for the effects these changes would have on their business and economic vitality.

An announcement was made by the management in Yellowstone to address the upcoming changes without very much, if any interaction with the surrounding communities. This then affected their ability to provide the information necessary to people who use their communities as a staging site for their visit to Yellowstone. It put them in the unenviable position of either subjecting their businesses to a loss, due to the fact that they either accepted the additional cost for operating their park tours, or charging the difference to those consumers who were there on the spur of the moment. This is not what any of us would like to do to our customers, nor anything that the Government should require of taxpayers who are either living at the gates of our national parks or visiting them for recreation.

Had a consultation occurred in this instance, it is possible that relations between the communities and the park management could have developed to find a way to work through this process. However no consultation occurred and as a result, relations between park management and the local communities have been strained.

Another telling facet of this dissolution of relations between local communities and the park management, is

what occurred just last winter. Due to what the park management called reduced funding, they changed the winter opening dates for the entrances to Yellowstone. This had a dramatic effect on the economic stability of the communities which are located at the entrances to Yellowstone.

The basis for business in those communities at the entrances to Yellowstone, is not just the traffic they see during the summer, but rests in large part on winter tourism in and around Yellowstone. As beautiful and magnificent, as Yellowstone can be during the summer, the visual experiences a person can enjoy during the winter are multiplied. Many of the businesses in these local communities look upon winter tourism as a means of keeping them in business for the next year.

When any change is announced, without suitable notification or adequate consultation, these communities suffer greatly. Last winter visitors arrived at Yellowstone with the understanding that the park would be open, to allow them to experience the beauty of the Nation's "Crown Jewel" as it lay under a winter coating of snow. However, when they arrived at the entrance to the park, they were greeted not with a welcome, but with a barrier which kept them from enjoying their park.

This delayed opening had a devastating effect on the communities at the gateways to Yellowstone. Many tours were canceled and groups which had planned future winter events in the area, have since canceled those plans. Although it was not true, many of these tour and business groups were of the understanding that Yellowstone was closed to winter travel and activity.

The language in this bill would assure stability for the future of those communities located at the gateways to Yellowstone National Park. The legislation would provide for an opening and closing date, which the people of the community of West Yellowstone, MT, could count on in planning for tour groups and the hiring of personnel to make the visitors' stays a memorable experience.

I have attempted to work with the Park Service and the local communities to see if some means of consultation could be worked out among all the parties involved. Last January a series of meetings occurred, between members of the local community the Park Service and my staff, to discuss the problems which the local communities were facing due to the actions taken last winter. As a result of these meetings, it was hoped that the management of the park would be more receptive to the working with the local communities in the development of changes affecting their lives. So far this has not been the case.

I am offering this legislation today, in an attempt to open dialog to find suitable arrangements for consultation between the park and the gateway communities of Yellowstone National

Park. I will request a hearing on this matter to open that dialog and to seek a means by which all parties are comfortable in a process of exchange and consultation on the future of the business related to Yellowstone. I look forward to working with the Park Service and the local communities to find a means of keeping Yellowstone a treasure for all America and the world to enjoy, during all seasons of the year.

Thank you, Madam President.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 1408. A bill to establish the Lower East Side Tenement National Historic Site, and for other purposes; to the Committee on Energy and Natural Resources.

THE LOWER EAST SIDE TENEMENT MUSEUM  
NATIONAL HISTORIC SITE ACT OF 1997

Mr. D'AMATO. Mr. President, I rise today to join with my friend and colleague, Senator MOYNIHAN, to introduce legislation that will declare the Lower East Side Tenement Museum a national historic site. Most of us have heard the stories of how the great wave of immigrants of generations ago entered our Nation, but few really know what happened to them after they landed at Ellis Island. At the Lower East Side Tenement Museum at 97 Orchard Street in New York City, one is able to follow the lives of the immigrants beyond the first hours on our shores. The museum tells their history, displays their courage and showcases their values in an interpretive setting that brings the visitor back to an era from which many of us came. The museum presents to many of us an awareness of our ancestral roots that we may never have known existed. Through the legislation being introduced by Senator MOYNIHAN and me, the museum will be able to affiliate itself with the National Park Service, bestowing national recognition on the humble beginnings of millions of our ancestors.

The Tenement Museum is unique in that it not only traces the quality of life inside the tenement, but presents a picture of the immigrant's outside world as well. Due to the cramped and dingy nature of the tenement, as much time as possible was spent outside. Thus, in order to fully explore their lives, it is essential to look toward their work, their houses of worship, their organizations, and their entertainment. The museum incorporates the experiences of yesteryear's immigrants and interprets them for today's generations. It gives the visitor a powerful glimpse into the life and living arrangements that our ancestors faced on a daily basis. Besides onsite programs, the museum utilizes the surrounding neighborhood; an area which continues to this day in its role as a receiver of immigrants.

Throughout our Nation we have preserved, remembered and cherished places of national significance and beauty. We have put enormous energy toward maintaining homes of noted

Americans and protecting vast areas of wilderness. What we do not have, though, is a monument to the so-called ordinary citizen. The Tenement Museum can fill that role and will do so at no cost to the Federal Government under this legislation.

It is unlikely that many of those who lived in buildings like the one at 97 Orchard Street felt that they were special. Rather, they were probably grateful for the chance to come to America to try to make a better life for themselves and their families. Given the living and working conditions that we now take for granted, the language and cultural obstacles they had to overcome, we should applaud their ability to take hold of an opportunity and not only survive, but thrive. It is their contributions to society in the face of overwhelming obstacles that defined an era and established an ethic that survives to this day. It is their spirit that we admire, and that, in retrospect, makes these otherwise ordinary individuals special. The Tenement Museum is their monument, and as their descendants, it is ours as well.

Congress has an opportunity to recognize the pioneer spirit of our ancestors and deliver it to future generations of Americans. The museum reminds us all of an important and often forgotten chapter in our immigrant heritage, mainly, that millions of families made their first stand in our Nation not in a log cabin or farmhouse or mansion, but in a city tenement. Granting the Lower East Side Tenement Museum affiliated status within the National Park Service will shed light on that chapter while linking it to the chain of the Status of Liberty, Ellis Island, and Castle Clinton in the story of our urban immigrant heritage. I urge my colleagues to join Senator MOYNIHAN and me in cosponsoring this bill, and I urge its speedy consideration by the Senate.

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. 1408

*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 "Lower East Side Tenement National Historic Site Act of 1997".

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1)(A) immigration, and the resulting diversity of cultural influences, is a key factor in defining the identity of the United States; and

(B) many United States citizens trace their ancestry to persons born in nations other than the United States;

(2) the latter part of the 19th century and the early part of the 20th century marked a period in which the volume of immigrants coming to the United States far exceeded that of any time prior to or since that period;

(3) no single identifiable neighborhood in the United States absorbed a comparable



number of immigrants than the Lower East Side neighborhood of Manhattan in New York City;

(4) the Lower East Side Tenement at 97 Orchard Street in New York City is an outstanding survivor of the vast number of humble buildings that housed immigrants to New York City during the greatest wave of immigration in American history;

(5) the Lower East Side Tenement is owned and operated as a museum by the Lower East Side Tenement Museum;

(6) the Lower East Side Tenement Museum is dedicated to interpreting immigrant life within a neighborhood long associated with the immigrant experience in the United States, New York City's Lower East Side, and its importance to United States history; and

(7)(A) the Director of the National Park Service found the Lower East Side Tenement at 97 Orchard Street to be nationally significant; and

(B) the Secretary of the Interior declared the Lower East Side Tenement a National Historic Landmark on April 19, 1994; and

(C) the Director of the National Park Service, through a special resource study, found the Lower East Side Tenement suitable and feasible for inclusion in the National Park System.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure the preservation, maintenance, and interpretation of this site and to interpret at the site the themes of immigration, tenement life in the latter half of the 19th century and the first half of the 20th century, the housing reform movement, and tenement architecture in the United States;

(2) to ensure continued interpretation of the nationally significant immigrant phenomenon associated with New York City's Lower East Side and the Lower East Side's role in the history of immigration to the United States; and

(3) to enhance the interpretation of the Castle Clinton, Ellis Island, and Statue of Liberty National Monuments.

### SEC. 3. DEFINITIONS.

As used in this Act:

(1) HISTORIC SITE.—The term "historic site" means the Lower East Side Tenement found at 97 Orchard Street on Manhattan Island in City of New York, State of New York, and designated as a national historic site by section 4.

(2) MUSEUM.—The term "Museum" means the Lower East Side Tenement Museum, a nonprofit organization established in City of New York, State of New York, which owns and operates the tenement building at 97 Orchard Street and manages other properties in the vicinity of 97 Orchard Street as administrative and program support facilities for 97 Orchard Street.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

### SEC. 4. ESTABLISHMENT OF HISTORIC SITE.

(a) IN GENERAL.—To further the purposes of this Act and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.), the Lower East Side Tenement at 97 Orchard Street, in the City of New York, State of New York, is designated a national historic site.

(b) COORDINATION WITH NATIONAL PARK SYSTEM.—

(1) AFFILIATED SITE.—The historic site shall be an affiliated site of the National Park System.

(2) COORDINATION.—The Secretary, in consultation with the Museum, shall coordinate the operation and interpretation of the his-

toric site with the Statue of Liberty National Monument, Ellis Island National Monument, and Castle Clinton National Monument. The historic site's story and interpretation of the immigrant experience in the United States is directly related to the themes and purposes of these National Monuments.

(c) OWNERSHIP.—The historic site shall continue to be owned, operated, and managed by the Museum.

### SEC. 5. MANAGEMENT OF THE SITE.

(a) COOPERATIVE AGREEMENT.—The Secretary may enter into a cooperative agreement with the Museum to ensure the marking, interpretation, and preservation of the national historic site designated by section 4(a).

(b) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary may provide technical and financial assistance to the Museum to mark, interpret, and preserve the historic site, including making preservation-related capital improvements and repairs.

(c) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—The Secretary, in consultation with the Museum, shall develop a general management plan for the historic site that defines the role and responsibility of the Secretary with regard to the interpretation and the preservation of the historic site.

(2) INTEGRATION WITH NATIONAL MONUMENTS.—The plan shall outline how interpretation and programming for the historic site shall be integrated and coordinated with the Statue of Liberty National Monument, Ellis Island National Monument, and Castle Clinton National Monument to enhance the story of the historic site and these National Monuments.

(3) COMPLETION.—The plan shall be completed not later than 2 years after the date of enactment of this Act.

(d) LIMITED ROLE OF SECRETARY.—Nothing in this Act authorizes the Secretary to acquire the property at 97 Orchard Street or to assume overall financial responsibility for the operation, maintenance, or management of the historic site.

### SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. MOYNIHAN. Mr. President, I rise to join my friend and colleague Senator D'AMATO in introducing a bill that will authorize a small but most significant addition to the National Park system by designating the Lower East Side Tenement Museum a national historic site. For 150 years New York City's Lower East Side has been the most vibrant, populous, and famous immigrant neighborhood in the Nation. From the first waves of Irish and German immigrants to Italians and Eastern European Jews to the Asian, Latin, and Caribbean immigrants arriving today, the Lower East Side has provided millions their first American home.

For many of them that home was a brick tenement; six or so stories, no elevator, maybe no plumbing, maybe no windows, a business on the ground floor, and millions of our forebearers upstairs. The Nation has with great pride preserved log cabins, farm houses, and other symbols of our agrarian roots. We have reopened Ellis Island to commemorate and display the first stop for 12 million immigrants who arrived in New York City.

Until now we have not preserved a sample of urban, working class life as part of the immigrant experience. For many of those disembarked on Ellis Island the next stop was a tenement on the Lower East Side, such as the one at 97 Orchard Street. It is here that the Lower East Side Tenement Museum shows us what that next stop was like.

The tenement at 97 Orchard was built in the 1860's, during the first phase of tenement construction. It provided housing for 20 families on a plot of land planned for a single family residence. Each floor had four 3-room apartments, each of which had two windows in one of the rooms and none in the others. The privies were out back, as was the spigot that provided water for everyone. The public bathhouse was down the street.

In 1900 this block was the most crowded per acre on Earth. Conditions improved at 97 Orchard Street after the passage of the New York Tenement House Act of 1901, though the crowding remained. Two toilets were installed on each floor. A skylight was installed over the stairway and interior windows were cut in the walls to allow some light throughout each apartment. For the first time the ground floor became commercial space. In 1918 electricity was installed. Further improvements were mandated in 1935, but the owner of this building chose to board it up rather than follow the new regulations. It remained boarded up for 60 years until the idea of a museum took hold.

The tenement museum will keep at least one apartment in the dilapidated condition in which it was found when reopened, to show visitors the process of urban archaeology. Others are being restored to show how real families lived at different periods in the building's history. Across the street there are interpretive programs to better explain the larger experience of gaining a foothold on America in the Lower East Side of New York. There are also plans for programmatic ties with Ellis Island and its precursor, Castle Clinton. And the museum plans to play an active role in the immigrant community around it, further integrating the past and present immigrant experience on the Lower East Side.

This bill designates the tenement museum a national historic site. It also authorizes the Secretary of the Interior to enter into a cooperative agreement with the museum to ensure the marking, interpretation, and preservation of the site. The Secretary will also coordinate with the Statue of Liberty, Ellis Island, and Castle Clinton sites to help with the interpretation of the immigrant experience. It will be a productive partnership.

Mr. President, I believe the tenement museum provides an outstanding opportunity to preserve and present an important stage of the immigrant experience and the move for social change in our cities at the turn of the century. I know of no better place than 97 Orchard Street to do so, and no

other place in the National Park system doing so already. I look forward to the realization of this grand idea, and I ask my colleagues for their support.

By Ms. COLLINS (for herself, Mr. THOMPSON, and Mr. BENNETT):

S. 1409. A bill for the relief of Sheila Heslin of Bethesda, MD; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

Ms. COLLINS. Mr. President, today I am introducing a bill, along with my colleagues Senators THOMPSON and BENNETT, that will require the Department of Justice to pay the legal fees of a former Federal employee, Sheila Heslin, who incurred these expenses as a direct result of the campaign finance investigations conducted by the Congress, the Department of Justice, and the Central Intelligence Agency.

Earlier this fall, Ms. Heslin testified before the Senate Governmental Affairs Committee about actions she took while performing her official duties as an employee of the National Security Council. Everyone who observed her testimony was impressed with her honesty and courage in resisting high-level political pressure. Ms. Heslin told us how other governmental and political officials pressured her to approve a request that Roger Tamraz, a major contributor with an unsavory reputation, be allowed to meet with President Clinton. She resisted these overtures in an effort to protect the integrity of the White House and to ensure that our foreign policy was conducted appropriately. Of all the individuals who testified before the Senate Governmental Affairs Committee about the campaign finance problems, Ms. Heslin provided the best example of how career Government officials ought to conduct themselves. She demonstrated courage and a high regard for the proper conduct of U.S. foreign policy.

Ms. Heslin participated in these proceedings as a witness, not as the subject of any investigation. She has provided important information on events and activities that may well become the subject of prosecution. As a result, Ms. Heslin was forced to retain private counsel to advise her in the various investigations because representation by Government counsel would have presented a clear conflict of interest.

It is my understanding that the Department of Justice has to date declined to reimburse Ms. Heslin for the legal fees relating to her testimony before the Senate Governmental Affairs Committee and other similar inquiries. She is now a private citizen with a new baby and without the personal wealth to afford the legal representation her service as a Government employee has required. As an important and fully cooperative witness in these investigations, she has set an example that ought to not be discouraged by denying Government payment for outside legal representation in a case involving appropriate actions taken during her Federal employment.

Under existing regulations, the Department of Justice normally approves the payment of legal fees for Government employees when "the actions for which representation is requested reasonably appears to have been performed within the scope of the employees's employment" and payment is "in the interest of the United States." Both requirements have been met in the case Sheila Heslin.

Moreover, Mr. President, in connection with other investigations, the Department of Justice has paid the legal fees of hundreds of Government employees, some of whom were high-level political appointees. For example, in fiscal year 1996, political appointees at the White House and on the Vice President's staff were reimbursed thousands of dollars in attorneys' fees. To deny the payment of legal fees to Ms. Heslin, who is not suspected of any wrongdoing, while at the same time paying the legal fees of many other Government employees, some of whom were being investigated for possible illegal activities, is simply unfair.

Earlier this month, I asked the Attorney General to personally address this matter and to reverse the decision denying reimbursement to Ms. Heslin. I am still waiting for Attorney General Reno's response to my letter.

In the absence of action by the Department of Justice, I am introducing this bill which directs the Attorney General to pay reasonable attorney's fees incurred by Ms. Heslin as a result of the campaign finance investigations. To ensure that such payments are not excessive, it is intended that the amounts be determined in accordance with applicable Justice Department regulations.

Mr. President, this bill is not only for Sheila Heslin. It is also to send a clear message to every career Government employee who in the future has to choose between succumbing to inappropriate political pressure or doing the right thing. It is also for the American people who are the ultimate beneficiaries when public servants put the interests of the country ahead of the interests of those seeking to buy access and influence for their own narrow purposes.

Mr. President, it is regrettable that we cannot do more to reward people who follow the high standards of conduct we all espouse. At the very least, we should ensure that the actions of their Government do not penalize them. For that reason, I hope my colleagues will support this measure.

By Mr. REED:

S. 1410. A bill to amend section 258 of the Communications Act of 1934 to enhance to protections against unauthorized changes in subscriber selections of telephone service providers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE ANTI-SLAMMING ACT OF 1997

Mr. REED. Mr. President, I rise today to make a few comments con-

cerning legislation which I am introducing to deal with the problem of slamming. Earlier this year, I outlined the remedies necessary to deal with this serious consumer problem in a Sense of the Senate Resolution which was amended to the Commerce State Justice Appropriations legislation. The legislation I introduce today embodies those remedies. I would like to take a moment to thank Ranking Member HOLLINGS and Chairmen MCCAIN and BURNS for the assistance they have lent to me on this issue.

Telephone "slamming" is the illegal practice of switching a consumer's long distance service without the individual's consent. This problem has increased dramatically over the last several years, as competition between long distance carriers has risen. Slamming is the top consumer complaint lodged at the Federal Communications Commission (FCC), with 11,278 reported complaints in 1995, and 16,500 in 1996. In the first nine months of 1997 alone, 15,000 complaints have been filed. Unfortunately, this represents only the tip of the iceberg because most consumers never report violations to the FCC. One regional Bell company estimates that 1 in every 20 switches is fraudulent. Media reports indicate that as many as 1 million illegal transfers occur annually. Thus, slamming threatens to rob consumers of the benefit of a competitive market, which is now composed of over 500 companies which generate \$72.5 billion. As a result of slamming, consumers face not only increased phone bills, but also the significant expenditure of time and energy in attempting to identify and reverse the fraud. The results of slamming are clear: higher phone bills and immense consumer frustration.

Mr. President, we are all aware of the stiff competition which occurs for customers in the long distance telephone service industry. The goal of deregulating the telecommunications industry was to allow consumers to easily avail themselves of lower prices and better service. Hopefully, this option will soon be presented to consumers for in-state calls and local phone service. Indeed, better service at lower cost is a main objective of those who seek to deregulate the utility industry. Unfortunately, fraud threatens to rob many consumers of the benefits of a competitive industry.

Telemarketing is one of the least expensive and most effective forms of marketing, and it has exponentially expanded in recent years. By statute, the Federal Trade Commission (FTC) regulates most telemarketing, prohibiting deceptive or abusive sales calls, requiring that homes not be called at certain times, and that companies honor a consumer's request not to be called again. The law mandates that records concerning sales be maintained for two years. While the FTC is charged with primary enforcement, the law allows consumers, or state Attorneys General on their behalf, to bring legal action

against violators. Yet, phone companies are exempt from these regulations, since they are subject to FCC regulation.

While the FCC has brought action against twenty-two of the industry's largest and smallest firms for slamming violations with penalties totaling over \$1.8 million, this represents a minute fraction of the violations. FCC prosecution does not effectively address or deter this serious fraud. To date, state officials have been more aggressive in pursuing violators. The California Public Utility Commission fined a company \$2 million earlier this year after 56,000 complaints were filed against it. Arizona, Arkansas, Idaho, Illinois, Kansas, Minnesota, Mississippi, Missouri, New Jersey, Ohio, Vermont, and Wisconsin have all pursued litigation against slammers. Earlier this summer, public officials of twenty-five states asked the FCC to adopt tougher rules against slammers.

As directed by the Telecommunications Act of 1996, the FCC has recently moved to close several loopholes which have allowed slamming to continue unabated. Most importantly, the FCC has proposed to eliminate the financial incentive which encourages many companies to slam by mandating that all revenues generated from an illegal switch be returned to the original carrier. At present, a slammer can retain the profits generated from an illegal switch. Additionally, the FCC proposed regulations would require that a carrier confirm all switches generated by telemarketing through either (1) a letter of agency, known as a LOA, from the consumer; (2) a recording of the consumer verifying his or her choice on a toll free line provided by the carrier; or (3) a record of verification by an appropriately qualified and independent third party. The regulations are expected to be finalized by the FCC early in 1998. While this represents a start, I believe that these remedies will be wholly inadequate to address the ever-increasing problem of slamming. The problem is that slammed consumers would still be left without conclusive proof that their consent was properly obtained and verified.

My legislation encompasses a three part approach to stop slamming by strengthening the procedures used to verify consent obtained by marketers; increasing enforcement procedures by allowing citizens or their representatives to pursue slammers in court with the evidence necessary to win; and encouraging all stakeholders to use emerging technology to prevent fraud.

Mr. President, let me also thank the National Association of Attorneys General, the National Association of Regulatory Utility Commissioners which through both their national offices and individual members provided extensive recommendations to improve this bill. Additionally, I have found extremely helpful the input of several groups which advocate on behalf of consumers. I was particularly pleased to work with

the Consumer Federation of America to address concerns which its members expressed, and I am honored that this legislation has received the endorsement of their organization.

Mr. President, let me take a few minutes to outline the specific provisions of my bill. My legislation requires that a consumer's consent to change service is verified so that discrepancies can be adjudicated quickly and efficiently. Like the 1996 Act, my bill requires a legal switch to include verification. However, my legislation enumerates the necessary elements of a valid verification. First, the bill requires verification to be maintained by the provider, either in the form of a letter from the consumer or by recording verification of the consumer's consent via the phone. The length that the verification must be maintained is to be determined by the FCC. Second, the bill stipulates the form that verification must take. Written verification remains the same as current regulations. Oral verification must include the voice of the subscriber affirmatively demonstrating that she wants her long distance provider to be changed; is authorized to make the change; and is currently verifying an imminent switch. The bill mandates oral verification to be conducted in a separate call from that of the telemarketer, by an independent, disinterested party. This verifying call must promptly disclose the nature and purpose of the call. Third, after a change has been executed, the new service provider must send a letter to the consumer, within five business days of the change in service, informing the consumer that the change, which he requested and verified, has been effected. Fourth, the bill mandates that a copy of verification be provided to the consumer upon request. Finally, the bill requires the FCC to finalize rules implementing these mandates within nine months of enactment of the bill.

These procedures should help ensure that consumers can efficiently avail themselves of the phone service they seek, without being exposed to random and undetectable fraudulent switches. If an individual is switched without his or her consent, the mandate of recorded, maintained verification will provide the consumer with the proof necessary to prove that the switch was illegal.

The second main provision of my legislation would provide consumers, or their public representatives, a legal right to pursue violators in court. Following the model of Senator Hollings' 1991 Telephone Consumer Protection Act, my bill provides aggrieved consumers with a private right of action in any state court which allows, under specific slamming laws or more general consumer protection statutes such an action. The 1991 Act has been adjudicated to withstand constitutional challenges on both equal protection and tenth amendment claims. Thus,

the bill has the benefit of specifying one forum in which to resolve illegal switches of all types of service: long distance, in-state, and local service.

Realizing that many individuals will not have the time, resources, or inclination to pursue a civil action, my bill also allows state Attorneys Generals, or other officials authorized by state law, to bring an action on behalf of citizens. Like the private right of action in suits brought by public officials damages are statutorily set at \$1,000 or actual damages, whichever is greater. Treble damages are awarded in cases of knowing or willful violations. In addition to monetary awards, states are entitled to seek relief in the form of writs of mandamus, injunction, or similar relief. To ensure a proper role for the FCC, state actions must be brought in a federal district court where the victim or defendant resides. Additionally, state actions must be certified with the Commission, which maintains a right to intervening in an action. The bill makes express the fact that it has no impact on state authority to investigate consumer fraud or bring legal action under any state law.

Finally, Mr. President, my legislation recognizes that neither legislators nor regulators can solve tomorrow's problems with today's technology. Therefore my bill mandates that the FCC provide Congress with a report on other, less burdensome but more secure means of obtaining and recording consumer consent. Such methods might include utilization of Internet technology or issuing PIN numbers or customer codes to be used before carrier changes are authorized. The bill requires that the FCC report to Congress on such methodology by December 31, 1999.

Mr. President, I appreciate the opportunity to discuss my initiative to stop slamming. I hope that this issue can be addressed quickly. As a result, I would urge all my colleagues to cosponsor this legislation.

By Mr. MACK (for himself, Mr. HARKIN, Mr. DEWINE, Mr. SANTORUM, Ms. COLLINS, Ms. SNOWE, Mr. D'AMATO, Mr. SMITH of Oregon, Mrs. BOXER, Mr. KENNEDY, Mrs. FEINSTEIN, Mr. LAUTENBERG, Mr. GRAHAM, Mr. DODD, Mr. DURBIN, and Mr. WELLSTONE):

S. 1411. A bill to amend the Internal Revenue Code of 1986 to disallow a Federal income tax deduction for payments to the Federal Government or any State or local government in connection with any tobacco litigation or settlement and to use any increased Federal revenues to promote public health; to the Committee on Finance.

THE NATIONAL INSTITUTES OF HEALTH TRUST  
FUND ACT OF 1997

Mr. MACK. Mr. President, today I am joined by Senators HARKIN, DEWINE, SANTORUM, COLLINS, SNOWE, D'AMATO, SMITH of Oregon, BOXER, KENNEDY, FEINSTEIN, LAUTENBERG, GRAHAM,

DODD, DURBIN, and WELLSTONE in introducing legislation that begins to realize the paramount goal of doubling funding for the National Institutes of Health [NIH] over the next 5 years. The bill ensures that any tobacco settlements or judgments are not tax deductible.

As currently crafted, the global settlement specifically allows the tobacco companies to deduct the entire amount of their payments. That is a possible \$128 billion break on their tax bill. I believe it is fundamentally wrong to allow them such a free ride at taxpayers' expense. More importantly, any settlement should provide funds for biomedical research, including funding to find better treatment and cures for the diseases caused by tobacco.

Although the Tax Code often allows settlement amounts to be deductible, the current law provides that fines or penalties paid to a Government entity are not. The unprecedented situation we face with the tobacco industry demands that the Congress define these payments as more akin to such a fine or penalty. If a businessman cannot deduct a speeding ticket he received on his way to a meeting, tobacco shouldn't be able to deduct its payment for guaranteed immunity and certainty of liability. Which is worse, a speeding ticket or knowingly addicting and killing millions of Americans?

I want my colleagues to understand that the success of our efforts on this front does not hinge on the enactment of a final Federal settlement. The bill applies to any settlement or judgment at the State or Federal level. As such, if the tobacco companies are found liable in any forum, or see fit to settle any of their cases with governmental entities, those payments will not be deductible. However, the bill leaves in place the deductibility of compensatory sums paid to individuals for harm done to them. Now is the time for Congress to step forward and pledge that we will not be a party to any tobacco settlement that comes at taxpayers' expense.

Allowing the companies to state that they are willing to pay \$368.5 billion to the Government, when in reality they are only paying two-thirds of that amount, is false advertising. The bill corrects this misleading situation to the benefit of thousands, perhaps millions, of Americans whose tobacco-related illnesses might be cured now through medical research.

As my colleagues will recall, the Senate passed by a vote of 98 to 0 a Sense of the Senate Resolution that Congress, and the Nation, should commit to the goal of doubling funding for NIH over the next 5 years. The actions we are taking today will help us to achieve that goal.

The tax revenues which will be derived as a result of making the settlement or judgments nondeductible will be used to establish the National Trust Fund for Biomedical Research. Each year, after the President has signed the

Labor/HHS/Education bill into law, the moneys in the medical research trust fund established by this bipartisan legislation will be allocated to NIH for biomedical research.

Research has demonstrated that many diseases can be prevented, eliminated, detected earlier, or managed more effectively through a vast array of new medical procedures and therapies.

For the first time in history, overall death rates from cancer have begun a steady decline in the United States. Ten years ago, cancer patients were offered little hope of survival. Today, however, if a breast cancer is detected at an early stage, there is a 94-percent survival rate. Today, 80 percent of children diagnosed with acute lymphoblastic leukemia [ALL] are alive and free of the disease 5 years after diagnosis.

Genetic research has enabled Americans to learn if they are more likely to develop osteoporosis, breast cancer, Lou Gehrig's disease and other illnesses. Scientists now know that, in at least 50 percent, and possibly as many as 80 percent, of all cancers, one gene—p53—is damaged. If cancer cells growing in a dish are given healthy p53 genes, they immediately stop proliferating and die.

We now know that if one inherits a mutated gene for hemochromatosis, more commonly known as iron overload disease, a disease which affects approximately 1 million Americans, then one will actually develop the disease. The benefit of knowing this is that giving blood is an effective way to manage the disease.

Because of the advances made in biomedical research, people with Parkinson's disease, AIDS, Alzheimer's disease, and other ailments are living longer and healthier lives. We are on the verge of cures and new treatments for diseases which have plagued our society for many years. Research is the key which will unlock the knowledge needed to find these cures.

But doubling our commitment to NIH, we could improve the grant success rate from 25 to 40 percent. More patients would have access to clinical trials. Approximately 2 percent of all cancer patients are now enrolled in clinical trials. We could increase that to 20 percent. The result is that more families would have access to the most effective state-of-the-art treatment.

Patients would also benefit by advances in new methods of treatment including gene therapy, immunotherapy, spinal cord rejuvenation; helping diabetics naturally produce insulin; relief for Parkinson's disease patients, and reduction in heart disease, which is the leading cause of death in the United States.

We have entered a new era of medical research in this country, but we must provide the necessary funding in order to translate discoveries into new methods of diagnosis and treatment.

There can be little argument that scientific advances will also have a sig-

nificant positive impact upon our Nation's economy. They will result in reduced health expenditures for Medicare, Medicaid, DOD, VA, and other public and private health programs. A recent study by the National Science Foundation concluded that every dollar spent on basic research permanently adds 50 cents or more each year to national output.

In addition, the medical technology industry provides high-wage jobs to millions of Americans. Investment in basic science helps the United States compete in the global marketplace in such industries as pharmacology, biotechnology, and medical technology. Combined with the actions taken earlier this year to reform the FDA, public and private investment in biomedical research will ensure our ability to compete in this important industry and create new jobs.

Mr. President, there are millions of Americans who are fighting a day-to-day battle against cancer, sickle cell anemia, AIDS, osteoporosis, Parkinson's disease, and other ailments. Their lives are in our hands. They are asking for hope and the opportunity for a cure. We must act now.

This legislation is supported by more than 175 organizations representing a broad base of research, patient, health professions, consumer, and education communities. I ask unanimous consent that a list of these organizations be included in the RECORD.

I urge my colleagues to join this bipartisan effort to help achieve the goal of doubling NIH funding over the next 5 years.

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

ORGANIZATIONS SUPPORTING MACK-HARKIN TOBACCO RESEARCH FUND AS OF NOVEMBER 6, 1997

1. Alliance for Eye and Vision Research.
2. Alzheimer's Association.
3. American Academy of Allergy, Asthma and Immunology.
4. American Academy of Child and Adolescent Psychiatry.
5. American Academy of Dermatology.
6. American Academy of Neurology.
7. American Academy of Ophthalmology.
8. American Academy of Orthopaedic Surgeons.
9. American Academy of Otolaryngology-Head and Neck Surgery, Inc.
10. American Academy of Pediatrics.
11. American Academy of Physical Medicine and Rehabilitation.
12. American Association for Cancer Education.
13. American Association for Cancer Research.
14. American Association for Dental Research.
15. American Association for the Surgery of Trauma.
16. American Association of Anatomists.
17. American Association of Colleges of Nursing.
18. American Association of Colleges of Osteopathic Medicine.
19. American Association of Colleges of Pharmacy.
20. American Association of Immunologists.
21. American Association of Pharmaceutical Scientists.

22. American Cancer Society.
23. American College of Cardiology.
24. American College of Clinical Pharmacology.
25. American College of Medical Genetics.
26. American College of Neuropsychopharmacology.
27. American College of Rheumatology.
28. American Dermatological Association.
29. American Federation for Medical Research.
30. American Foundation for AIDS Research.
31. American Gastroenterological Association.
32. American Geriatrics Society.
33. American Heart Association.
34. American Liver Foundation.
35. American Lung Association.
36. American Optometric Association.
37. American Pediatric Society.
38. American Physiological Society.
39. American Podiatric Medical Association.
40. American Psychiatric Association.
41. American Psychological Association.
42. American Psychological Society.
43. American Sleep Disorders Association.
44. American Society for Biochemistry and Molecular Biology.
45. American Society for Cell Biology.
46. American Society for Clinical Nutrition.
47. American Society for Clinical Pharmacology and Therapeutics.
48. American Society for Dermatologic Surgery.
49. American Society for Microbiology.
50. American Society for Nutritional Sciences.
51. American Society for Pharmacology and Experimental Therapeutics.
52. American Society for Reproductive Medicine.
53. American Society for Therapeutic Radiology and Oncology.
54. American Society of Cataract and Refractive surgery.
55. American Society of Clinical Oncology.
56. American Society of Hematology.
57. American Society of Human Genetics.
58. American Society of Nephrology.
59. American Society of Tropical Medicine and Hygiene.
60. American Thoracic Society.
61. American Uveitis Society.
62. American Urogynecologic Society.
63. American Urological Association.
64. America's Blood Centers.
65. Arthritic Foundation.
66. Association for Medical School Pharmacology.
67. Association of Research in Vision and Ophthalmology.
68. Association of Academic Health Centers.
69. Association of Academic Physiologists.
70. Association of American Cancer Institutes.
71. Association of American Medical Colleges.
72. Association of American Universities.
73. Association of Anatomy, Cell Biology, and Neurobiology Chairpersons.
74. Association of Independent Research Institutes.
75. Association of Medical and Graduate Departments of Biochemistry.
76. Association of Medical School Microbiology and Immunology Chairs.
77. Association of Medical School Pediatric Department Chairmen.
78. Association of Minority Health Professions Schools.
79. Association of Pediatric Oncology Nurses.
80. Association of Professors of Dermatology.
81. Association of Professors of Medicine.
82. Association of Schools and Colleges of Optometry.
83. Association of Schools of Public Health.
84. Association of Subspecialty Professors.
85. Association of Teachers of Preventive Medicine.
86. Association of University Environmental Health Sciences Center.
87. Association of University Professors of Ophthalmology.
88. Association of University Programs in Occupational Safety and Health.
89. Association of University Radiologists.
90. Astra Merck.
91. Cancer Research Foundation of America.
92. The Candlelighters Childhood Cancer Foundation.
93. Citizens for Public Action.
94. Coalition for American Trauma Care.
95. Coalition of Patient Advocates for Skin Disease Research.
96. College on Problems of Drug Dependence, Inc.
97. Columbia University.
98. Communication Disorders Program University of Virginia.
99. Consortium of Social Science Associations.
100. Cooley's Anemia Foundation.
101. Corporation for the Advancement of Psychiatry.
102. Cystic Fibrosis Foundation.
103. Digestive Disease National Coalition.
104. Dystonia Medical Research Foundation.
105. Dystrophic Epidermolysis Bullosa Research Association of America, Inc.
106. East Carolina University School of Medicine.
107. Emory University.
108. The Endocrine Society.
109. ESA, Incorporated.
110. Families Against Cancer.
111. Federation of American Societies for Experimental Biology.
112. Federation of Behavioral, Psychological and Cognitive Sciences.
113. Foundation for Ichthyosis and Related Skin Types.
114. Fred Hutchinson Cancer Research Center.
115. Friends of the National Library of Medicine.
116. Fox Chase Cancer Center.
117. Gay Men's Health Crisis.
118. General Clinical Research Center Project Directors Association.
119. Glaucoma Research Foundation.
120. Immune Deficiency Foundation.
121. Inova Institute of Research and Education.
122. Joint Council of Allergy, Asthma & Immunology.
123. Juvenile Diabetes Foundation International.
124. The Lighthouse, Inc.
125. Lombardi Cancer Center.
126. Lupus Foundation of America.
127. Lymphoma Research Foundation of America.
128. Medical Library Association.
129. National Alliance for Eye and Vision Research.
130. National Alliance for the Mentally Ill.
131. National Alopecia Areata Foundation.
132. National Association for Biomedical Research.
133. National Association for Pseudoxanthoma Elasticum.
134. National Association of Children's Hospitals.
135. National Association of State Universities and Land-Grant Colleges.
136. National Campaign to end Neurological Disorders.
137. National Caucus of Basic Biomedical Science Chairs.
138. National Coalition for Cancer Research.
139. National Committee to Preserve Social Security and Medicare.
140. National Council on Spinal Cord Injury.
141. National Eczema Association for Science & Education.
142. National Foundation for Ectodermal Dysplasias.
143. National Marfan Foundation.
144. National Mental Health Association.
145. National Multiple Sclerosis Society.
146. National Organization for Rare Disorders.
147. National Osteoporosis foundation.
148. The National Pemphigus Foundation.
149. National Perinatal Association.
150. National Psoriasis Foundation.
151. National Vitiligo Foundation, Incorporated.
152. New York University Medical Center.
153. Oncology Nursing Society.
154. Parkinson's Action Network.
155. Prevent Blindness America.
156. Prevention of Blindness.
157. PXE International Inc.
158. Radiation Research Society.
159. Research America.
160. Research Society on Alcoholism.
161. RESOLVE.
162. Roswell Park Cancer Institute.
163. Society for Academic Emergency Medicine.
164. Society for Inherited Metabolic Diseases.
165. Society for Society for Investigative Dermatology.
166. Society for Neuroscience.
167. Society for Pediatric Research.
168. Society for the Advancement of Women's Health Research.
169. Society of Gynecologic Oncologists.
170. Society of Medical College Directors of Continuing Medical Education.
171. Society of University Otolaryngologists.
172. Society of University Urologists.
173. St. Jude Children's Research Hospital.
174. Sudden Infant Death Syndrome Alliance.
175. Tourette Syndrome Association, Inc.
176. United Scleroderma Foundation, Incorporated.
177. University of California, Berkeley School of Optometry.
178. Women in Ophthalmology.
179. Women's Dermatologic Society.

Mr. HARKIN. Mr. President, today Senator MACK and I, joined by a strong bipartisan group of our colleagues, are introducing legislation that would prevent tobacco companies from claiming the settlement or judgement payments as a tax-deductible expense, and use the resulting savings to substantially expand our Nation's investment in the search for medical breakthroughs.

It is important to note that this common sense proposal is the first major tobacco legislation this year to be introduced with strong bipartisan support. We have 16 cosponsors—8 Democrats and 8 Republicans—and I believe we'll have many more as more of our colleagues have the time to review this bill. Senator MACK and I are also very pleased to have the support of over 170 organizations from across the Nation signed up in support of this plan.

During the negotiations that led to the proposed national tobacco settlement, lawyers for the big tobacco companies insisted on a provision stating

that "all payments pursuant to this agreement shall be deemed ordinary and necessary business expenses." This means that all payments under this proposal, an estimated \$368.5 billion over 25 years, would be tax deductible. Thus the industry could write off about 35 percent of the entire settlement payment of \$368.5 billion, as well as any future payments or fines. So, if this were allowed to happen, the American people—not Big Tobacco—would be forced to pay approximately \$130 billion of the tobacco settlement.

But the American people have paid enough. They've paid by having their kids deliberately targeted in slick advertising campaigns. They've paid by having the industry lie to them about the health effects of tobacco. And they've paid with disease and death.

Tobacco products kill more than 400,000 Americans every year—that's more deaths than from AIDS, alcohol, car accidents, murders, suicides, drugs, and fires combined. Last year, close to 5,000 Iowans died from smoking related illnesses.

Mr. President, our bipartisan bill would close this outrageous loophole in the proposed national tobacco settlement, and open a new source of funding for investing in health research.

And that's what we really need. The proposed settlement provides funding for smoking cessation programs, anti-smoking education programs, and FDA enforcement—but only a tiny amount is set aside for vital scientific research on lung cancer, emphysema, and heart disease.

The Senate is already on record, in a vote of 98-0, to double the budget of NIH within 5 years. If we create a trust fund for medical research as I have been calling for since 1993 and deposit in it the savings from the elimination of this special interest loophole, we could take a major step to meet the Senate's objective and make even more headway in curing killer diseases.

A fund for health research would provide additional resources for our search for medical breakthroughs over and above those provided to NIH in the annual appropriations process. The fund would greatly enhance the quality of health care by investing more in finding preventive measures, cures and more cost effective treatments for the major illnesses and conditions that strike Americans.

In 1993 and 1994 I argued that any health care reform plan should include additional funding for health research. Health care reform was taken off the front burner but the need to increase our Nation's commitment to health research has only grown.

While health care spending devours nearly \$1 trillion annually our medical research budget is dying of starvation. The United States devotes less than 2 percent of its total health care budget to health research. The Defense Department spends 15 percent of its budget on research. Does this make sense? The cold war is over but the war

against disease and disability continues.

Increased investment in health research is key to reducing health costs in the long run. If we can find cures for lung cancer, emphysema, and heart disease, the savings would be enormous.

Mr. President, I do everything I can to increase funding for NIH through the appropriations process. But, given the current budget situation and freeze in discretionary spending what we can do is limited. Without action, our investment in medical research through the NIH is likely to decline in real terms.

The NIH is able to fund only about 25 percent of competing research projects or grant applications deemed worthy of funding. This is compared to rates of 30 percent or more just over a decade ago. Science and cutting edge medical research are being put on hold. We may be giving up possible cures for diabetes, Parkinson's, cancer, and countless other diseases.

Our lack of investment in research may also be discouraging our young people from pursuing careers in medical research. The number of people under the age of 36 even applying for NIH grants dropped by 54 percent between 1985 and 1993. This is due to a host of factors but I'm afraid that the lower success rates among applicants is making biomedical research less and less attractive to young people.

I am tremendously heartened by the significant bipartisan coalition of 16 Senators that has formed in support of our bill. Our colleagues who have joined with us on this legislation understand that health research is an investment in our future—an investment in our children and grandchildren.

Mr. President, this legislation is common sense, bipartisan—and it's the right thing to do. Senator MACK and I join in asking our colleagues for their willingness to carefully review our proposal. Certainly any tobacco legislation that this Congress adopts next year should contribute significantly to our Nation's commitment in the search for medical breakthroughs.

Mr. DODD. Mr. President, I rise today to join my colleagues, Senator MACK, Senator HARKIN, and others in introducing the National Institutes of Health Trust Fund Act of 1997. This bill, very simply, is intended to ensure that payments made by the tobacco industry under any settlement legislation enacted by Congress on behalf of the people of this Nation, will be the full responsibility of the tobacco companies.

Many of us were dismayed to learn that under current law, those payments could be deducted by these companies as a business expense—effectively reducing the cost to manufacturers by one-third. I don't think that this is what the negotiators of the settlement intended, nor is it what the public expects. This bill would disallow the deductibility of the proposed settlement or the settlement of any other to-

bacco-related civil action. The tax revenues from the disallowance of the deduction, estimated at \$100 billion, would go toward a trust fund for the National Institutes of Health.

My primary interest in the tobacco settlement originates in the dramatically high incidence of teen smoking in our country. The statistics are startling—3,000 young children begin smoking each day and over 90 percent of adults that smoke started before the age of 18. Our hope and expectation is that with resources generated by a tobacco settlement, we can fund effective programs to help addicted teens quit smoking and prevent most children from ever starting.

In essence, we want to encourage young people to take responsibility for their health. Tobacco companies must set a precedent for our youth by taking full financial responsibility for the damage they have inflicted on the public health of the Nation. Tobacco companies have already conceded the points that tobacco is harmful and addictive and information that would have been useful to our understanding of tobacco addiction was withheld. Avoiding full payment of penalties for their actions through the tax deduction loophole is ethically wrong, even if legal. The tobacco industry needs to serve as an example for the children of the Nation by accepting the full financial consequences of the settlement.

Just a few months ago, the public loudly voiced its disgust with the covert attempt to give the tobacco industry a \$50 billion credit toward payment of a future settlement. While we were successful in eliminating that loophole, an unfortunate repercussion has been the exacerbation of the public's doubts about the settlement. Even if they didn't before, many now believe that the industry will exploit any loophole to escape its responsibility. We must restore the public's faith in this process. We must send a clear message that any tobacco settlement reached will be grounded in the principle that tobacco companies take full responsibility for their actions. That objective can best be achieved by swift passage of this bill.

By Mr. SMITH of Oregon (for himself, Mrs. FEINSTEIN, Mr. WYDEN, Mr. BAUCUS and Mr. GORTON):

S. 1412. A bill to amend the Internal Revenue Code of 1986 to permit certain tax free corporate liquidations into a 501(c)(3) organization and to revise the unrelated business income tax rules regarding receipt of debt-financed property in such a liquidation; to the Committee on Finance.

THE CHARITABLE GIVING INCENTIVE ACT

Mr. SMITH of Oregon. Mr. President, I rise to introduce with Senator FEINSTEIN legislation that will provide incentives to taxpayers to use their wealth for charitable causes. In this era of ever-tightening fiscal constraints placed on congressional ability



to authorize discretionary funding, we have asked our communities to do more and more for those less fortunate. Charitable organizations in our communities have become an integral part of the safety net for the poor and homeless and significant sources of assistance for education in every community.

To help charities take advantage of those donors who wish to contribute significant wealth for charitable purposes, we are introducing the Charitable Giving Incentive Act. This legislation will change current tax law to encourage prospective donors to contribute a controlling interest in a closely-held corporation to charity.

When a donor is willing to make a gift of a controlling interest in a company, a tax is imposed on the corporation upon its liquidation, reducing the gift that the charity receives by 35 percent. The Smith/Feinstein bill would eliminate this egregious tax that is levied upon the value of these qualifying corporations. We sincerely hope that this will directly encourage meaningful contributions to charitable organizations that help a variety of causes. I ask that my colleagues support this legislation and look forward to its being considered by the Finance Committee in the near future.

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. 1412

*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 "Charitable Giving Incentive Act".

#### SEC. 2. ELIMINATION OF CORPORATE LEVEL TAX UPON LIQUIDATION OF CLOSELY HELD CORPORATIONS UNDER CERTAIN CONDITIONS.

(a) IN GENERAL.—Paragraph (2) of section 337(b) of the Internal Revenue Code 1986 (relating to treatment of indebtedness of subsidiary, etc.) is amended—

(1) by striking "Except as provided in subparagraph (B)" in subparagraph (A) and inserting "Except as provided in subparagraph (B) or (C)", and

(2) by adding at the end the following new subparagraph:

"(C) EXCEPTION IN THE CASE OF CLOSELY-HELD STOCK ACQUIRED WITHOUT CONSIDERATION.—If the 80-percent distributee is an organization described in section 501(c)(3) and acquired stock in a liquidated domestic corporation from either a decedent (within the meaning of section 1014(b)) or the decedent's spouse, subparagraph (A) shall not apply to any distribution of property to the 80-percent distributee. This subparagraph shall apply only if all of the following conditions are met:

"(i) 80 percent or more of the stock in the liquidated corporation was acquired by the distributee, solely by a distribution from an estate or trust created by one or more qualified persons. For purposes of this clause, the term 'qualified person' means a citizen or individual resident of the United States, an estate (other than a foreign estate within the meaning of section 7701(a)(31)(A)), or any

trust described in clause (i), (ii), or (iii) of section 1361(c)(2)(A).

"(ii) The liquidated corporation adopted its plan of liquidation on or after January 1, 1999.

"(iii) The 80-percent distributee is an organization created or organized under the laws of the United States or of any State.

"(iv) All of the stock in the liquidated corporation is non-readily-tradable stock (as defined in section 6166(b)(7)(B)).

Nothing in subsection (d) shall be construed to limit the application of this subsection in circumstances in which this subparagraph applies."

(b) REVISION OF UNRELATED BUSINESS INCOME TAX RULES TO EXEMPT CERTAIN ASSETS.—Subparagraph (B) of section 514(c)(2) of the Internal Revenue Code of 1986 (relating to property acquired subject to mortgage, etc.) is amended by inserting "or pursuant to a liquidation described in section 337(b)(2)(9C)," after "bequest or devise,".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Mrs. FEINSTEIN. Mr. President, I rise today with my colleagues Senator GORDON SMITH and RON WYDEN of Oregon, as well Senator MAX BAUCUS and Senator SLADE GORTON to introduce legislation to strengthen tax incentives and encourage more charitable giving in America. The legislation, based on S. 1121 which I introduced last year, represents an important step to encourage greater private sector support for important educational, medical, and other goals in local communities across the country.

Americans are among the most caring in the world, contributing generously to charities in their communities: American families contribute, on average, nearly \$650 for each household, or about \$130 billion annually, to charities. Approximately, three out of every four households give to nonprofit charitable organizations.

However, charities are very concerned for the future, as Federal efforts to balance the budget will limit funds for social spending for urgent needs like children's services, homelessness, job training, and health care. While support for charities grew by 3.7 percent in 1994, contributions for human services, the area most closely associated with poverty programs, dropped by 6 percent. Nonprofit charities are very concerned about their ability to maintain their current level of services or grow to address unmet needs.

Nonprofit charities can never replace government programs, but they can play a critical role and provide vital social services. The Federal Government must ensure we are doing everything we can to encourage support for charities, which supplement Federal programs.

#### EXPANDING TAX INCENTIVES FOR CHARITABLE GIVING

The Federal Government must provide the leadership and the tools to encourage more charitable giving through the Tax Code. One source of untapped resources for charitable purposes is closely held corporate stock. A closely held business is a corporation,

in which stock is issued to a small number shareholders, such as family members, but is not publicly traded on an exchange. This type of business is very popular for family businesses involving different generations.

However, the tax cost of contributing closely held stock to a charity or foundation can be prohibitively high. The tax burden discourages families and owners from winding down a business and contributing the proceeds to charity. This legislation would permit certain tax-free liquidations of closely held corporations into one or more tax exempt 501(c)(3) organizations.

Under current law, a corporation may have to be liquidated to effectively complete the transfer of assets to a charity, incurring a corporate tax at the 35 percent tax rate. In 1986, Congress repealed the "General Utilities" doctrine, imposing a corporate level tax on all corporate transfers, including those to tax exempt charitable organizations. A charity may also be subject to taxation on its unrelated business income from certain types of donated property.

These tax costs make contributions of closely held stock a costly and ineffective means of giving funds to a charity. If we are going to find new ways to strengthen charities, we need to review the tax costs which undercut the incentive to give and the value of a charitable gift.

Volunteers are already hard at work in their communities and charitable funding is already stretched dangerously thin. Charities need added tools to unlock the public's desire to give generously. We need to create appropriate incentives for the private sector to do more.

In California, volunteer and charitable organizations, together, perform vital roles in the community and deserve our support. I would like to offer some examples, which can be also found throughout the country:

Summer Search: In San Francisco, the Summer Search Foundation is hard at work preventing students from dropping out of high school. Summer Search helps students successfully complete school and, for 93 percent of the participants, go on to college. With increased charitable contributions, Summer Search could help keep kids in school and on track toward graduation and a more productive contribution to the Nation.

Drew Center for Child Development: I am deeply concerned with increases in the number of child abuse and neglect cases, which now total nearly 3 million children in the United States. Social services block grants cuts will impose new burdens on local communities. The Drew Child Development Center, located in the Watts area of Los Angeles, works directly with children and families involved in child abuse environments. There are thousands of other families that could benefit from the Drew Center program if only more resources were available. Stronger tax

incentives to boost charitable giving could provide the Drew Center with some of the resources needed to combat this enormous problem.

**The Chrysalis Center:** In 1993 I visited the Chrysalis Center, a Los Angeles organization dedicated to helping homeless individuals find and keep jobs. Chrysalis provides employment assistance, from training in jobseeking skills to supervised searches for permanent employment. The Center has helped place thousands of people in permanent, full-time jobs in the last decade.

**Jobs for the Homeless:** Jobs for the Homeless assists with job placement services for the homeless in Berkeley and Oakland, supporting over 1,400 men and women. However, thousands more need their help. The former homeless individuals have landed successful positions in manufacturer, retailers, and small and large businesses. Without more contributions, Jobs for the Homeless will be unable to provide the necessary support and increase their literacy or drug rehabilitation programs, critical ingredients in moving people back to work.

Today, Senators SMITH, WYDEN, BAUCUS, GORTON, and I introduce tax incentive legislation to encourage stronger support for the Nation's vital charities. The proposal: Eliminates the corporate tax upon liquidation of a qualifying closely held corporation under certain circumstances. The legislation would require 80 percent or more of the stock to be dedicated to a charity; and clarifies that a charity can receive mortgaged property in a qualified liquidation, without triggering unrelated business income tax for 10 years.

By eliminating the corporate tax upon liquidation, Congress would encourage additional, and much needed, charitable gifts. Across America, countless thousands have built successful careers and have generated substantial wealth in closely held corporations. As the individuals age and plan their estates, we should help them channel their wealth to philanthropic goals. Individuals who are willing to make generous bequests of companies and assets, often companies they have spent years building, should not be discouraged by substantially reducing the value of their gifts through Federal taxes.

While the Joint Tax Committee has not yet prepared an official revenue cost, previous estimates suggest a cost of about \$400 million over 5 years. However, as a result of capital gains tax reform adopted earlier this year, the cost is likely to be significantly lower. Of equal significance, the same revenue estimating assumptions project big increases in charitable giving as a result of the legislation, stimulating between \$3 and 5 billion in charitable contributions. This tax proposal may generate as much as seven or eight times its projected revenue loss in expanded charitable giving.

I encourage others to review this legislation and listen to the charities in

your community. The legislation has been endorsed by the Council on Foundations, which represents foundations throughout the country, and the Council of Jewish Federations. Since the introduction of the legislation last year, the proposal has been revised to sharpen the bill's focus and target the legislation in the most effective manner. I want to encourage the review process to continue, so we may continue to build support and target the bill's impact for the benefit of the Nation's nonprofit community.

With virtually limitless need, we must look at new ways to encourage and nurture a strong charitable sector. Private charities cannot replace the government, but if the desire to support charitable activity exists, we should not impose taxes to decrease the value of that support. Tax laws should encourage, rather than impede, charitable giving. By inhibiting charitable gifts, Federal tax laws hurt those individuals that most need the help of their government and their community.

By Mr. LUGAR (for himself, Mr. HAGEL, Mr. ROBERTS, Mr. THOMAS, Mr. GRAMS, Mr. KERREY, Mrs. FEINSTEIN, and Mr. CHAFEE):

S. 1413. A bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions; to the Committee on Foreign Relations.

THE ENHANCEMENT OF TRADE, SECURITY, AND HUMAN RIGHTS THROUGH SANCTIONS REFORM ACT

Mr. LUGAR. Mr. President, I rise to introduce the Enhancement of Trade, Security, and Human Rights Through Sanctions Reform Act, a bill that will establish a more deliberative, common-sense approach to U.S. sanctions policy. I'm pleased to be joined by several distinguished colleagues, in introducing this important piece of legislation.

In recent years, there has been a proliferation in the use of unilateral economic sanctions as a tool of American foreign policy. While unilateral sanctions may be a low cost alternative to the deployment of American Armed Forces abroad—or to milder, less coercive choices—they almost never succeed in achieving their foreign policy objectives. They frequently impose a greater burden on American companies, producers, farmers, and workers than on the intended target country.

A cardinal test of foreign policy is that when we act internationally, our actions should do less harm to ourselves than to others. Unilateral economic sanctions, unfortunately, often fail this crucial test.

Mr. President, there have been a large number of studies on unilateral economic sanctions in recent years and they provide some interesting results. Manufacturers revealed that in the period 1993 to 1996, the United States imposed unilateral sanctions to achieve

foreign policy goals 61 times in 35 different countries. Last year, the report of the President's Export Council cited 75 countries representing 52 percent of the world's population that have been subject to or threatened by U.S. unilateral economic sanctions.

These actions have jeopardized billions in export earnings and hundreds of thousands of American jobs, while weakening our ability to provide humanitarian assistance abroad. In another study, the Institute for International Economics concluded that, in 1995 alone, economic sanctions cost U.S. exports—to 26 countries—between \$15-19 billion, and eliminated upwards to 200,000 U.S. jobs, many in high wage export sector.

The damage to the U.S. economy can have long-term consequences. Once foreign competitors establish a presence in international markets abandoned by the United States, the potential losses begin to magnify. Over time, the cumulative effect of sanctions will be a loss of commercial contracts, but more importantly, may be a loss of confidence in American suppliers and in the United States as a reliable partner to do business. Frequent resort to economic sanctions, however, meritorious they may be, runs the risk of weakening the export sector which has contributed so greatly to our economic prosperity. This weakening effect can, in turn, have an adverse effect on our political influence abroad.

The major difficulty with our increased use of unilateral economic sanctions is that they rarely achieve the foreign policy goals they are intended to achieve. Sanctions frequently give the illusion of action by substituting for more decisive action or by serving as a palliative for those who demand that some action be taken—any action—by the United States against another country with whom we have a disagreement.

Sanctions can also make it more difficult diplomatically to engage foreign governments in dialogue to help bring about a political opening or a change in behavior. Serious trade sanctions can, in fact, inhibit, rather than facilitate, constructive dialogue with others.

As a nation, we often seek instant gratification or quick results from our actions. Sanctions, however, take a long time to work and the change in behavior we seek in other countries will most often take place incrementally over time. In some cases, our sanctions have the unintended consequences of providing authoritarian leaders a basis for increasing their political support and rally opposition to the United States because our sanctions can be used to divert popular anger and resentment away from their own misdeeds and misrule.

Unilateral sanctions almost never help those we want to assist, they frequently harm the United States more than the sanctioned country and undermine our international economic

competitiveness and economic security. Most regrettably, unilateral sanctions have become a policy of first choice when other policy alternatives exist.

Nonetheless, some economic sanctions are effective and, therefore, must remain a tool of American foreign policy. Multilateral, unlike unilateral, sanctions have frequently advanced American national interests. The multilateral sanctions against Saddam Hussein following Iraq's aggression against Kuwait have slowed down Iraq's weapons of mass destruction program. Similarly, international sanctions aimed at Serbia and the Federal Republic of Yugoslavia functioned to isolate them diplomatically and protect United States and allied interests in the Balkans. The international sanctions against apartheid in South Africa in the 1980's had a significant influence on bringing about a nonviolent peaceful transition in that country.

Finally, the broad consensus to oppose Soviet expansion through export restraints on East-West trade in the Coordinating Committee, or CoCom, proved to be enormously effective. Most economic sanctions, whether unilateral or multilateral, must be in place for a long time before they are effective and their success will almost always be dependent upon extensive multilateral cooperation and compliance.

Nothing in our proposed legislation prohibits unilateral economic sanctions. There are situations where other foreign policy options have been exhausted and where the actions of others are so outrageous or so threatening to the United States and our national interests that our response, short of the use of force, must be firm and unambiguous. In such instances, economic sanctions may be a useful instrument of American foreign policy.

Mr. President, my proposed legislation is prospective. It will not affect existing U.S. sanctions. It will apply only to unilateral sanctions and to those sanctions intended to achieve foreign policy or national security objectives. It would exclude, by definition, U.S. trade laws, Jackson-Vanik and munitions list controls. It would not address the complex and important issue of state and local sanctions designed to achieve foreign policy goals, although these so-called vertical sanctions are increasingly important features of American foreign policy.

More specifically, Mr. President, this legislation seeks to establish clear guidelines and informational requirements to help us understand better the likely consequences of our actions before we opt to impose economic sanctions. We should know in advance of voting on sanctions legislation what our goals are, the anticipated economic, political and humanitarian benefits and costs to the United States and other countries, the possible impact on our reputation as a reliable supplier, the other policy options that have been

explored, and whether the proposed sanctions are likely to contribute to achieving the foreign policy objectives sought by legislation. Comparable requirements are also in the bill for sanctions mandated by the executive branch.

Once sanctions are implemented, the bill also requires an annual report from the President detailing the degree to which sanctions have accomplished U.S. goals, as well as their impact on our economic, political and humanitarian interests, including our relations with other countries.

The bill also provides for more active and timely consultations between Congress and the President. It provides Presidential waiver authority in emergencies or if he determines it is in the national interest.

It includes a sunset provision that would terminate unilateral economic sanctions after 2 years duration unless the Congress or the President acts to reauthorize them.

It includes language on contract sanctity to help ensure the United States is a reliable supplier.

It identifies U.S. agriculture as an especially vulnerable sector of our economy that has borne a disproportionate burden stemming from U.S. economic sanctions. Because of this, there is discretionary authority for agricultural assistance in the bill. In addition, the bill opposes agricultural embargoes as a foreign policy weapon and urges that economic sanctions be targeted as narrowly as possible in order to minimize harm to innocent people and humanitarian activities.

Mr. President, my sanctions reform bill represents an attempt to develop an improved and comprehensive approach to an important foreign policy issue. We, in the Congress, are often called upon to make difficult choices between conflicting interests or among our core values as a nation and our international interests.

These are frequently hard choices that should be given careful attention and preceded by careful analysis. We should never turn our back on our fundamental values of supporting democracy, human rights, and basic freedoms abroad but we should ask whether we can alter the behavior of other countries by imposing sanctions on them. Many times we cannot do so and many times we exacerbate the very behavior we hope to reverse. There is no magic formula for influencing the behavior of other countries, but unilateral economic sanctions are rarely the answer.

Nothing in this bill prevents the imposition of U.S. unilateral economic sanctions or dictates a particular trade-off between American core values and our commercial and other interests. The steps detailed in this bill provide for better policy procedures so that consideration of economic sanctions are preceded by a more deliberative process by which the President and the Congress can make reasoned and balanced choices affecting the to-

talities of American values and interests.

Mr. President, I feel strongly about this issue. I hope my colleagues will join the other original cosponsors by taking a close look at this legislation. I welcome their support and believe that if we deal with the sanctions issues in a careful and systematic manner, we can make a significant positive contribution to our national interest.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

S. 1413

*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 "Enhancement of Trade, Security, and Human Rights through Sanctions Reform Act".

#### SEC. 2. PURPOSE.

It is the purpose of this Act to establish an effective framework for consideration by the legislative and executive branches of unilateral economic sanctions.

#### SEC. 3. STATEMENT OF POLICY.

It is the policy of the United States—

(1) to pursue United States interests through vigorous and effective diplomatic, political, commercial, charitable, educational, cultural, and strategic engagement with other countries, while recognizing that the national security interests of the United States may sometimes require the imposition of economic sanctions on other countries;

(2) to foster multilateral cooperation on vital matters of United States foreign policy, including promoting human rights and democracy, combating international terrorism, proliferation of weapons of mass destruction, and international narcotics trafficking, and ensuring adequate environmental protection;

(3) to promote United States economic growth and job creation by expanding exports of goods, services, and agricultural commodities, and by encouraging investment that supports the sale abroad of products and services of the United States;

(4) to maintain the reputation of United States businesses and farmers as reliable suppliers to international customers of quality products and services, including United States manufactures, technology products, financial services, and agricultural commodities;

(5) to avoid the use of restrictions on exports of agricultural commodities as a foreign policy weapon;

(6) to oppose policies of other countries designed to discourage economic interaction with countries friendly to the United States or with any United States national, and to avoid use of such measures as instruments of United States foreign policy; and

(7) when economic sanctions are necessary—

(A) to target them as narrowly as possible on those foreign governments, entities, and officials that are responsible for the conduct being targeted, thereby minimizing unnecessary or disproportionate harm to individuals who are not responsible for such conduct; and

(B) to the extent feasible, to avoid any adverse impact of economic sanctions on the humanitarian activities of United States and foreign nongovernmental organizations in a country against which sanctions are imposed.

**SEC. 4. DEFINITIONS.**

As used in this Act:

(1) **UNILATERAL ECONOMIC SANCTION.**—

(A) **IN GENERAL.**—The term “unilateral economic sanction” means any restriction or condition on economic activity with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security, including any of the measures described in subparagraph (B), except in a case in which the United States imposes the measure pursuant to a multilateral regime and the other members of that regime have agreed to impose substantially equivalent measures.

(B) **PARTICULAR MEASURES.**—The measures referred to in subparagraph (A) are the following:

(i) The suspension, restriction, or prohibition of exports or imports of any product, technology, or service to or from a foreign country or entity.

(ii) The suspension of, or any restriction or prohibition on, financial transactions with a foreign country or entity.

(iii) The suspension of, or any restriction or prohibition on, direct or indirect investment in or from a foreign country or entity.

(iv) The imposition of increased tariffs on, or other restrictions on imports of, products of a foreign country or entity, including the denial, revocation, or conditioning of non-discriminatory (most-favored-nation) trade treatment.

(v) The suspension of, or any restriction or prohibition on—

(I) the authority of the Export-Import Bank of the United States to give approval to the issuance of any guarantee, insurance, or extension of credit in connection with the export of goods or services to a foreign country or entity;

(II) the authority of the Trade and Development Agency to provide assistance in connection with projects in a foreign country or in which a particular foreign entity participates; or

(III) the authority of the Overseas Private Investment Corporation to provide insurance, reinsurance, financing, or conduct other activities in connection with projects in a foreign country or in which a particular foreign entity participates.

(vi) A requirement that the United States representative to an international financial institution vote against any loan or other utilization of funds to, for, or in a foreign country or particular foreign entity.

(vii) A measure imposing any restriction or condition on economic activity on any foreign government or entity on the ground that such government or entity does business in or with a foreign country.

(viii) A measure imposing any restriction or condition on economic activity on any person that is a national of a foreign country, or on any government or other entity of a foreign country, on the ground that the government of that country has not taken measures in cooperation with, or similar to, sanctions imposed by the United States on a third country.

(ix) The suspension of, or any restriction or prohibition on, travel rights or air transportation to or from a foreign country.

(x) Any restriction on the filing or maintenance in a foreign country of any proprietary interest in intellectual property rights (including patents, copyrights, and trademarks), including payment of patent maintenance fees.

(C) **MULTILATERAL REGIME.**—As used in this paragraph, the term “multilateral regime” means an agreement, arrangement, or obligation under which the United States cooperates with other countries in restricting commerce for reasons of foreign policy or national security, including—

(i) obligations under resolutions of the United Nations;

(ii) nonproliferation and export control arrangements, such as the Australia Group, the Nuclear Supplier's Group, the Missile Technology Control Regime, and the Wassenaar Arrangement;

(iii) treaty obligations, such as under the Chemical Weapons Convention, the Treaty on the Non-Proliferation of Nuclear Weapons, and the Biological Weapons Convention; and

(iv) agreements concerning protection of the environment, such as the International Convention for the Conservation of Atlantic Tunas, the Declaration of Panama referred to in section 2(a)(1) of the International Dolphin Conservation Act (16 U.S.C. 1361 note), the Convention on International Trade in Endangered Species, the Montreal Protocol on Substances that Deplete the Ozone Layer, and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes.

(D) **FINANCIAL TRANSACTION.**—As used in this paragraph, the term “financial transaction” has the meaning given that term in section 1956(c)(4) of title 18, United States Code.

(E) **INVESTMENT.**—As used in this paragraph, the term “investment” means any contribution or commitment of funds, commodities, services, patents, or other forms of intellectual property, processes, or techniques, including—

(i) a loan or loans;

(ii) the purchase of a share of ownership;

(iii) participation in royalties, earnings, or profits; and

(iv) the furnishing of commodities or services pursuant to a lease or other contract.

(F) **EXCLUSIONS.**—The term “unilateral economic sanction” does not include—

(i) any measure imposed to remedy unfair trade practices or to enforce United States rights under a trade agreement, including under section 337 of the Tariff Act of 1930, title VII of that Act, title III of the Trade Act of 1974, sections 1374 and 1377 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3103 and 3106), and section 3 of the Act of March 3, 1933 (41 U.S.C. 10b-1);

(ii) any measure imposed to remedy market disruption or to respond to injury to a domestic industry for which increased imports are a substantial cause or threat thereof, including remedies under sections 201 and 406 of the Trade Act of 1974, and textile import restrictions (including those imposed under section 204 of the Agricultural Act of 1956 (7 U.S.C. 1784));

(iii) any action taken under title IV of the Trade Act of 1974, including the enactment of a joint resolution under section 402(d)(2) of that Act;

(iv) any measure imposed to restrict imports of agricultural commodities to protect food safety or to ensure the orderly marketing of commodities in the United States, including actions taken under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624);

(v) any measure imposed to restrict imports of any other products in order to protect domestic health or safety;

(vi) any measure authorized by, or imposed under, a multilateral or bilateral trade agreement to which the United States is a signatory, including the Uruguay Round Agreements, the North American Free Trade Agreement, the United States-Israel Free Trade Agreement, and the United States-Canada Free Trade Agreement; and

(vii) any export control imposed on any item on the United States Munitions List.

(2) **NATIONAL EMERGENCY.**—The term “national emergency” means any unusual or extraordinary threat, which has its source in

whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States.

(3) **AGRICULTURAL COMMODITY.**—The term “agricultural commodity” has the meaning given that term in section 102(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5602(1)).

(4) **APPROPRIATE COMMITTEES.**—The term “appropriate committees” means the Committee on Agriculture, the Committee on International Relations, the Committee on Ways and Means, and the Committee on Banking and Financial Services of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry, the Committee on Finance, and the Committee on Foreign Relations of the Senate.

(5) **CONTRACT SANCTITY.**—The term “contract sanctity”, with respect to a unilateral economic sanction, refers to the inapplicability of the sanction to—

(A) a contract or agreement entered into before the sanction is imposed, or to a valid export license or other authorization to export; and

(B) actions taken to enforce the right to maintain intellectual property rights, in the foreign country against which the sanction is imposed, which existed before the imposition of the sanction.

**SEC. 5. GUIDELINES FOR UNILATERAL ECONOMIC SANCTIONS LEGISLATION.**

Any bill or joint resolution that imposes any unilateral economic sanction, or authorizes the imposition of any unilateral economic sanction by the executive branch, and is considered by the House of Representatives or the Senate, should—

(1) state the foreign policy or national security objective or objectives of the United States that the economic sanction is intended to achieve;

(2) provide that the economic sanction terminate 2 years after it is imposed, unless specifically reauthorized by Congress;

(3) provide for contract sanctity;

(4) provide authority for the President both to adjust the timing and scope of the sanction and to waive the sanction, if the President determines it is in the national interest to do so;

(5)(A) target the sanction as narrowly as possible on foreign governments, entities, and officials that are responsible for the conduct being targeted; and

(B) seek to minimize any adverse impact on the humanitarian activities of United States and foreign nongovernmental organizations in any country against which the sanction may be imposed; and

(6) provide, to the extent that the Secretary of Agriculture or the Congressional Budget Office finds that—

(A) the proposed sanction is likely to restrict exports of any agricultural commodity or is likely to result in retaliation against exports of any agricultural commodity from the United States, and

(B) the sanction is proposed to be imposed, or is likely to be imposed, on a country or countries that constituted, in the preceding calendar year, the market for more than 3 percent of all export sales from the United States of an agricultural commodity,

that the Secretary of Agriculture expand agricultural export assistance under United States market development, food assistance, or export promotion programs to offset the likely damage to incomes of producers of the affected agricultural commodity or commodities, to the maximum extent permitted by the obligations of the United States under the Agreement on Agriculture referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

**SEC. 6. REQUIREMENTS FOR BILL OR JOINT RESOLUTION.**

(a) **PUBLIC COMMENT.**—Before considering a bill or joint resolution that imposes any unilateral economic sanction, or authorizes the imposition of any unilateral economic sanction by the executive branch, the committee of primary jurisdiction shall publish a notice which provides an opportunity for interested members of the public to submit comments to the committee on the proposed sanction.

(b) **WHEN REPORTS REQUESTED.**—The committee of primary jurisdiction that orders reported a bill or joint resolution described in section 5 shall timely request from the President and the Secretary of Agriculture the reports identified in subsection (c). Each such report that has been timely submitted prior to the filing of the committee report accompanying the bill or joint resolution shall be included in the committee report. The committee report shall also contain, if the bill or joint resolution does not meet any of the guidelines specified in paragraphs (1) through (6) of section 5, an explanation of why it does not.

**(c) REPORTS.**

(1) **REPORT BY THE PRESIDENT.**—The President's report to Congress under subsection (b) shall contain—

(A) an assessment of—

(i) the likelihood that the proposed unilateral economic sanction will achieve its stated objective within a reasonable period of time; and

(ii) the impact of the proposed unilateral economic sanction on—

(I) humanitarian conditions, including the impact on conditions in any specific countries on which the sanction is proposed to be or may be imposed;

(II) humanitarian activities of United States and foreign nongovernmental organizations;

(III) relations with United States allies;

(IV) other United States national security and foreign policy interests; and

(V) countries and entities other than those on which the sanction is proposed to be or may be imposed;

(B) a description and assessment of—

(i) diplomatic and other steps the United States has taken to accomplish the intended objectives of the unilateral sanction legislation;

(ii) the likelihood of multilateral adoption of comparable measures;

(iii) comparable measures undertaken by other countries;

(iv) alternative measures to promote the same objectives, and an assessment of their potential effectiveness;

(v) any obligations of the United States under international treaties or trade agreements with which the proposed sanction may conflict;

(vi) the likelihood that the proposed sanction will lead to retaliation against United States interests, including agricultural interests; and

(vii) whether the achievement of the objectives of the proposed sanction outweighs any likely costs to United States foreign policy, national security, economic, and humanitarian interests, including any potential harm to United States business, agriculture, and consumers, and any potential harm to the international reputation of the United States as a reliable supplier of products, technology, agricultural commodities, and services.

(2) **REPORT BY THE SECRETARY OF AGRICULTURE.**—The Secretary of Agriculture shall submit to the appropriate committees a report which shall contain an assessment of—

(A) the extent to which any country or countries proposed to be sanctioned or likely

to be sanctioned are markets that accounted for, in the preceding calendar year, more than 3 percent of all export sales from the United States of any agricultural commodity;

(B) the likelihood that exports of agricultural commodities from the United States will be affected by the proposed sanction or by retaliation by any country proposed to be sanctioned or likely to be sanctioned, and specific commodities which are most likely to be affected;

(C) the likely effect on incomes of producers of the specific commodities identified by the Secretary;

(D) the extent to which the proposed sanction would permit foreign suppliers to replace United States suppliers; and

(E) the likely effect of the proposed sanction on the reputation of United States farmers as reliable suppliers of agricultural commodities in general, and of the specific commodities identified by the Secretary.

**(3) FEDERAL PRIVATE SECTOR MANDATE.**

(A) **IN GENERAL.**—Any bill or joint resolution that imposes any unilateral economic sanction described in section 5 shall be considered to include a Federal private sector mandate for purposes of part B of title IV of the Congressional Budget Act of 1974.

(B) **REPORT BY THE CONGRESSIONAL BUDGET OFFICE.**—The report by the Congressional Budget Office pursuant to subparagraph (A) shall include an assessment of the likely short-term and long-term costs of the proposed sanction to the United States economy, including the potential impact on United States trade performance, employment, and growth, the international reputation of the United States as a reliable supplier of products, agricultural commodities, technology, and services, and the economic well-being and international competitive position of United States industries, firms, workers, farmers, and communities.

**SEC. 7. REQUIREMENTS FOR EXECUTIVE ACTION.**

(a) **IN GENERAL.**—The President may implement a unilateral economic sanction under any provision of law not less than 60 days after announcing his intention to do so.

(b) **CONSULTATION.**—The President shall consult with the appropriate committees regarding the proposed unilateral economic sanction, including consultations regarding efforts to achieve or increase multilateral cooperation on the issues or problems prompting the proposed sanction.

(c) **PUBLIC HEARINGS; RECORD.**—The President shall publish a notice in the Federal Register of the opportunity for interested persons to submit comments on the proposed unilateral economic sanction.

(d) **GUIDELINES FOR EXECUTIVE BRANCH SANCTIONS.**—Any unilateral economic sanction imposed by the President—

(1) shall—

(A) include a clear finding that the sanction is likely to achieve a specific United States foreign policy or national security objective within a reasonable period of time, which shall be specified, and that the achievement of the objectives of the sanction outweighs any costs to United States national interests;

(B) provide for contract sanctity;

(C) terminate not later than 2 years after the sanction is imposed, unless specifically extended by the President in accordance with the procedures of this section;

(D)(i) be targeted as narrowly as possible on foreign governments, entities, and officials that are responsible for the conduct being targeted; and

(ii) seek to minimize any adverse impact on the humanitarian activities of United States and foreign nongovernmental organizations in a country against which the sanction may be imposed; and

(2) should provide, to the extent that the Secretary of Agriculture finds that—

(A) a unilateral economic sanction is likely to restrict exports of any agricultural commodity from the United States or is likely to risk retaliation against exports of any agricultural commodity from the United States, and

(B) the sanction is proposed to be imposed, or is likely to be imposed, on a country or countries that constituted, in the preceding calendar year, the market for more than 3 percent of all export sales from the United States of an agricultural commodity,

that the Secretary of Agriculture expand agricultural export assistance under United States market development, food assistance, or export promotion programs to offset the likely damage to incomes of producers of the affected agricultural commodity or commodities, to the maximum extent permitted by law and by the obligations of the United States under the Agreement on Agriculture referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

(e) **REPORT BY THE PRESIDENT.**—Prior to imposing any unilateral economic sanction, the President shall provide a report to the appropriate committees on the proposed sanction. The report shall include the report of the International Trade Commission under subsection (g) (if timely submitted prior to the filing of the report). The President's report shall contain the following:

(1) An explanation of the foreign policy or national security objective or objectives intended to be achieved through the proposed sanction.

(2) An assessment of—

(A) the likelihood that the proposed unilateral economic sanction will achieve its stated objectives within the stated period of time; and

(B) the impact of the proposed unilateral economic sanction on—

(i) humanitarian conditions, including the impact on conditions in any specific countries on which the sanctions are proposed to be imposed;

(ii) humanitarian activities of United States and foreign nongovernmental organizations;

(iii) relations with United States allies;

(iv) other United States national security and foreign policy interests; and

(v) countries and entities other than those on which the sanction is proposed to be imposed.

(3) A description and assessment of—

(A) diplomatic and other steps the United States has taken to accomplish the intended objectives of the proposed sanction;

(B) the likelihood of multilateral adoption of comparable measures;

(C) comparable measures undertaken by other countries;

(D) alternative measures to promote the same objectives, and an assessment of their potential effectiveness;

(E) any obligations of the United States under international treaties or trade agreements with which the proposed sanction may conflict;

(F) the likelihood that the proposed sanction will lead to retaliation against United States interests, including agricultural interests; and

(G) whether the achievement of the objectives of the proposed sanction outweighs any likely costs to United States foreign policy, national security, economic, and humanitarian interests, including any potential harm to United States business, agriculture, and consumers, and any potential harm to the international reputation of the United States as a reliable supplier of products, technology, agricultural commodities, and services.

(f) **REPORT BY THE SECRETARY OF AGRICULTURE.**—Prior to the imposition of a unilateral economic sanction by the President, the Secretary of Agriculture shall submit to the appropriate committees a report which shall contain an assessment of—

(1) the extent to which any country or countries proposed to be sanctioned are markets that accounted for, in the preceding calendar year, more than 3 percent of all export sales from the United States of any agricultural commodity;

(2) the likelihood that exports of agricultural commodities from the United States will be affected by the proposed sanction or by retaliation by any country proposed to be sanctioned, including specific commodities which are most likely to be affected;

(3) the likely effect on incomes of producers of the specific commodities identified by the Secretary;

(4) the extent to which the proposed sanction would permit foreign suppliers to replace United States suppliers; and

(5) the likely effect of the proposed sanction on the reputation of United States farmers as reliable suppliers of agricultural commodities in general, and of the specific commodities identified by the Secretary.

(g) **REPORT BY THE UNITED STATES INTERNATIONAL TRADE COMMISSION.**—Before imposing a unilateral economic sanction, the President shall make a timely request to the United States International Trade Commission for a report on the likely short-term and long-term costs of the proposed sanction to the United States economy, including the potential impact on United States trade performance, employment, and growth, the international reputation of the United States as a reliable supplier of products, agricultural commodities, technology, and services, and the economic well-being and international competitive position of United States industries, firms, workers, farmers, and communities.

(h) **WAIVER IN CASE OF NATIONAL EMERGENCY.**—The President may waive any of the requirements of subsections (a), (b), (c), (e), (f), and (g), in the event that the President determines that there exists a national emergency that requires the exercise of the waiver. In the event of such a waiver, the requirements waived shall be met during the 60-day period immediately following the imposition of the unilateral economic sanction, and the sanction shall terminate 90 days after being imposed unless such requirements are met. The President may waive any of the requirements of paragraphs (1)(B), (1)(D), and (2) of subsection (d) in the event that the President determines that the unilateral economic sanction is related to actual or imminent armed conflict involving the United States.

(i) **SANCTIONS REVIEW COMMITTEE.**—The President shall establish a Sanctions Review Committee to coordinate United States policy regarding unilateral economic sanctions and to provide appropriate recommendations to the President prior to decisions regarding such sanctions. The Committee shall be comprised of—

- (1) the Secretary of State;
- (2) the Secretary of the Treasury;
- (3) the Secretary of Defense;
- (4) the Secretary of Agriculture;
- (5) the Secretary of Commerce;
- (6) the Secretary of Energy;
- (7) the United States Trade Representative;
- (8) the Director of the Office of Management and Budget;
- (9) the Chairman of the Council of Economic Advisers;
- (10) the Assistant to the President for National Security Affairs; and
- (11) the Assistant to the President for Economic Policy.

(j) **INAPPLICABILITY OF OTHER PROVISIONS.**—This section applies notwithstanding any other provision of law.

#### SEC. 8. ANNUAL REPORTS.

(a) **ANNUAL REPORT.**—Not later than 6 months after the date of enactment of this Act, and annually thereafter, the President shall submit to the appropriate committees a report detailing with respect to each country or entity against which a unilateral economic sanction has been imposed—

(1) the extent to which the sanction has achieved foreign policy or national security objectives of the United States with respect to that country or entity;

(2) the extent to which the sanction has harmed humanitarian interests in that country, the country in which that entity is located, or in other countries; and

(3) the impact of the sanction on other national security and foreign policy interests of the United States, including relations with countries friendly to the United States, and on the United States economy.

(b) **REPORT BY THE UNITED STATES INTERNATIONAL TRADE COMMISSION.**—Not later than 6 months after the date of enactment of this Act, and annually thereafter, the United States International Trade Commission shall report to the appropriate committees on the costs, individually and in the aggregate, of all unilateral economic sanctions in effect under United States law, regulation, or Executive order. The calculation of such costs shall include an assessment of the impact of such measures on the international reputation of the United States as a reliable supplier of products, agricultural commodities, technology, and services.

#### ENHANCEMENT OF TRADE, SECURITY AND HUMAN RIGHTS THROUGH SANCTIONS REFORM ACT—SECTION-BY-SECTION ANALYSIS

Section 1: Short Title. The act may be cited as the “Enhancement of Trade, Security and Human Rights through Sanctions Reform Act.”

Section 2: Purpose. The purpose of the Act is to establish an effective framework for consideration of unilateral economic sanctions.

Section 3: Statement of Policy. This section sets forth U.S. policy to pursue American security, trade, and humanitarian interests through broad-ranging engagement with other countries, while recognizing the need at times to impose sanctions as a last resort. It supports multilateral cooperation as an alternative to unilateral U.S. sanctions. It seeks to promote U.S. economic growth through trade and to maintain America's reputation as a reliable supplier. It opposes boycotts and use of agricultural embargoes as a foreign policy weapon. It urges that economic sanctions be targeted as narrowly as possible, to minimize harm to innocent people or to humanitarian activities.

Section 4: Definitions. This section defines “unilateral economic sanction” as any restriction or condition on economic activity with respect to a foreign country or entity imposed for reasons of foreign policy or national security. This definition excludes multilateral sanctions, where other countries have agreed to adopt “substantially equivalent” measures. The definition also excludes U.S. trade laws, Jackson-Vanik, and munitions list controls. This section also defines the terms “national emergency,” “agricultural commodity,” “appropriate committees,” and “contract sanctity.”

Section 5: Guidelines for Unilateral Economic Sanctions Legislation. This section provides that any bill or joint resolution imposing or authorizing a unilateral economic sanction should state the U.S. foreign policy

or national security objective, sunset after two years unless specifically reauthorized, protect contract sanctity, provide Presidential authority to adjust or waive the sanction in the national interest, target the sanction as narrowly as possible against the parties responsible for the offending conduct, and provide for expanded export promotion if sanctions target a major export market for American farmers.

Section 6: Requirements for Report Accompanying the Bill. The committee reporting sanctions legislation shall request reports from the President and Secretary of Agriculture. These reports shall be included in the committee report. If the legislation does not meet any Section 5 guideline, the committee report shall explain why not.

The President's report shall contain an assessment of the likelihood that the proposed sanction will achieve its stated objective within a reasonable time. It must weigh the likely foreign policy, national security, economic, and humanitarian benefits against the costs of acting unilaterally. The report will also assess alternatives, such as prior diplomatic and other U.S. steps and comparable multilateral measures.

The Secretary of Agriculture's report shall assess the likely extent of the proposed legislation in terms of market share in affected countries, the likelihood that U.S. agricultural exports will be affected on the reputation of U.S. farmers as reliable suppliers.

Section 6 also considers unilateral sanctions as unfunded federal mandates for purposes of the Unfunded Mandates Act. The Congressional Budget Office shall assess the likely short- and long-term cost of the proposed sanctions to the U.S. economy.

Section 7: Requirements for Executive Action. The President may impose a unilateral sanction no less than 60 days after announcing his intention to do so, during which time he shall consult with Congressional committees and publish a notice in the Federal Register seeking public comment. Any Executive sanction must meet the same guidelines that Section 5 applies to the Congress and must, in addition, include a clear finding that the sanction is likely to achieve a specific U.S. foreign policy or national security objective within a reasonable—and specified—period of time.

Section 7 also requires—prior to the imposition of a unilateral sanction—the President and the Secretary of Agriculture to provide to the appropriate Congressional committees reports that contain the same assessment as required in the reports described in Section 6. The President shall also request a report by the U.S. International Trade Commission on the likely short- and long-term costs of the proposed sanctions to the U.S. economy, including the potential impact on U.S. competitiveness.

In case of national emergency, the bill allows the President temporarily to waive most Section 7 requirements in order to act immediately. If the President acts on an emergency basis, the waived requirements must be met within sixty days. Finally, the President shall establish an interagency Sanctions Review Committee to improve coordination of U.S. policy regarding unilateral sanctions.

Section 8: Annual Report. The President must submit to the appropriate committees a report each year detailing the extent to which sanctions have achieved U.S. objectives, as well as their impact on humanitarian and other U.S. interests, including relations with friendly countries. The U.S. International Trade Commission shall report to the Congress on the costs, individually and in the aggregate, of all unilateral economic sanctions in effect under U.S. law, regulation, or Executive order, including the impact on U.S. competitiveness.



By Mr. MCCAIN (for himself, Mr. HOLLINGS, Mr. BREAUX, and Mr. GORTON):

S. 1415. A bill to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE UNIVERSAL TOBACCO SETTLEMENT ACT

Mr. MCCAIN. Mr. President, I am pleased today to introduce the Universal Tobacco Settlement Act. This bill is cosponsored by the Commerce Committee Ranking Member Senator HOLLINGS, Senator GORTON, and Senator BREAUX.

Mr. President, the bill we are introducing today is the legislative version of the Universal Tobacco Settlement agreed upon by the attorneys general and the tobacco companies. We hope it will serve as the basis of discussion and amendment here in the Senate.

I want briefly to discuss what this bill is and is not. It is the basis for hearings, discussion, and amendment. After this bill is introduced, I will ask consent to have it jointly referred to various committees of jurisdiction for consideration. As the chairman of the Commerce Committee, I intend to hold extensive hearings on this bill and use it as the vehicle for amendment.

First, let me emphasize that this legislation was drafted by Senate legislative counsel who was requested to write a bill that would implement and mirror the universal tobacco agreement without any direction or input from Members and without any alteration from the agreement.

The substance of the bill is not perfect, complete, comprehensive, or legislation that could ever be signed into law without considerable debate and amendments. None of the cosponsors endorse this bill as being the answer to our Nation's problem with tobacco-related death and illness. But it can and should serve as a basis to began negotiations between all concerned parties.

The bipartisan group of attorneys general and the tobacco companies deserve praise for developing this language. I know it was not easy. But much more needs to be done. The Universal Tobacco Settlement Agreement presents more questions than it answers. That is why we must move the legislative process forward and begin debating substantive language.

I had hoped that the administration would send the Congress legislation in this area. I would have liked for the Congress to begin considering the proposals developed and advocated by the White House. Unfortunately, the White House chose not to take such action. As a result, I have chosen to begin this discussion with attorneys general agreement.

There has been one addition to the settlement developed by the attorneys general. The universal tobacco settle-

ment did not address the issue of tobacco farmers and the communities whose existence and economy depends on the growing of tobacco. To address this concern, a new title IX has been added to the bill. The text of title IX is the language of S. 1310, legislation introduced by Senator FORD. It is my hope that with the addition of this language to the bill, we can begin the comprehensive debate necessary on this subject.

Mr. President, let there be no mistake, the Senate takes its role in this matter very seriously. Millions of lives have been lost and millions more will follow. Every day 3,000 young adults and children begin smoking. We cannot and should not allow this to continue. With the introduction of this bill we will begin this debate and I am hopeful that by early next year we can move forward on the floor on this matter.

By Mr. MCCONNELL:

S. 1416. A bill to amend Federal election laws to repeal the public financing of national political party conventions and Presidential elections and spending limits on Presidential election campaigns, to repeal the limits on coordinated expenditures by political parties, and for other purposes; to the Committee on Finance.

THE PRESIDENTIAL CAMPAIGN REFORM ACT OF 1997

Mr. MCCONNELL. Mr. President, the Governmental Affairs hearings investigating the 1996 Presidential election affirmed what knowledgeable observers have contended for years—that the Presidential campaign finance system of spending limits and taxpayer funding is a fraud.

Not soon forgotten will be the seamy videos of the White House coffee fundraisers in which the President was caught on tape extolling the virtues of circumventing the Presidential system's contribution and spending limits, via soft money contributions to the DNC—that once proud institution hijacked by the Clinton-Gore campaign bent on reelection in 1996. The 1996 Clinton-Gore reelection campaign took campaign finance chicanery to new heights, or lows, depending on your perspective.

Mr. President, I am no fan of spending limits so am not without sympathy for those who must campaign under them. The Presidential system, while technically voluntary, presents a Hobson's choice to those contemplating a campaign. Candidates can choose between compliance with arbitrary and severe spending limits, burdensome regulatory requirements, and the prospect of years of FEC audits or trying to mount a credible campaign under the severe constraints of outdated contribution limits.

It's difficult enough to mount a statewide Senate campaign with individual contributions limited to \$1,000 a pop. Conducting a nationwide effort under the same contribution limits must be a nightmare. It requires, at

the least, a Herculean effort, unless a candidate has the good fortune to have a fortune sufficient to bankroll their own campaign out of their own pocket. So I might be inclined to cut the President and Vice President some slack for this particular malfeasance—they have so many fundraising misdeeds to account for this one got lost in the shuffle until recently. I might cut them some slack if they were not such shameless hypocrites, portraying themselves as victims of the system and America's biggest fans of reform, when they aren't pleading incompetence.

"William J. Clinton" signed a letter, addressed to the Chairman of the Federal Election Commission, on October 13, 1995, in which the President agreed to comply with the Presidential system's limits in exchange for which the Clinton-Gore campaign would receive taxpayer dollars. All told, the Clinton-Gore campaign received \$75 million for the primary and general elections in 1996. The Democratic National Committee received over \$12 million for its convention extravaganza in Chicago. It was a lie.

The Clinton-Gore campaign took the money—\$75 million from the U.S. Treasury—and never had any intention of confining their campaign to the spending limits. The Presidential system, from its inception, has been a bad joke on the American taxpayers, limiting neither spending, nor so-called "special interests," as its creators—self-styled reformers—said it would.

Unwilling to concede that their utopian reform vision has become a taxpayer-funded debacle worthy only of dismantling, the inside-the-beltway reform industry agitates instead for even more restrictions—on the party committees and independent groups. It would be like putting band-aids on the Titanic, and unconstitutional, to boot.

The reform dream is the taxpayers' nightmare. Over \$1 billion has been squandered on the Presidential system. It is an entitlement program for politicians. And a boondoggle for the likes of fringe candidates such as Lenora Fulani and Lyndon LaRouche who have flocked to the Presidential campaign entitlement program, like moths to a flame.

Even Ross Perot's Reform Party has gotten into the act—as the Texas billionaire received \$30 million from the U.S. Treasury last year for his campaign. An irony is that the Perot Reform Party's partaking of taxpayer funds from the Presidential system coffers will be the straw that breaks the camel's back in 2000. The Reform Party is going to bleed the reform dream dry if it takes what it will be entitled to in primary matching, convention, and general election funding. This is the gist of a recent FEC staff report on the fund's prospects for the 2000 campaign.

At the outset of the 2000 Presidential primaries, the Presidential fund will be so near bankruptcy that candidates will be able to receive only a tiny fraction of what they are entitled to. FEC

staff predict this dearth of funding will prompt some candidates to opt out of the Presidential spending limit system altogether. Where would such an exodus leave the competitive field? The candidates would still be stuck with the quarter-century old contribution limits, bestowing a tremendous advantage on those select few who have a huge donor base from which to draw or the wherewithal to fund a campaign out of their own pocket.

This is a very real campaign finance crisis—a Presidential system on the edge of oblivion and a wide-open contest looming in the year 2000. So I rise today to introduce a bill to reform the Presidential system—the object of so much scandal and scorn. This reform legislation would repeal the Presidential system's spending limits and taxpayer funding. It would save the American taxpayers hundreds of millions of dollars every election. To compensate for the loss of taxpayer funding and make the system more realistic, the contribution limit for Presidential candidates would be adjusted to \$10,000, up from the current \$1,000. The PAC limit would also be adjusted up to \$10,000.

It would also strengthen the political parties by updating the hard money contribution limits regulating donations to them. These limits are a quarter-century old and long overdue for adjustments. Candidates and political parties should not be shackled in the year 2000 with circa-1970's contribution limits. The bill would also do what the Supreme Court talked about doing in the 1996 Colorado decision and is likely to do in the near future: abolish the coordinated spending limit. This arbitrary restriction on what parties can do in coordination with their nominees is absurd. The parties prefer to operate in hard money over soft money. These reforms would facilitate that activity.

Mr. President, these are common-sense reforms that would enhance competition and increase accountability in Presidential elections. In the interest of heading off a complete breakdown of the Presidential system in 2000, I urge Senators to step away from the traditional reform paradigm and join me in this effort.

By Mr. AKAKA (for himself, Mr. CRAIG, and Ms. LANDRIEU):

S. 1418. A bill to promote the research, identification, assessment, exploration, and development of methane hydrate resources, and for other purposes; to the Committee on Energy and Natural Resources.

THE METHANE HYDRATE RESEARCH AND DEVELOPMENT ACT OF 1997

Mr. AKAKA. Mr. President, on behalf of myself and Senators CRAIG and LANDRIEU, I am introducing the Methane Hydrate Research and Development Act of 1997.

Methane hydrate is a methane-bearing, ice-like substance that occurs in abundance in marine sediments. It is a crystalline solid of methane molecules

surrounded by a structure of water molecules.

Methane hydrates are stable at moderately high pressures and low temperatures and contain large quantities of methane. One unit volume of methane hydrate contains more than 160 volumes of methane at standard temperature and pressure.

Methane hydrates are found in deep ocean sediments. Significant quantities are also found in the permafrost of Alaska, Canada, and Siberia.

Despite their potential as an energy resource, methane hydrates have not received the attention they deserve. We are only beginning to understand the magnitude of this potential resource. The amount of methane sequestered in gas hydrates is enormous. Worldwide estimates range from 100,000 trillion cubic feet to 270 million trillion cubic feet. Locations of known methane hydrate deposits within the United States include the Arctic, the seabed adjacent to northern California, the Gulf of Mexico, and the Eastern Seaboard.

A conservative estimate of deposits under U.S. jurisdiction is 2,700 trillion cubic feet to seven million trillion cubic feet of gas. A recent U.S. Geological Survey analysis indicates the presence of over 500 trillion cubic feet of methane at the Black Ridge site off the coast of Carolinas alone. When you consider that current U.S. consumption is less than 25 trillion cubic feet of natural gas per year, you begin to appreciate the magnitude of this energy resource.

The U.S. energy outlook is perilous at best. Our dependence on imported oil is steadily increasing. Soon we will import over 60 percent of the oil we consume. Air pollution is a persistent problem. We are spending enormous resources to improve air quality. Global climate change poses a looming challenge. With these concerns in mind, it is easy to recognize the importance of methane hydrates.

Methane hydrates are a strategic resource because they contain huge amounts of methane in a concentrated form. Extracted methane from hydrates represents an extraordinarily large energy resource and petrochemical feedstock. Methane is less polluting than other hydrocarbons because of its higher hydrogen-to-carbon ratio. Given the concerns about global climate change, a transition to methane as an energy resource is an attractive solution.

The U.S. is not doing enough to explore this viable energy source. Other countries, primarily Japan and India, have aggressive programs to develop methane hydrates. Japan has launched an exploration project for methane hydrates in its surrounding waters. The Japanese National Oil Corporation is conducting a seismic survey off Hokkaido Island and will drill test wells in two locations in 1999. Commercial production is planned for 2010. About six trillion cubic meters of methane hydrates can be found in the

seabed near Japan. Recovery of one-tenth of this reserve could yield about 100 years supply of natural gas for Japan.

As part of its plan to boost natural gas resources, the Oil Industry Development Board of India has earmarked \$56 million for a program of methane hydrates research and development. We cannot be left behind these and other nations in the race to develop this important energy resource.

*Science News* recently published an article summarizing the hopes and hazards associated with methane hydrates. Mr. President, I ask unanimous consent that a copy of this article be printed in the RECORD.

This is an exciting area of research and of new knowledge. It has an enormous payoff, not only for our energy security, but also for the global environment.

My bill establishes a small research and development program with the potential for major payback. It would direct the Department of Energy to conduct research and development in collaboration with the Naval Research Laboratory and the U.S. Geological Survey. The Secretary of Energy would also consult with other Federal and State agencies, industry, and academia. It directs the Department to conduct research on, and identify, explore, assess, and develop methane hydrate resources as a source of energy. It also directs the Department to develop technologies needed to develop methane resources in an environmentally sound manner. It provides for research to develop safe means of transportation and storage of methane produced from methane hydrates. To alleviate the concerns related to releases of methane, the legislation directs the Department to undertake research to assess and mitigate hydrate degassing, both natural and that associated with commercial development. It requires the Department to develop technologies to reduce the risk of drilling through the gas hydrates. And finally, it provides for the training of scientists and engineers that would be needed for this new and exciting field on endeavor.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1418

*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 "Methane Hydrate Research and Development Act of 1997".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) **CONTRACT.**—The term "contract" means a procurement contract within the meaning of 6303 of title 31, United States Code.

(2) **COOPERATIVE AGREEMENT.**—The term "cooperative agreement" means a cooperative agreement within the meaning of section 6305 of title 31, United States Code.

(3) GRANT.—The term “grant” means a grant agreement within the meaning of section 6304 of title 31, United States Code.

(4) METHANE HYDRATE.—The term “methane hydrate” means a methane clathrate that—

(A) is in the form of a methane-water ice-like crystalline material; and

(B) is stable and occurs naturally in deep-ocean and permafrost areas.

(5) SECRETARY.—The term “Secretary” means the Secretary of Energy.

(6) SECRETARY OF DEFENSE.—The term “Secretary of Defense” means the Secretary of Defense, acting through the Secretary of the Navy.

(7) SECRETARY OF THE INTERIOR.—The term “Secretary of the Interior” means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

### SEC. 3. METHANE HYDRATE RESEARCH AND DEVELOPMENT PROGRAM.

(a) IN GENERAL.—

(1) COMMENCEMENT OF PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Defense and the Secretary of the Interior, shall commence a program of methane hydrate research and development.

(2) DESIGNATIONS.—The Secretary, Secretary of Defense, and Secretary of the Interior shall designate individuals to implement this Act.

(3) MEETINGS.—The individuals designated under paragraph (2) shall meet not less frequently than every 120 days to review the progress of the program under paragraph (1) and make recommendations on future activities.

(b) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—

(1) ASSISTANCE AND COORDINATION.—The Secretary may award grants or contracts to, or enter into cooperative agreements with, universities and industrial enterprises to—

(A) conduct basic and applied research to identify, explore, assess, and develop methane hydrate as a source of energy;

(B) assist in developing technologies required for efficient and environmentally sound development of methane hydrate resources;

(C) undertake research programs to provide safe means of transport and storage of methane produced from methane hydrates;

(D) promote education and training in methane hydrate resources research and resource development;

(E) conduct basic and applied research to assess and mitigate the environmental impacts of hydrate degassing, both natural and that associated with commercial development; and

(F) develop technologies to reduce the risks of drilling through methane hydrates.

(2) CONSULTATION.—The Secretary may establish an advisory panel consisting of experts from industry, academia, and Federal agencies to advise the Secretary on potential applications of methane hydrate and assist in developing recommendations and priorities for the methane hydrate research and development program carried out under this section.

(c) LIMITATIONS.—

(1) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amount made available to carry out this section for a fiscal year may be used by the Secretary for expenses associated with the administration of the program subsection (a)(1).

(2) CONSTRUCTION COSTS.—None of the funds made available to carry out this section may be used for the construction of a new building or the acquisition, expansion, remodeling, or alteration of an existing building

(including site grading and improvement and architect fees.)

(d) RESPONSIBILITIES OF THE SECRETARY.—In carrying out subsection (b)(1), the Secretary shall—

(1) facilitate and develop partnerships among government, industry, and academia to research, identify, assess, and explore methane hydrate resources;

(2) undertake programs to develop basic information necessary for promoting long-term interest in methane hydrate resources as an energy source;

(3) ensure that the data and information developed through the program are accessible and widely disseminated as needed and appropriate;

(4) promote cooperation among agencies that are developing technologies that may hold promise for methane hydrate resource development; and

(5) report annually to Congress on accomplishments under this Act.

### SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

[From the Science News, Vol. 150, Nov. 9, 1996]

#### THE MOTHER LODE OF NATURAL GAS

(By Richard McNastersky)

For kicks, oceanographer William P. Dillon likes to surprise visitors to his lab by taking ordinary-looking ice balls and setting them on fire.

“They’re easy to light. You just put a match to them and they will go,” says Dillon, a researcher with the U.S. Geological Survey (USGS) in Woods Hole, Mass.

If the truth be told, this is not typical ice. The prop in Dillon’s show is a curious and poorly known structure called methane hydrate. Unlike ordinary water ice, methane hydrate consists of single molecules of natural gas trapped within crystalline cages formed by frozen water molecules. Although chemists first discovered gas hydrates in the early part of the 19th century, geoscientists have only recently started documenting their existence in underground deposits and exploring their importance as potential fuel.

Late last year a team of oceanographers conducted the most in-depth investigation of methane hydrates to date by drilling into an extensive accumulation beneath the seabed off the coast of the southeastern United States. The results of this research, which are now beginning to appear in the scientific literature, seem to bolster extremely sketchy estimates made years ago about the vastness of the hydrate resource.

“It turns out there is a tremendous amount of gas down there,” says Charles Paull, a marine geologist at the University of North Carolina at Chapel Hill and a leader of the recent drilling expedition. “It shores up the fact that these are large reserves and makes it increasingly important that they get assessed in terms of whether they are energy-producing deposits or not.”

At the same time, scientists wonder whether this resource also has a dark side. “There have been extremely rapid changes in climate in the past. Some think that these were caused by methane released from methane hydrate,” says Dillon.

Despite their potential importance, methane hydrates have evaded scientific scrutiny until now, largely because they are extremely difficult to study. They exist only where high pressures and low temperatures squeeze water and methane into a solid form.

Most known deposits of methane hydrate lie below the seafloor in regions that slope from the continents to the deep ocean basins thousands of meters underwater. Marine ge-

ologists have tentatively identified deposits off the coasts of Costa Rica, New Jersey, Oregon, Japan, India, and hundreds of other sites around the globe. Petroleum companies have also encountered hydrates while drilling through Arctic permafrost in Siberia, Alaska, and Canada.

Like vampires, hydrates disintegrate quickly if pulled from their dark lair. When researchers on the recent drilling expedition hauled up cores of sediment from the ocean floor, the drastic reduction in pressure caused much of the hydrate to melt before it even reached the ship. Without unusual precautions, any remaining hydrate fizzed away when the scientists cut open the core.

“Gas hydrates have largely escaped traditional geologic observation because gas hydrates and humans are sort of incompatible. The gas hydrates decompose under the conditions [in which] people traditionally analyze cores. Conversely, humans have no experience in operating in the conditions where gas hydrates are stable. We die under the conditions of gas hydrate stability,” says Paull.

Oceanographers first drilled through methane hydrates unintentionally, on an expedition in 1970. Although that encounter was uneventful, research drilling cruises purposely avoided suspected hydrate deposits for 2 decades afterward, fearing they might hit an overpressurized pocket of gas, which could blast away the drilling equipment. Concerns over pressurized gas gradually diminished, and mounting scientific curiosity emboldened researchers to try boring through more hydrate fields. Starting in 1992, the International Ocean Drilling Program (ODP) intentionally breached hydrate deposits several times without incident.

On the recent expedition, Paull and his colleagues drilled at three sites along the Blake Ridge, a large, submerged promontory 330 kilometers off the southeast coast of the United States. Working in water depths of 2,800 meters, the researchers penetrated 700 meters below the seafloor with a hollow drill bit that cuts away a core of sediment the diameter of a soda can.

The investigators had to take special precautions to prevent losing methane-hydrate during the 10 minutes it too to haul fresh sections of core up from the ocean bottom. At various depths, they sealed small bits of core in pressurized barrels, thereby containing the gas until the core reached shipboard laboratories. These samples provided the first direct measurements of how much methane-hydrate exists at different depths beneath the seafloor.

“The amount of hydrate down there is much higher than has previously been estimated says Paull. “It was not uncommon to go from 10 liters up to 30 liters of gas per liter of sediment.”

The researchers also measured, for the first time, large amounts of free gas trapped beneath the frozen hydrate-deposits. The volume of gas was far more than expected, exceeding even the amount within the frozen layer, says Paull.

Although the exact origin of hydrate remains unknown, Paull and others suspect that bacteria within the sediment consume rich organic material and generate methane gas. At a certain depth beneath the seafloor, the low temperatures and high pressures ensnare the gas within the frozen hydrate structures. Methane below the hydrate layer remains in gaseous form because the temperatures there are too high to support freezing.

Conventional deposits of methane, a natural gas, form through a different process, when seafloor sediments are buried far deeper. Exposed to much higher temperatures, the organic material the sediments simmers until it transforms into petroleum and eventually methane.

Nearly a decade ago, several researchers independently tried to estimate how much methane exists in hydrate deposits. Because of the scarcity of direct hydro-measurements at the time, the estimate rested on indirect seismic studies which probe the ocean bottom sediments with blasts of sound that reflect off hidden layers.

These studies suggested that global hydrate deposits contain approximately 10,000 gigatons, or 10 tons, of carbon. That number represents double the combined amount in all reserves of coal, oil, and conventional natural gas.

The newly emerging evidence, supports these rough approximations, says Gordon J. MacDonald, one of the scientists who made the calculations in the 1980s. "All these estimates are quite uncertain. But it remains abundantly clear that methane hydrates contain the largest store of carbon that we know about that is underground," says MacDonald, who now directs the International Institute for Applied Systems Analysis in Laxenburg, Austria.

In fact, hydrates may be more widespread than previously thought. The recent ODP expedition found hydrates in regions that lack the seismically reflective layers usually used to identify potential deposits, the team reports in the Sept. 27 Science.

"Given their worldwide distribution and their very large quantities, they make a very attractive energy source, provided that one can bring the gas up at somewhere near market price," MacDonald says. The cost of accessing hydrates has served as a barrier in the past, but some energy-hungry nations lacking conventional fossil fuels are extremely interested in future use of hydrates.

Japan plans to drill exploratory wells in the next few years, first on land in Alaska and then in Japanese waters. The Japanese National Oil Company is currently negotiating with the U.S. and Canadian governments to conduct experimental drilling of hydrate deposits near Prudhoe Bay, Alaska in early 1998. They hope to have more success than the nations and commercial companies that tried to extract frozen methane in Canada, Alaska and Siberia during the 1970s and 1980s.

In nature, methane hydrates are fickle molecules, liable to melt whenever the pressure drops slightly or the temperature creeps upward. Evidence of this instability pockmarks the ocean floor along the Blake Ridge. Marine geologists have identified numerous craters there that apparently formed when hydrates melted, releasing methane gas.

"The Blake Ridge is a pressure cooker, over geological time. The gas and fluids come up and blow through the sediments. We can see depressions 500 to 700 meters wide and 20 to 30 meters deep," says Dillon.

In other cases, melting at the base of the hydrate layer has destabilized seafloor slopes, leading to massive submarine landslides. Researchers have suggested hydrate weakness as a factor behind landslides off Alaska, the U.S. Atlantic coast, British Columbia, Norway, and Africa, says Keith A. Kvenvolden of the USGS in Menlo Park, Calif.

Such inherent instability could spell problems for future drilling platforms resting on top of hydrate-rich deposits. If the collapses are large enough, they could also produce the destructive waves called tsunamis that race across ocean basins.

Hydrates may exert their greatest impact through their indirect links to climate. Because methane is a powerful greenhouse gas—about 10 times as strong as carbon dioxide—massive melting of hydrates and the ensuing release of methane gas could raise Earth's surface temperature.

James P. Kennett of the University of California, Santa Barbara has recently discov-

ered intriguing evidence implicating methane hydrates as an instigator of climate change. Sediments off the California coast show signs that carbon isotopic ratios in the ocean shifted quite dramatically and quickly at several times during the last 70,000 years. Because methane has a distinctive isotopic fingerprint that matches the shifts, Kennett suggests that large volumes of methane must have poured into the ocean at these times.

In this theory, the methane came from hydrates that melted when ocean waters warmed slightly. The liberation of so much methane over a few decades would have caused widespread warming that affected the entire globe. As supporting evidence, Kennett notes that the ocean's isotopic shifts indeed coincide with well-known Dansgaard-Oeschger episodes when Earth's ice age climate went suddenly warm.

"Until now, [hydrates] haven't really entered into discussions of climate change. They have been almost completely ignored. Until the beginning of this year, I had not even considered them. But I'm now convinced that they are of great importance to the global environment and have been for billions of years," says Kennett. He presented his findings in September at a gas hydrate conference in Ghent, Belgium.

Kvenvolden has proposed a different mechanism that might have released hydrates at the end of the last ice age. As the great blanket of continental ice melted at that time, global sea levels swelled by more than 90 meters, submerging many Arctic regions where hydrate layers exist. The relatively warm ocean water would have melted the hydrates, unleashing tremendous amounts of methane into the atmosphere, Kvenvolden believes.

The same rationale could apply to the modern world. Sea levels are currently rising slowly, at a rate of a few centimeters per decade. Projections suggest that they will rise even faster in the future because of the climatic warming caused by greenhouse gas pollution. At the same time, ocean temperatures are expected to creep upward.

"If you reason that hydrates were important in climate change in the past, there is no reason they wouldn't be important in the future," says Kvenvolden. Indeed, some scientists speculate that melting methane hydrates could greatly exacerbate global warming.

For now, though, Kvenvolden and others remain unsure exactly what role hydrates have played in past climate changes. Lacking this knowledge, they say it is impossible to predict how hydrates will behave in the future.

A greater understanding of hydrates and their importance will come as oceanographers tap deposits in other areas of the world, testing whether the lessons learned on the Blake Ridge apply elsewhere. Scientists are also creating synthetic hydrates in the laboratory (SN:10/19/96, p. 252). By squeezing methane and water in a pressurized apparatus, Dillon and his colleagues can not only gauge how hydrates weaken seafloor sediments but also improve seismic methods for detecting hydrates.

When the experiments are over, the remaining synthetic hydrates could have other uses. "I hadn't really thought of it before, but you could try cooking with them," says Dillon. "I wouldn't want to plan a major meal, but you could probably scramble an egg on it."

By Mrs. FEINSTEIN (for herself and Mr. KYL):

S. 1420. A bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to provide

for full reimbursement of States and localities for costs related to providing emergency medical treatment to individuals injured while entering the United States illegally; to the Committee on the Judiciary.

THE ILLEGAL ALIEN EMERGENCY MEDICAL SERVICES REIMBURSEMENT ACT OF 1997

Mrs. FEINSTEIN. Mr. President, I am offering legislation with Senator KYL as original cosponsor, a legislation which provides full reimbursement to state and local counties for costs incurred for emergency medical services and ambulatory services provided to undocumented aliens injured during a pursuit by border patrol or under the custody of federal, state, or local authorities.

This legislation: Authorizes full reimbursement for emergency medical costs, including ambulatory services for illegal aliens who are injured during illegal crossings at land and sea ports, or during a pursuit by border patrol, or while in custody of federal, state, or local authorities;

Authorizes up to \$18 million per year for the next 4 years from a separate account under the Attorney General to reimburse states and localities for emergency medical services provided to illegal aliens.

Requires the Attorney General to submit a written report to Senate and House Judiciary Committees on the policy and practice, including custody practice, of the border patrol by March 1, 1998.

Requires annual report by the Attorney General to Senate and House Judiciary and Appropriations Committees on the implementation of this bill.

INS reports show that in FY96, 1.65 million illegal aliens were apprehended, of which 97% or 1.6 million apprehensions were made at the Southwest Border. INS also reports that more than 300,000 illegal aliens come into the country every year and in FY97, over 111,000 criminal and other illegal aliens were put through formal deportation proceedings.

With increased focus on apprehending illegal aliens at the 140 mile stretch of our Southwest border, recent reports also show increases in unreimbursed emergency medical service cost of illegal aliens to state and local county hospitals.

The California State Auditor recently released a report which charged that San Diego alone incurred up to \$8.1 million in unreimbursed charges in emergency medical service for illegal aliens between January 1996 and May 1997. The Auditor estimates that San Diego hospitals incurred from \$4.9 million to \$8.1 million in unreimbursed emergency medical services and ambulatory services for up to 1074 illegal aliens during the seventeen month period. The unreimbursed medical service costs include hospital care, costs incurred for paramedics and air transportations, physicians, surgeons and laboratories. These uncompensated services, which hospitals and other emergency service providers are required to

provide under California law, were provided to illegal aliens who were injured during illegal crossings at the border and while escaping border patrol pursuits.

The Sacramento Bee recently reported the following:

Every time a Border patrol chase results in injuries, San Diego area hospitals provide 'free' care to those injured... (For instance), medical care for Francisco Quintera—who was struck by a car while fleeing Border patrol agents—cost UCSD Medical Center over \$1 million in uncompensated expenses. In one recent vehicle chase, a van loaded with illegal immigrants crashed while evading the Border Patrol, costing Scripps Hospital \$200,000 and Mercy Hospital \$100,000 in uncompensated care.

In the 1996 Immigration Act, Congress acknowledged the huge cost shift to state and local county hospitals in unreimbursed cost for emergency medical services provided to illegal aliens by authorizing full reimbursement for emergency Medicaid and ambulatory services.

However, the \$25 million appropriated annually over the next 4 years under the Balance Budget Act for emergency Medicaid for illegal aliens is insufficient to cover the full cost of emergency medical services for illegal aliens nationwide, where high immigrant States like California, Texas, New York, Florida, Illinois, New Jersey, Arizona and Massachusetts end up picking up the responsibility for caring for the injured illegal aliens.

In fact, for fiscal year 1998, there are no appropriations for reimbursement for emergency ambulatory services, as authorized by the 1996 Immigration Act. Instead, Congress only requires INS to perform a pilot project in Nogales, Arizona and report its findings to Congress.

Appropriating \$25 million over the next 4 years and performing a pilot project in Nogales, Arizona is not enough to cover the millions of dollars high immigrant States like California incur every year in unreimbursed emergency medical and ambulatory costs for illegal aliens injured at the border or during a border patrol pursuit.

Mr. President, time has come for the Federal Government to take full responsibility for the cost associated with providing emergency medical services, including ambulatory services, for illegal aliens and lifting the fiscal burden on State and local counties.

Thank you and I urge all my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1420

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

# SECTION 1. AMENDMENT OF THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996.

Section 563 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is amended to read as follows:

## “SEC. 563. REIMBURSEMENT OF STATES AND LOCALITIES FOR EMERGENCY MEDICAL SERVICES.

“(a) Subject to the availability of appropriations, the Attorney General shall fully reimburse States and political subdivisions of States for their costs of providing medical services, including ambulatory services, related to an emergency medical condition of an individual who—

“(1) is injured while, or being pursued immediately after, crossing a land or sea border of the United States without inspection or at any time or place other than as designated by the Attorney General; and

“(2) is under the custody of the State or subdivision pursuant to a transfer, request, or other action by a Federal authority.

“(b) There is established in the general fund of the Treasury a separate account out of which the Attorney General shall provide reimbursement under this section.

“(c) Reimbursement under this section shall not be taken out of monies appropriated for the Immigration and Naturalization Service.

“(d) There are authorized to be appropriated for fiscal years 1998–2002 an amount not to exceed \$18,000,000 annually for the purpose of carrying out this section.

“(e) The Attorney General shall report to the Judiciary and Appropriations Committees of the House of Representatives and the Senate annually on the implementation of this section.

“(f) By March 1, 1998, the Attorney General shall submit a written report to the Judiciary Committees of the House of Representatives and Senate on the policy and practice, including custody practice, of the United States Border Patrol with respect to injured aliens.

“(g) For purposes of this section, the term ‘emergency medical condition’ has the same meaning as that term has under section 562 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.”

Mr. KENNEDY (for himself, Mr. COCHRAN, Mr. DURBIN, Mr. FAIRCLOTH, and Ms. MIKULSKI):

S. 1421. A bill to amend the Public Health Service Act to provide additional support for and to expand clinical research programs, and for other purposes; to the Committee on Labor and Human Resources.

## THE CLINICAL RESEARCH ENHANCEMENT ACT OF 1997

Mr. KENNEDY. Mr. President, the promise of new biomedical research is boundless. As impressive as the progress of the past has been, it pales in comparison to future opportunities. We stand on the threshold of stunning advances in medicine. Supporting biomedical research is among the wisest possible investments we can make in our Nation's future.

Support for clinical research is central to biomedical research. Clinical research is essential for the advancement of scientific knowledge and the development of cures and improvement treatments of disease. Tremendous advances in basic biological research are opening doors to new insights into all aspects of medicine. As a result, there

are extraordinary opportunities for cutting-edge clinical research to translate breakthroughs in the laboratory to the bedsides of patients.

Improvements in patient care and diagnosis and prevention of disease depend upon clinical research that brings basic research discoveries to the bedside. In addition, the results of clinical research are incorporated by industry and developed into new drugs, vaccines, and health care products. These developments strengthen the economy and create jobs.

Advances in biomedical research may also prove to be the most effective way to reduce the country's health care costs in the long run. As our Nation's demographics change and the baby boomers move toward retirement, financing Medicare has become an increasing concern. A Duke University study released earlier this year suggests that a small improvement in the disability rate of older Americans can bring large cost savings for Medicare. Investment in medical research will result in healthier older Americans and lower costs to Medicare.

Despite these clear benefits, clinical research is in crisis. The resources dedicated to such research, particularly at the NIH, have fallen to a level that places the United States at a serious international disadvantage.

Studies by the Institute of Medicine, the National Research Council, the National Academy of Sciences, and the National Institutes of Health have highlighted significant problems in the Nation's clinical research efforts. A 1994 report by the Institute of Medicine, for example, characterized the current level of training and support for health research professionals as “fragmented, frequently undervalued and potentially underfunded.”

The legislation we are introducing today seeks to enhance support of clinical research by addressing the issues that have caused this crisis in clinical research.

First, it will implement the long-standing recommendations regarding the merit review process for clinical research proposals at NIH.

Second, it will provide greater support for general clinical research centers.

Third, it will create new opportunities to pursue clinical research. A Clinical Research Career Enhancement Award will enable a clinical researcher to pursue research projects with a mentor prior to independent pursuit of research. For more established researchers, the Innovative Medical Science Award will provide funds to apply basic scientific discoveries to medical treatment. Both awards will generate the protected time which is so valuable to physician-scientists.

Fourth, the bill provides support for individuals seeking advanced degrees in clinical investigation.

Fifth, it expands the Loan Repayment Program for clinical researchers to encourage the recruitment of new investigators.

A solid infrastructure is essential to any research program. In clinical research, that infrastructure is provided by the general clinical research centers at academic health centers throughout the country. Support for these centers was once largely provided by academic health centers. Today, academic health centers provide approximately \$1 billion annually from clinical revenues to support clinical research. However, academic health centers are confronted with heavy competition from non-teaching institutions and are increasingly obligated to emphasize patient care over research to minimize costs. In the face of these changes, clinical researchers have become more dependent on NIH for infrastructure support.

In spite of the expanding need, NIH support for the general clinical research centers has barely kept up with inflation. The centers are consistently funded at 75 percent of the funding level recommended by the NIH's own Advisory Council. This level is not adequate for the backbone of the Nation's clinical research efforts. Clearly we need to do more.

The number of physicians choosing careers in clinical investigation is in serious decline. Between 1985 and 1997, the number of physicians increased by 34 percent, while the number of physicians pursuing research decreased by 37 percent. Fewer young physicians are choosing careers in research, and we need to reverse that decline.

Student debt is a major barrier to pursuing clinical research. Young physicians graduate from medical school with an average debt burden of \$80,000. Limited financial opportunity in clinical research has caused many young physicians to choose more lucrative medical practice. NIH has acknowledged this problem and has established a loan repayment subsidy to encourage the recruitment of clinical researchers to NIH. Our legislation expands the current program.

Many of today's young clinical investigators are unfamiliar with research methodology. Dr. Harold Varmus, the Director of NIH, has articulated the need for individuals seeking careers in clinical research to have access to clinical research-specific training programs after they graduate from medical school. The NIH already supports a postgraduate training for those pursuing basic research. This legislation will support a comparable program for clinical investigators.

Clinical researchers at academic health centers are also increasingly urged to turn their attention away from research to generate greater revenues. This loss of protected time has a significant adverse impact on their ability to compete for NIH research grants. This problem is particularly difficult for young researchers still seeking mentored research experience during the early years of clinical investigation. The NIH currently has awards to provide mentored career development experiences for basic scientists.

Our legislation creates career development awards to help meet this need.

Less than a third of all NIH grantees are physicians. Only a fraction of them receive awards for clinical investigation. The funding gap for clinical research is most severe in the earliest phases of clinical investigation, where basic scientific discoveries are tested on a small scale in studies involving few patients. Industry will not support such research in non-product-oriented studies and often regard such efforts as too speculative. The medical science awards in our bill will ensure funding for these important research initiatives.

The need for reform of the peer review system has been documented by studies by the Institute of Medicine and an outside review committee of the NIH Division of Research Grants, which is responsible for the peer review process. So far, their recommendations have not been implemented, and the bias against clinical research persists. Our legislation will implement these recommendations and provide effective evaluation of clinical research proposals.

The funds authorized by our legislation to support clinical research do not target specific diseases. The funds would go to peer-reviewed proposals to translate basic scientific discoveries into treatment and prevention of disease. Without such legislation, clinical research will continue to decline to a point where advances in medicine will no longer come from this country but from abroad.

Mr. President, our bill is supported by more than a hundred and forty biomedical associations and organizations. I would like to thank the American Federation for Medical Research for their efforts to support this legislation and ask unanimous consent that the list of supporters, the letters of support be and a copy of the bill be included in the RECORD.

I look forward to working with my colleagues as we move this important legislation through Congress.

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

S. 1421

*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 "Clinical Research Enhancement Act of 1997".

#### SEC. 2. FINDINGS AND PURPOSE.

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

(1) Clinical research is critical to the advancement of scientific knowledge and to the development of cures and improved treatment for disease.

(2) Tremendous advances in biology are opening doors to new insights into human physiology, pathophysiology and disease, creating extraordinary opportunities for clinical research.

(3) Clinical research includes translational research which is an integral part of the research process leading to general human applications. It is the bridge between the lab-

oratory and new methods of diagnosis, treatment, and prevention and is thus essential to progress against cancer and other diseases.

(4) The United States will spend more than \$1 trillion on health care in 1997, but the Federal budget for health research at the National Institutes of Health was \$12.7 billion, only 1 percent of that total.

(5) Studies at the Institute of Medicine, the National Research Council, and the National Academy of Sciences have all addressed the current problems in clinical research.

(6) The Director of the National Institutes of Health has recognized the current problems in clinical research and has through the use of an advisory committee begun to evaluate these problems.

(7) The current level of training and support for health professionals in clinical research is fragmented, frequently undervalued, and potentially underfunded.

(8) Young investigators are not only apprentices for future positions but a crucial source of energy, enthusiasm, and ideas in the day-to-day research that constitutes the scientific enterprise. Serious questions about the future of life-science research are raised by the following:

(A) The number of young investigators applying for grants dropped by 54 percent between 1985 and 1993.

(B) The number of federally funded research (R01) grants awarded to persons under the age of 36 have decreased by 70 percent from 1985 to 1993.

(C) Newly independent life-scientists are expected to raise funds to support their new research programs and a substantial proportion of their own salaries.

(9) The following have been cited as reasons for the decline in the number of active clinical researchers, and those choosing this career path:

(A) A medical school graduate incurs an average debt of \$80,000, as reported in the Medical School Graduation Questionnaire by the American Association of Medical Colleges (AAMC).

(B) The prolonged period of clinical training required increases the accumulated debt burden.

(C) The decreasing number of mentors and role models.

(D) The perceived instability of funding from the National Institutes of Health and other Federal agencies.

(E) The almost complete absence of clinical research training in the curriculum of training grant awardees.

(F) Academic Medical Centers are experiencing difficulties in maintaining a proper environment for research in a highly competitive health care marketplace, which are compounded by the decreased willingness of third party payers to cover health care costs for patients engaged in research studies and research procedures.

(10) In 1960, general clinical research centers were established under the Office of the Director of the National Institutes of Health with an initial appropriation of \$3,000,000.

(11) Appropriations for general clinical research centers in fiscal year 1997 equaled \$153,000,000.

(12) In fiscal year 1997, there were 74 general clinical research centers in operation, supplying patients in the areas in which such centers operate with access to the most modern clinical research and clinical research facilities and technologies.

(13) The average annual amount allocated for each general clinical research center is \$1,900,000, establishing a current funding level of 75 percent of the amounts approved by the Advisory Council of the National Center for Research Resources.



(b) PURPOSE.—It is the purpose of this Act to provide additional support for and to expand clinical research programs.

### SEC. 3. INCREASING THE INVOLVEMENT OF THE NATIONAL INSTITUTES OF HEALTH IN CLINICAL RESEARCH.

Section 402 of the Public Health Service Act (42 U.S.C. 282) is amended by adding at the end the following:

“(1)(1) The Director of NIH shall undertake activities to support and expand the involvement of the National Institutes of Health in clinical research.

“(2) In carrying out paragraph (1), the Director of NIH shall—

“(A) design test pilot projects and implement the recommendations of the Division of Research Grants Clinical Research Study Group and other recommendations for enhancing clinical research, where applicable; and

“(B) establish an intramural clinical research fellowship program and a continuing education clinical research training program at NIH.

“(3) The Director of NIH, in cooperation with the Directors of the Institutes, Centers, and Divisions of the National Institutes of Health, shall support and expand the resources available for the diverse needs of the clinical research community, including inpatient, outpatient, and critical care clinical research.

“(4) The Director of NIH shall establish peer review mechanisms to evaluate applications for—

“(A) clinical research career enhancement awards;

“(B) innovative medical science awards;

“(C) graduate training in clinical investigation awards;

“(D) intramural clinical research fellowships.

Such review mechanisms shall include individuals who are exceptionally qualified to appraise the merits of potential clinical research training and research grant proposals.”.

### SEC. 4. GENERAL CLINICAL RESEARCH CENTERS.

Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is further amended by adding at the end the following:

#### “SEC. 409B. GENERAL CLINICAL RESEARCH CENTERS.

“(a) GRANTS.—The Director of the National Center for Research Resources shall award grants for the establishment of general clinical research centers to provide the infrastructure for clinical research including clinical research training and career enhancement. Such centers shall support clinical studies and career development in all settings of the hospital or academic medical center involved.

“(b) ACTIVITIES.—In carrying out subsection (a), the Director of NIH shall expand the activities of the general clinical research centers through the increased use of telecommunications and telemedicine initiatives.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary.

#### “SEC. 409C. ENHANCEMENT AWARDS.

“(a) CLINICAL RESEARCH CAREER ENHANCEMENT AWARD.—

“(1) IN GENERAL.—The Director of the National Center for Research Resources shall make grants (to be referred to as ‘clinical research career enhancement awards’) to support individual careers in clinical research at general clinical research centers or at other institutions that have the infrastructure and resources deemed appropriate for conducting patient-oriented clinical research. The Director of the National Center

for Research Resources shall, where practicable, collaborate or consult with other Institute Directors in making awards under this subsection.

“(2) APPLICATIONS.—An application for a grant under this subsection shall be submitted by an individual scientist at such time as the Director may require.

“(3) LIMITATIONS.—The amount of a grant under this subsection shall not exceed \$125,000 per year per grant. Grants shall be for terms of 5 years. The Director shall award not more than 20 grants in the first fiscal year, and not more than 40 grants in the second fiscal year, in which grants are awarded under this subsection.

“(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to make grants under paragraph (1), \$3,000,000 for fiscal year 1998, and such sums as may be necessary for each subsequent fiscal year.

#### “(b) INNOVATIVE MEDICAL SCIENCE AWARD.—

“(1) IN GENERAL.—The Director of the National Center for Research Resources shall make grants (to be referred to as ‘innovative medical science awards’) to support individual clinical research projects at general clinical research centers or at other institutions that have the infrastructure and resources deemed appropriate for conducting patient-oriented clinical research. The Director of the National Center for Research Resources shall, where practicable, collaborate or consult with other Institute Directors in making awards under this subsection.

“(2) APPLICATIONS.—An application for a grant under this subsection shall be submitted by an individual scientist at such time as the Director requires.

“(3) LIMITATIONS.—The amount of a grant under this subsection shall not exceed \$175,000 per year per grant.

“(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to make grants under this subsection, \$52,500,000 for fiscal year 1998, and such sums as may be necessary for each subsequent fiscal year.

#### “(c) GRADUATE TRAINING IN CLINICAL INVESTIGATION AWARD.—

“(1) IN GENERAL.—The Director of the National Center for Research Resources shall make grants (to be referred to as ‘graduate training in clinical investigation awards’) to support individuals pursuing master’s or doctoral degrees in clinical investigation.

“(2) APPLICATIONS.—An application for a grant under this subsection shall be submitted by an individual scientist at such time as the Director may require.

“(3) LIMITATIONS.—The amount of a grant under this subsection shall not exceed \$75,000 per year per grant. Grants shall be for terms of 2 years or more and will provide stipend, tuition, and institutional support for individual advanced degree programs in clinical investigation.

“(4) DEFINITION.—As used in this subsection, the term ‘advanced degree programs in clinical investigation’ means programs that award a master’s or Ph.D. degree after 2 or more years of training in areas such as the following:

“(A) Analytical methods, biostatistics, and study design.

“(B) Principles of clinical pharmacology and pharmacokinetics.

“(C) Clinical epidemiology.

“(D) Computer data management and medical informatics.

“(E) Ethical and regulatory issues.

“(F) Biomedical writing.

“(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to make grants under this subsection, \$3,000,000 for fiscal year 1998, and such sums as may be necessary for each subsequent fiscal year.”.

### SEC. 5. CLINICAL RESEARCH ASSISTANCE.

(a) NATIONAL RESEARCH SERVICE AWARDS.—Section 487(a)(1)(C) of the Public Health Service Act (42 U.S.C. 288(a)(1)(C)) is amended by striking “50 such” and inserting “100 such”.

(b) LOAN REPAYMENT PROGRAM.—Section 487E of the Public Health Service Act (42 U.S.C. 288–5) is amended—

(1) in the section heading, by striking “FROM DISADVANTAGED BACKGROUNDS”;

(2) in subsection (a)(1)—

(A) by striking “who are from disadvantaged backgrounds”; and

(B) by striking “as employees of the National Institutes of Health” and inserting “as part of a clinical research training position”;

(3) in subsection (a), by striking paragraph (3) and inserting the following:

“(3) APPLICABILITY OF CERTAIN PROVISIONS REGARDING OBLIGATED SERVICE.—With respect to the National Health Service Corps Loan Repayment Program established under subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with this section, apply to the program established in this section in the same manner and to the same extent as such provisions apply to such loan repayment program.”;

(4) in subsection (b)—

(A) by striking “Amounts” and inserting the following:

“(1) IN GENERAL.—Amounts”; and

(B) by adding at the end the following:

“(2) DISADVANTAGED BACKGROUNDS SET-ASIDE.—In carrying out this section, the Secretary shall ensure that not less than 50 percent of the contracts involve those appropriately qualified health professionals who are from disadvantaged backgrounds.”; and

(5) by adding at the end the following:

“(c) DEFINITION.—As used in subsection (a)(1), the term ‘clinical research training position’ means an individual serving in a general clinical research center or in clinical research at the National Institutes of Health, or a physician receiving a clinical research career enhancement award, an innovative medical science award, or a graduate training in clinical investigation award.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as may be necessary for each fiscal year.”.

### SEC. 6. DEFINITION.

Section 409 of the Public Health Service Act (42 U.S.C. 284d) is amended—

(1) by striking “For purposes” and inserting “(a) HEALTH SERVICE RESEARCH.—For purposes”; and

(2) by adding at the end the following:

“(b) CLINICAL RESEARCH.—As used in this title, the term ‘clinical research’ means patient oriented clinical research conducted with human subjects, or research on the causes and consequences of disease in human populations involving material of human origin (such as tissue specimens and cognitive phenomena) for which an investigator or colleague directly interacts with human subjects in an outpatient or inpatient setting to clarify a problem in human physiology, pathophysiology, or disease; or epidemiologic or behavioral studies, outcomes research, or health services research, or developing new technologies or therapeutic interventions.”.

#### SUPPORTERS OF CLINICAL RESEARCH ENHANCEMENT ACT

Alliance for Aging Research  
Alzheimer’s Association  
Ambulatory Pediatric Association  
American Academy of Child and Adolescent Psychiatry  
American Academy of Dermatology

American Academy of Neurology  
 American Academy of Optometry  
 American Academy of Ophthalmology  
 American Academy of Otolaryngology-Head and Neck Surgery  
 American Academy of Physical Medicine and Rehabilitation  
 American Association for Cancer Research  
 American Association for the Surgery of Trauma  
 American Association of Anatomists  
 American Association of Colleges of Nursing  
 American Association of Neurological Surgeons  
 American Cancer Society  
 American Celiac Society—Dietary Support Coalition  
 American College of Chest Physicians  
 American College of Clinical Pharmacology  
 American College of Medical Genetics  
 American College of Neuropsychopharmacology  
 American Diabetes Association  
 American Federation for Medical Research  
 American Gastroenterological Association  
 American Geriatrics Society  
 American Heart Association  
 American Kidney Fund  
 American Liver Foundation  
 American Lung Association  
 American Neurological Association  
 American Optometric Association  
 American Pediatric Society  
 American Psychiatric Association  
 American Skin Association  
 American Society for Bone and Mineral Research  
 American Society for Clinical Nutrition  
 American Society for Clinical Pharmacology and Therapeutics  
 American Society for Reproductive Medicine  
 American Society of Addiction Medicine  
 American Society of Adults with Pseudo-Obstruction, Inc.  
 American Society of Clinical Nutrition  
 American Society of Hematology  
 American Society of Nephrology  
 American Thoracic Society  
 American Urological Association  
 Americans for Medical Progress  
 Arthritis Foundation  
 Association for Medical School Pharmacology  
 Association for Research in Vision and Ophthalmology  
 Association of Academic Health Centers  
 Association of Academic Physiatrists  
 Association of American Cancer Institutes  
 Association of American Medical Colleges  
 Association of American Veterinary Medical Colleges  
 Association of Behavioral Sciences and Medical Education  
 Association of Departments of Family Medicine  
 Association of Medical and Graduate Departments of Biochemistry  
 Association of Medical School Pediatric Department Chairmen  
 Association of Pathology Chairs  
 Association of Professors of Dermatology  
 Association of Professors of Medicine  
 Association of Program Directors in Internal Medicine  
 Association of Schools and Colleges of Optometry  
 Association of Schools of Public Health  
 Association of Subspecialty Professors  
 Association of University Radiologists  
 American Urogynecologic Society  
 Center for Ulcer Research and Education Foundation  
 Citizens for Public Action  
 Cooley's Anemia Foundation  
 Crohn's and Colitis Foundation of America

Cystic Fibrosis Foundation  
 Dean Thiel Foundation  
 Digestive Disease National Coalition  
 East Carolina University School of Medicine  
 Ehlers-Danlos National Foundation  
 Ermon University School of Medicine  
 The Endocrine Society  
 Epilepsy Foundation of America  
 Foundation for Ichthyosis and Related Skin Types  
 Gay Men's Health Crisis  
 General Clinical Research Center Program Directors' Association  
 Gluten Intolerance Group  
 Hemochromatosis Research Foundation  
 Hepatitis Foundation International  
 Inova Institute of Research and Education  
 Institute for Asthma and Allergy  
 International Foundation for Functional Gastrointestinal Disorders  
 Jeffrey Modell Foundation  
 Joint Council of Allergy, Asthma and Immunology  
 Juvenile Diabetes Foundation International  
 Lawson Wilkins Pediatric Endocrine Society  
 Lupus Foundation of America, Inc.  
 Medical Dermatology Society  
 Mount Sinai Medical Center  
 National Caucus of Basic Biomedical Science Chairs  
 National Committee to Preserve Social Security and Medicare  
 National Health Council  
 National Marfan Foundation  
 National Multiple Sclerosis Society  
 National Organization for Rare Disorders  
 National Osteoporosis Foundation  
 National Perinatal Association  
 National Tuberous Sclerosis Association  
 National Vitiligo Foundation, Inc.  
 National Vulvodynia Association  
 North America Society of Pacing and Electrophysiology  
 Oley Foundation for Home Parenteral and Enteral Nutrition  
 The Orton Dyslexia Society  
 Osteogenesis Imperfecta Foundation  
 PXE International  
 RESOLVE  
 Schepens Eye Research Institute  
 Scleroderma Research Foundation  
 Society for Academic Emergency Medicine  
 Society for the Advancement of Women's Health Research  
 Society for Inherited Metabolic Disorders  
 Society for Investigative Dermatology  
 Society for Pediatric Research  
 Society of Gastroenterology Nurses and Associates, Inc.  
 Society of Gynecologic Oncologists  
 Society of Medical College Directors of Continuing Medical Education  
 Society of University Urologists  
 St. Jude Children's Research Hospital  
 Tourette Syndrome Association, Inc.  
 United Ostomy Association  
 United Scleroderma Foundation  
 University of Rochester School of Medicine and Dentistry  
 Wound, Ostomy and Continence Nurses Society  
 Yale University School of Medicine.

AMERICAN FEDERATION  
 FOR MEDICAL RESEARCH  
 November 7, 1997.

Hon. THAD COCHRAN  
*The Honorable Edward Kennedy,*  
*U.S. Senate, Washington, DC.*

DEAR SENATORS COCHRAN AND KENNEDY: I write to express the strong support of the American Federation for Medical Research for the legislation you will introduce to enhance clinical research programs at the National Institutes of Health. The AFMR is a

national organization of 6,000 physician scientists engaged in basic, clinical, and health services research. Most of our members receive NIH support for their basic research but are finding it increasingly difficult to obtain public or private funding for translational or clinical research—studies through which basic science discoveries are translated to the care of patients. In the past, academic medical centers provided institutional support for this research through revenues generated by patient care activities. However, as the health care marketplace has become increasingly competitive, academic centers have all but eliminated internal subsidies clinical research or the training of clinical investigators. In fact, the Association of American Medical Colleges has estimated that these institutions have lost approximately \$800 million in annual “purchasing power” for research and research training within their institutions. In this context, the \$60 million in spending entailed in your legislation (representing less than one-half of one percent of the NIH budget) would seem an extremely modest investment in a much-needed program to reinvestigate our nation's clinical research capabilities.

The Clinical Research Enhancement Act is a conservative approach to a severe problem. The Institute of Medicine (IOM) expressed alarm about the challenges confronting clinical research in a 1994 report, and your bill is based on the initiatives recommended by the IOM:

The IOM recommended that the General Clinical Research Centers program be strengthened. Your bill would codify this program, which has existed since the late 1950's, so that the Congress will have greater discretion over GCRC funding.

The IOM recommended enhanced career development in clinical investigation, and your bill proposes such awards.

The IOM noted problems with the NIH peer review of clinical research. Your bill directs the NIH to improve the peer review process for such research and establishes “innovative science awards” that will be reviewed by scientists knowledgeable in clinical investigation.

The IOM recommended programs to relieve the tuition debt of physicians pursuing clinical research careers. Your bill would expand an existing NIH intramural program for this purpose to the extramural community.

The IOM recommended structured, didactic training in clinical investigation. Your bill authorizes funding for advanced degree (master's and Ph.D.) training in clinical research as successfully initiated at several institutions around the country.

The list of almost 150 organizations that support the Clinical Research Enhancement Act indicates the consensus of scientific, medical, consumer, and patient organizations that steps must be taken as soon as possible to stop the deterioration of the U.S. clinical research capacity, to reinvigorate the clinical research programs of academic medical centers, and to assure that the American people and the American economy benefit from the translation of basic science breakthroughs to improved clinical care and new medical products. The American Federation for Medical Research is pleased to have the opportunity to express its strong support for your legislation.

Sincerely,

JEFFREY KERN, MD.,  
*President.*

As a coalition of organizations concerned about improving the quality of health care, the National Health Council strongly

supports the Clinical Research Enhancement Act. As you know, it has been more than three years since the Institute of Medicine (IOM) documented the major challenges confronting clinical research in our country. Your bill would implement a number of the IOM recommendations for addressing these problems. It is critically important that the NIH move forward as rapidly as possible with these initiatives.

The NIH is the major funding source in the United States for basic biomedical research. However, the major dividends from this investment are discoveries that improve our ability to prevent, effectively treat, and cure disease and disability. The NIH must foster not only the basic research that begins this process but also the translational research through which a basic science discovery is applied to a medical problem. There is generous industry support for clinical research and clinical trials aimed at the development of new products. However, private funding is extremely limited for initial translational research that may have little or no commercial product potential. Examples of such research include studies of nutritional therapies, new approaches to disease prevention, transplantation techniques, behavioral interventions, and studies of off-label uses of approved drugs. In the past, such research was often subsidized from patient care revenues to academic medical centers. However, competition in the health care marketplace has begun to erode this source of funding; therefore, NIH must play an expanded role in providing support for this research. The Clinical Research Enhancement Act would foster NIH funding opportunities for this type of research through the establishment of "innovative medical science awards." Such studies will focus on translating basic research discoveries into tools that health care professionals can use to cure disease and relieve suffering.

In addition, we support provisions of the bill that would foster opportunities for physicians to pursue careers in clinical research. There is ample evidence that American physicians are opting out of careers in science for a variety of reasons. Steps must be taken to rebuild our nation's supply of well-trained physician scientists if the United States is to continue its leadership of the world in medical science.

Finally, the bill would direct the NIH to improve the peer review of patient-oriented research. Studies have documented the fact that clinical research proposals are at a disadvantage when reviewed by NIH study sections because of NIH's primary focus on basic biomedical research. This must be changed, as proposed in your bill, so that scientific opportunities to improve medical care are not lost.

The undersigned organizations are extremely grateful for your leadership in addressing the problems confronting clinical research. We support your initiative to assure that the NIH invests in the translational research that holds the key for patients around the country who are waiting for a cure. We are pleased to endorse the clinical Research Enhancement Act.

Alzheimer's Association  
American Autoimmune Related Diseases Association  
American Diabetes Association  
American Kidney Fund  
American Paralysis Association  
Digestive Diseases National Coalition  
Epilepsy Foundation of America  
Foundation Fighting Blindness  
Juvenile Diabetes Foundation International

Glaucoma Research Foundation  
Myasthenia Gravis Foundation  
National Alopecia Areata Foundation  
National Multiple Sclerosis Society  
National Osteoporosis Foundation  
National Tuberous Sclerosis Association  
Paget Foundation  
Sjogren's Syndrome Foundation  
Tourette Syndrome Association.

By Mr. MCCAIN (for himself, Mr. BURNS, Mr. CONRAD, and Mr. DORGAN):

S. 1422. A bill to amend the Communications Act of 1934 to promote competition in the market for delivery of multichannel video programming and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE FEDERAL COMMUNICATIONS COMMISSION  
SATELLITE CARRIER OVERSIGHT ACT

Mr. MCCAIN. Madam President, today I am introducing the Federal Communications Commission Satellite Carrier Oversight Act. This bill will do a number of things to promote competition in the multichannel video marketplace. I wish to thank Senator BURNS for his support on this bill.

Congress has had a longstanding interest in promoting competition in the multichannel video marketplace so as to enable consumers to have a choice of video providers at competitive rates. However, a recent regulatory action threatens the ability of direct-to-home [DTH] satellite television operators to compete effectively with cable operators.

On October 27, 1997, the Librarian of Congress adopted a Copyright Arbitration Royalty Panel's recommendation of a precipitous and wholly unjustified increase in the copyright fees satellite carriers pay for superstation and network affiliate signals delivered to satellite TV households. This action will result in a rate increase for satellite television subscribers and have a detrimental effect on the ability of DTH operators to compete with cable.

This bill will ensure that this rate increase does not take effect as scheduled on January 1, 1998. It delays the effective date of the rate increase to January 1, 1999. The 7.5 million U.S. households who currently subscribe to satellite television deserve to have Congress examine the effect of this copyright fee increase on video competition and to consider changes to the law that would ensure a less arbitrary and more consumer friendly result. This delay will give the FCC an opportunity to determine what impact the increased copyright fees will have on satellite's ability to compete with cable, and it will give Congress an opportunity to evaluate the FCC's report and respond accordingly.

The current satellite copyright rates are 14 cents per subscriber per month for each superstation signal and 6 cents per subscriber per month for each network signal. Cable operators currently

pay an average of 9.7 cents for the exact same superstations and 2.7 cents for the exact same network signals. At the 27-cent rate adopted by the Librarian, satellite carriers will be paying almost 270 percent more than cable for the exact same superstations and 900 percent more for the exact same network signals.

This creates an enormous disparity in the copyright fees paid for the same signals and will result in rate increases to satellite subscribers, which in turn will have a negative impact on competition between cable and satellite. Such a result is directly contrary to the intent of Congress to give consumers a choice of video providers at competitive rates.

The bill also addresses an issue of continuing concern to the DTH industry. Signal theft represents a serious threat to DTH operators. In the Telecommunications Act of 1996, Congress confirmed the applicability of penalties for unauthorized decryption of DTH satellite services. The amendment we propose would confirm the judicial interpretation that civil suits may be brought by DTH operators for signal theft.

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. 1422

*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 "Federal Communications Commission Satellite Carrier Oversight Act".

**SEC. 2. FINDINGS.**

(a) The Congress finds that:

(1) Signal theft represents a serious threat to direct-to-home satellite television. In the Telecommunications Act of 1996, Congress confirmed the applicability of penalties for unauthorized decryption of direct-to-home satellite services. Nevertheless, concerns remain about civil liability for such unauthorized decryption.

(2) In view of the desire to establish competition to the cable television industry, Congress authorized consumers to utilize direct-to-home satellite systems for viewing video programming through the Cable Communications Policy Act of 1984.

(3) Congress found in the Cable Television Consumer Protection and Competition Act of 1992 that without the presence of another multichannel video programming distributor, a cable television operator faces no local competition and that the result is undue market power for the cable operator as compared to that of consumers and other video programmers.

(4) The Federal Communications Commission, under the Cable Television Consumer Protection and Competition Act of 1992, has the responsibility for reporting annually to the Congress on the state of competition in the market for delivery of multichannel video programming.

(5) In the Cable Television Consumer Protection and Competition Act of 1992, Congress stated its policy of promoting the availability to the public of a diversity of

views and information through cable television and other video distribution media.

(6) Direct-to-home satellite television service is the fastest growing multichannel video programming service with approximately 8 million households subscribing to video programming delivered by satellite carriers.

(7) Direct-to-home satellite television service is the service that most likely can provide effective competition to cable television service.

(8) Through the compulsory copyright license created by Section 119 of the Satellite Home Viewer Act of 1988, satellite carriers have paid a royalty fee per subscriber, per month to retransmit network and superstation signals by satellite to subscribers for private home viewing.

(9) Congress set the 1988 fees to equal the average fees paid by cable television operators for the same superstation and network signals.

(10) Effective May 1, 1992, the royalty fees payable by satellite carriers were increased through compulsory arbitration to \$0.06 per subscriber per month for retransmission of network signals and \$0.175 per subscriber per month for retransmission of superstation signals, unless all of the programming contained in the superstation signal is free from syndicated exclusivity protection under the rules of the Federal Communications Commission, in which case the fee was decreased to \$0.14 per subscriber per month. These fees were 40–70 percent higher than the royalty fees paid by cable television operators to retransmit the same signals.

(11) On October 27, 1997, the Librarian of Congress adopted the recommendation of the Copyright Arbitration Royalty Panel and approved raising the royalty fees of satellite carriers to \$0.27 per subscriber per month for both superstation and network signals, effective January 1, 1998.

(12) The fees adopted by the Librarian are 270 percent higher for superstations and 900 percent higher for network signals than the royalty fees paid by cable television operators for the exact same signals.

(13) To be an effective competitor to cable, direct-to-home satellite television must have access to the same programming carried by its competitors and at comparable rates. In addition, consumers living in areas where over-the-air network signals are not available rely upon satellite carriers for access to important news and entertainment.

(14) The Copyright Arbitration Royalty Panel did not adequately consider the adverse competitive effect of the differential in satellite and cable royalty fees on promoting competition among multichannel video programming providers and the importance of evaluating the fees satellite carriers pay in the context of the competitive nature of the multichannel video programming marketplace.

(15) If the recommendation of the Copyright Arbitration Royalty Panel is allowed to stand, the direct-to-home satellite industry, whose total subscriber base is equivalent in size to approximately 11 percent of all cable households, will be paying royalties that equal half the size of the cable royalty pool, thus giving satellite subscribers a disproportionate burden for paying copyright royalties when compared to cable television subscribers.

#### SEC. 3. DBS SIGNAL SECURITY.

(a) Section 605(d) of the Communications Act of 1934 (47 U.S.C. 605) is amended by adding after "satellite cable programming," the following: "or direct-to-home satellite services."

#### SEC. 4. PROCEEDING ON RETRANSMISSION OF DISTANT BROADCAST SIGNALS; REPORT ON EFFECT OF INCREASED ROYALTY FEES FOR SATELLITE CARRIERS ON COMPETITION IN THE MARKET FOR DELIVERY OF MULTICHANNEL VIDEO PROGRAMMING.

(a) Section 628 of the Communications Act of 1934 (47 U.S.C. 548) is amended—

(1) by adding at the end of subsection (g): "The Commission shall, within 180 days of enactment of this amendment initiate a notice of inquiry to determine the best way in which to facilitate the retransmission of distant broadcast signals such that it is more consistent with the 1992 Cable Act's goal of promoting competition in the market for delivery of multichannel video programming and the public interest. The Commission also shall within 180 days of enactment report to Congress on the effect of the increase in royalty fees paid by satellite carriers pursuant to the decision by the Librarian of Congress on competition in the market for delivery of multichannel video programming and the ability of the direct-to-home satellite industry to compete."

#### SEC. 5. EFFECTIVE DATE OF INCREASED ROYALTY FEES.

(a) Notwithstanding any other provision of law, the Copyright Office shall be prohibited from implementing, enforcing, collecting or awarding copyright royalty fees, and no obligation or liability for copyright royalty fees shall accrue pursuant to the decision of the Librarian of Congress on October 27, 1997, which established a royalty fee of \$0.27 per subscriber per month for the retransmission of distant broadcast signals by satellite carriers, before January 1, 1999.

By Mr. HAGEL (for himself, Mr. BENNETT, Mr. KERREY, and Mr. GRAMS):

S. 1423. A bill to modernize and improve the Federal Home Loan Bank System; to the Committee on Banking, Housing, and Urban Affairs.

#### THE FEDERAL HOME LOAN BANK SYSTEM MODERNIZATION ACT

Mr. HAGEL. Mr. President, I rise today to introduce the Federal Home Loan Bank System Modernization Act of 1997. I am joined in this effort by my distinguished colleagues Senators BENNETT, GRAMS, and KERREY.

This legislation represents months of work in crafting a bill that has bipartisan support. The process has been open, and we have included all the affected parties: The Federal Home Loan Banks themselves, the Federal Housing Finance Board, and the banking industry. This process has allowed us to craft legislation that represents, above all, sound banking policy.

This bill will help community banks and the consumers who rely on them. Take, for example, the case of Commercial State Bank in Wausa, NE. Commercial has served northeast Nebraska as an agricultural and business lender for more than 70 years.

Now, with a growing economy in the region, the bank is growing as well. In the small community of 600 people, deposits cannot keep pace with the growing demand for loans—and that means the bank's liquidity is declining. With less liquidity, there just isn't as much money available for lending as the community demands.

This bill would help banks like Commercial and communities like Wausa. As Doug JOHNSON, president of Commercial State Bank, wrote to me about this legislation:

If banks like the Commercial State Bank were able to access the Federal Home Loan Bank, our customers would be better able to be serviced with a consistent and competitive source of funding. Denying credit to qualified borrowers is not productive for Nebraska or the Midwest. Unfortunately, those borrowers may miss the opportunities avail-

able to them at this time to improve their economic prosperity.

Mr. President, that is what this bill is all about—helping small communities to better secure their economic futures.

The Federal Home Loan Bank system was established in 1932, primarily to provide a source of credit to savings and loan institutions for home lending. Now, a majority of the members in the FHLB system are commercial banks. We should update this system to recognize this change in its membership.

Not since 1989 has significant Federal Home Loan Bank legislation become law. The system is working well, but I believe Congress can make it better. It's time for Congress to act.

This legislation has four main components:

First, it recognizes the importance of the FHLB system to community banks. Many smaller institutions are dependent on deposits to fund lending in their local communities. Because of competition from non bank competitors, those deposits are shrinking. That is going to mean less community lending—which will hurt the economies of these small communities. A recent article in American Banker newspaper titled "Small Banks Face Crisis as Deposits Drain Away" highlighted this problem, and I ask that this article be printed in the RECORD at the conclusion of my remarks.

Our legislation would ease membership requirements for smaller community banks and thrifts that are vital sources of credit in their local communities. It would allow the FHLB System to be more easily accessed as an important source of liquidity for community lenders. These institutions would be permitted to post different types of collateral for various kinds of lending. This critical change will facilitate more small business, rural development, agricultural, and low-income community development lending in rural and urban communities.

The second main component of this bill is an issue of basic fairness. Federally chartered savings associations, or thrifts as they are called today, are required to be members of the Federal Home Loan Bank System. Commercial banks, on the other hand, are voluntary members. This disparity is unfair.

Our legislation allows federally chartered thrifts to become voluntary members. This is important to these institutions, which are large stockholders in the Federal Home Loan Bank System. It is critical that all member financial institutions have the ability to choose whether Federal Home Loan Bank membership is appropriate or not. As a result of this action, we also equalize stock purchase requirements for all member institutions. We do this in a way that maintains and enhances the safety and soundness of the FHLB system.

The third component of this legislation fixes an imbalance in the system's annual REFCORP obligation. Currently, the 12 FHLBanks must collectively pay a fixed \$300 million obligation to service the REFCORP bonds

that were issued to help pay for the S&L bailout. This fixed obligation has driven the banks to increase their levels of non-mission-related investments.

Under our legislation each FHLBank would be required to pay 20.75 percent of its earnings to service the REFCORP debt. Freeing the FHLBanks of the obligation to generate a specific dollar figure would allow them to concentrate on their primary mission of housing finance and community lending. This change was scored by the Congressional Budget Office as increasing Federal revenues by \$44 million over the next 5 years. In other words, this change would allow a \$44 million reduction in taxpayer obligations.

Fourth and finally, the legislation addresses the issue of devolution of management functions from the Finance Board to the FHLBanks. On issues of day-to-day management, the FHLBanks should be able to govern themselves independently of their regulator. The function of the Finance Board should be mission regulation and safety-and-soundness regulation. The provisions of the legislation that accomplish this goal are non controversial and enjoy broad support.

Mr. President, it is time to modernize the Federal Home Loan Bank System. The landscape of the financial services industry is rapidly evolving. The Federal Home Loan Banks should be allowed to modernize to keep pace with these changes. I am proud to take up this issue in the Senate and build on the work done in the House of Representatives by Congressmen BAKER and KANJORSKI, both tireless proponents for Federal Home Loan Bank modernization. Their help in the formulation of this legislation was critical.

I sincerely hope the Senate Banking Committee and the full Senate will have the chance to consider this important legislation, and I encourage my colleagues to support it.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

[From American Banker, Oct. 14, 1997]  
SMALL BANKS FACE CRISIS AS DEPOSITS  
DRAIN AWAY

(By Laura Pavlenko Lutton)

Community banks are finding it increasingly tough to meet deposit and withdrawal demands as customers shift their deposits into higher-yielding investments like mutual funds. "I think it could become a crisis," said C. William Landefeld, president of Citizens Savings Bank in Bloomington, Ill., and chairman of America's Community Bankers. "It's one of our biggest concerns."

Over the last three years, loans at banks with assets between \$100 million and \$1 billion have grown nearly 11% while deposits only increased 3.27%, according to the Federal Deposit Insurance Corp. At June 30, loans at these banks averaged 74% of deposits—an all-time high. "We're clearly seeing some community banks struggle with liquidity," said Keith Leggett, an economist at the American Bankers Association. Loan-to-de-

posit ratios above 70% force these institutions to seek alternative sources of funds to meet loan demand—a move that can squeeze profit margins.

"Banks may give up liquidity to meet loan demand and that raises a safety question," he added. While deposits are leaving banks of all sizes, the problem is worst at small banks because they have fewer funding sources. "The big banks can issue debt securities, but we can't really do that," said Arthur C. Johnson, president of United Bank of Michigan, a \$165 million-asset bank in Grand Rapids.

"Smaller banks don't have the same access to the capital markets." Many of these banks also are in towns with dwindling populations or slumping economies. Dennis Utter, president of \$45 million-asset Adams County Bank, said it's difficult to keep deposits in the bank's hometown of Kenesaw, Neb. Baby boomers have moved much of their savings to alternative investments, and younger depositors are even tougher to attract, he said. "When an old, loyal customer passes away, those funds don't stay in Adams County Bank," he said. "The heirs don't live here anymore."

To increase liquidity, community bankers are turning to the Federal Home Loan Bank System, seeking out deposit brokers, nudging up interest rates, or selling off assets. The 12 Federal Home Loan banks, which lend money to member institutions, are a popular source of funds for community banks nationwide. Membership in the system has doubled in the last six years to roughly 6,300, and through August total loans were up 10.3%, to 177.8 billion.

Mr. Johnson said United Bank of Michigan has borrowed \$5 million from the Federal Home Loan Bank of Indianapolis to fund loan growth. But the Federal Home Loan Bank System is not the answer for all community banks. Membership is limited to banks and thrifts with mortgages making up at least 10% of their total loan portfolios. What's more, only mortgage loans may be used as collateral, further limiting what some institutions may borrow.

William L. McQuillan, president of City National Bank in Greely, Neb., said his bank went out and brought enough mortgages to meet the 10% test so it could start borrowing. "We couldn't continue to go out in the local market and pay up for deposits," he said. The membership and collateral requirements soon may be relaxed through rule change and pending legislation.

For example, banks may be able to reclassify some agricultural loans as mortgages under a proposed rule, and pending legislation would waive the 10% mortgage rule for banks with assets under \$500 million—making 800 more banks eligible for membership. In the meantime, banks may buy deposits from brokers. Mr. Utter said he buys about \$5 million of deposits to get Adams County Bank through the peak agricultural lending season of April through October.

"Brokered deposits used to be really frowned upon by regulators, but we're not funding long-term investments" he said. Bank also sell older loans in their portfolio, branches, or other investments to boost liquidity.

Gary Scott, president of Cheatham State Bank in Kingston Springs, Tenn., said his bank occasionally bundles 15- to 20-year mortgages and then sells them to raise cash. Citizens Savings Bank recently sold one of its under-performing branches to bring in new funds. The bank sacrificed the branch's \$7 million of deposits, but Citizens was able to use cash from the sale to pay off some Federal Home Loan bank advances, Mr. Landefeld said.

First Dakota National Bank in Yankton, S.D., has sold off municipal bond securities

in recent years to increase its loan capacity, according to its president, James Ahrendt. Lew Stone, president of Goleta (Calif.) National Bank, said his bank is using the Internet to solve liquidity problems. Goleta sells certificates of deposit through an electronic bulletin board, raising and lowering the rates depending on how much money the bank needs. "We could raise \$10 million overnight if we had to," Mr. Stone said.

Industry experts say they expect the current trend of declining deposit growth and increasing loan demand to continue. "I don't see any real relief for community banks," said Charles N. Cranmer, head of equity research at M.A. Schapiro & Co. in New York. "You've got a banking population that's been educated that they can do better things with their money than put it in a bank."

By Mr. MURKOWSKI (for himself, Mr. AKAKA, Mr. STEVENS, and Mr. INOUE):

S. 1424. A bill to amend the Internal Revenue Code of 1986 to modify the air transportation tax changes made by the Taxpayer Relief Act of 1997; to the Committee on Finance.

#### AVIATION TAXES MODIFICATION LEGISLATION

Mr. MURKOWSKI. Mr. President, today, along with Senators AKAKA, STEVENS, and INOUE, I am introducing legislation that will provide a measure of relief to the citizens of Alaska and Hawaii who must rely on air transport far more than citizens in the lower-48.

When Congress adopted the balanced budget legislation last summer, one of the provisions of the tax bill re-wrote the formula for calculating the air passenger tax for domestic and international flights. As part of this formula change, Congress adopted a per passenger, per segment fee which disproportionately penalizes travelers to and from Alaska and Hawaii who have no choice but to travel by air.

Th legislation we are introducing today would reinstate the prior law 10 percent tax formula for flights to and from our states. In addition, the \$6 international departure fees that are imposed on such flights would be retained at the current level and would not be indexed. I see no reason why passengers flying to and from our states must face a guaranteed increase in tax every year because of inflation. We don't index tobacco taxes, we don't index fuel taxes; why should government automatically gain additional revenue from air passengers simply because of inflation?

Mr. President, this legislation requires that intrastate Alaska and Hawaii flights will be subject to a flat 10 percent tax if such flights do not originate or terminate at a rural airport in our states. In addition, the definition of a rural airport is expanded to include airports within 75 miles of each other where no roads connect the communities. In many towns in Alaska, air transport is the only viable means of transportation from one community to another. There is no reason these airports should be denied the benefit of the special rural airport tax rate simply because our state does not have the

transportation infrastructure or geographic definition that exists in most of the lower-48.

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. 1424

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MODIFICATIONS TO AIR TRANSPORTATION TAX CHANGES MADE BY TAXPAYER RELIEF ACT OF 1997.**

(a) **ELIMINATION OF INFLATION ADJUSTMENT FOR TAX ON CERTAIN USE OF INTERNATIONAL TRAVEL FACILITIES.**—Section 4261(e)(4) of the Internal Revenue Code of 1986 (relating to inflation adjustment of dollar rates of tax) is amended—

(1) in subparagraph (A), by striking “each dollar amount contained in subsection (c)” and inserting “the \$12.00 amount contained in subsection (c)(1)”, and

(2) in subparagraph (B)(ii), by striking “the dollar amounts contained in subsection (c)” and inserting “the \$12.00 amount contained in subsection (c)(1)”.

(b) **MODIFICATION OF RURAL AIRPORT DEFINITION.**—Subclause (I) of section 4261(e)(1)(B) of the Internal Revenue Code of 1986 (defining rural airport) is amended by inserting “(or is so located but is not connected to such other airport by paved roads)” after “clause (i)”.

(c) **IMPOSITION OF TICKET TAX ON SEGMENTS TO AND FROM ALASKA OR HAWAII OR WITHIN ALASKA OR HAWAII AT RATE IN EFFECT BEFORE THE TAXPAYER RELIEF ACT OF 1997.**—Section 4261(e) of the Internal Revenue Code of 1986 (relating to special rules) is amended by adding at the end the following:

“(6) **SEGMENTS TO AND FROM ALASKA OR HAWAII OR WITHIN ALASKA OR HAWAII.**—Except with respect to any domestic segment described in paragraph (1), in the case of transportation involving 1 or more domestic segments at least 1 of which begins or ends in Alaska or Hawaii or in the case of a domestic segment beginning and ending in Alaska or Hawaii—

“(A) subsection (a) shall be applied by substituting “10 percent” for the otherwise applicable percentage, and

“(B) the tax imposed by subsection (b)(1) shall not apply.”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if included in the amendments made by section 1031 of the Taxpayer Relief Act of 1997.

Mr. INOUE. Mr. President, I am pleased to lend my support to Senator MURKOWSKI's bill that would amend Public Law 105-34, the Taxpayer Relief Act of 1997, with respect to domestic aviation travel to, from, and within Hawaii and Alaska. Hawaii, unlike any other State, save Alaska, does not have the transportation alternatives that are available to citizens of other States. Roads, bridges, trains, and buses do not operate between the islands of Hawaii. This geographic difference causes any tax imposed on the cost of flying, our citizens' only means of getting from one island to another, to fall disproportionately on our citizens.

This bill would correct any injustice that the citizens of Hawaii and Alaska were, perhaps inadvertently, subjected

to as a result of last summer's passage of increased excise taxes on air transportation. Specifically, the Taxpayer Relief Act of 1997's provision for the collection of an additional segment tax for each segment of air travel among the Hawaiian Islands disproportionately penalized Hawaii citizens.

In addition, the current law definition of “rural airports” is under inclusive. Under the current law, Hawaii citizens traveling to and from an airport located within 75 miles of a high-traffic airport that is inaccessible to them because there are no paved roads connecting the two airports, are nonetheless ineligible for the reduced 7.5 percent tax. By amending the definition of “rural airports,” this bill will afford Hawaii citizens the same tax benefits as similarly situated citizens of other States.

Therefore, I support the reinstatement of the pre-act formula for computing taxes on domestic segments that begin or end in Alaska and Hawaii, which would correct the inequitable tax treatment of Hawaii passengers under the current law.

It is my hope that my colleagues will support this measure during the second session of the 105th Congress.

Mr. AKAKA. I am pleased to join Senator MURKOWSKI and other colleagues in introducing legislation today that addresses certain aviation tax inequities that were enacted as part of Public Law 105-34, the Taxpayer Relief Act of 1997.

Among other aviation provisions, Public Law 105-34 lowered the passenger ticket tax from 10 percent to 9 percent, falling incrementally to 7.5 percent over 3 years. In addition, the law established a new domestic segment fee of \$1, rising incrementally to \$3 over 5 years, which will ultimately be indexed for inflation. However, flights from certain small, rural airports are taxed at a simple 7.5 percent rate and exempted from the segment fee. Finally, while the existing \$6 international departure tax for flights between Hawaii and other states is maintained, the charge is indexed for inflation beginning in 1999.

Mr. President, these taxes unfairly discriminate against Hawaii travellers. Residents of and visitors to Hawaii are entirely dependent on plane service for communication among the State's eight major islands as well as for travel to and from the distant U.S. mainland. The new aviation charges make personal, commercial, and Government travel within Hawaii more costly and hurts our tourism-based economy by inhibiting visitation from other States. I understand that many of these problems also apply to Alaska, which has similar transportation concerns.

The bill we are introducing today addresses these shortcomings. Our legislation would reinstate the prior 10 percent ticket tax and eliminate the new segment fee on flights between our States and the mainland as well as on intrastate flights in Hawaii and Alas-

ka. The measure would also eliminate the inflation adjustment for the \$6 international departure tax to which flights to and from our States are subject. Finally, the bill would redefine the rural airport exemption in such a way that will qualify many passengers travelling within Hawaii and Alaska for the reduced 7.5 percent rate.

Thank you, Mr. President. For the sake of Hawaii's and Alaska's unique air transportation needs, I urge my colleagues to support this initiative.

By Mr. BURNS:

S. 1425. A bill to provide for the preservation and sustainability of the family farm through the transfer of responsibility for operation and maintenance of the Flathead Indian Irrigation Project, Montana; to the Committee on Indian Affairs.

**THE FLATHEAD IRRIGATION PROJECT TRANSFER ACT OF 1997**

Mr. BURNS. Madam President, I rise today to introduce a bill to transfer the operation of an irrigation project in Montana from the Bureau of Indian Affairs to the local irrigators. This is a bill, which has been before Congress before, but has been changed to address the concerns expressed by the BIA and groups which have opposed this legislation in the past.

Years of management by the Bureau of Indian Affairs has led to a project in poor physical condition. Rather than being an asset for the government and the users, the Flathead Irrigation is rapidly becoming a liability. Using current estimates, the project is in need of \$15 to \$20 million worth of repair and conditioning. Government managers admit that costs associated with rehabilitation of this project could be as much as 40 percent higher than if the project were under local control.

The irony of this project however, is the fact that studies on locally owned irrigation projects in Montana and Wyoming show that the costs of operation and maintenance of the Flathead project are some of the highest in the Rocky Mountain Region the condition of the project may be worst in that same region. What do these people, and for that matter the taxpayer, get for the higher costs associated with the current management? Not much if anything at all.

Let's take a moment here to see what local control of this irrigation project would mean to the irrigators and to the taxpayer. First of all, local control will mean increased accountability of the monies collected by and used in the operation of the Flathead Irrigation Project. At the current time the BIA is unable, or unwilling, to provide basic financial information to the local irrigation districts. This despite the fact that the local farmers and ranchers pay 100% of the costs to operate and maintain the project. At the same time, the current management cannot even deliver a year-end balance of funds paid by the local irrigation users.



Local control will also create savings over the current operation management. By using these savings the local management could be used to restore the Flathead Irrigation Project to a fully functioning, efficiently operating unit.

Without the transfer to local control, the residents of the Flathead face an uncertain future. This irrigation project is located in one of the most beautiful valleys in western Montana. Current trends in agriculture have put farmers and ranchers in a difficult position. Montana farmers and ranchers have always been land rich and cash poor. In the case of this valley in Montana, this is the rule and not the exception. They live in an area that is being changed daily due to the number of summer home construction, because of the beauty and a temperate climate for Montana.

The family farmers and ranchers in this area continue to face economic pressures from outside. Which has led to a number of folks packing up and subdividing their land for residential home sites. Those who have packed up and left the area, have taken their land and subdivided it for the residential development, removing the land from agricultural production.

The subdivision of the land has a number of negative impacts on this valley and Montana and the Nation. The landscape is dotted with magnificent homes which impacts on the landscape and open spaces, and of course wildlife. Another of the major impacts is on the local and state economies and governments. Agriculture land in Montana pays approximately \$1.29 in property taxes for every dollar invested by the local government for services. Residential subdivisions only pay approximately \$0.89 for every dollar they receive in local government services.

Preservation of the small family farm and ranch in the Mission, Jocko and Camas valleys in Montana is dependent upon local control. As local control of the Flathead Irrigation Project will provide these hard working Americans an opportunity to control and have input on the costs associated with the operation of this vital water source.

The local control of this project is supported by a wide cross section of Montanan's. Governor Marc Racicot, the Lake County Commissioners and local irrigation districts are among the local government officials in support of this bill. Organizations which have voiced their support for the measure include the Montana Stockgrowers Association, Montana Water Resources Association and the National Water Resources Association. The support of this measure is bipartisan in nature as well.

Madam President. I am pleased to introduce this measure today, and I look forward to moving this bill forward through committee and to the floor in an attempt to give local control back to the people who depend on the Flat-

head Irrigation Project for their way of living.

By Mr. LAUTENBERG:

S. 1426. A bill to encourage beneficiary developing countries to provide adequate protection of intellectual property rights, and for other purposes; to the Committee on Finance.

THE RIGHTS OF INTELLECTUAL PROPERTY OWNERS FAIRNESS FACILITATION ACT OF 1997

Mr. LAUTENBERG. Mr. President, I rise today to introduce legislation I believe will encourage many of our trading partners to improve their protection of American intellectual property rights. This is not an insignificant matter, Mr. President. It is estimated that American companies lose approximately \$50 billion every year from intellectual property violations. This theft not only affects a company's bottom line, it means losses to America's competitiveness, and, most importantly, it means loss of American jobs.

The "Rights of Intellectual Property Owners Fairness Facilitation Act of 1997," or RIP-OFF, will require participants in the Generalized System of Preferences program to expedite their implementation of the intellectual property agreement contained in the Uruguay Round of the General Agreement on Tariffs and Trade. In addition, to continue as a GSP beneficiary, a country must fully comply with the terms of any bilateral or other multilateral intellectual property agreement it has with the United States.

Mr. President, the Agreement on the Trade-Related Aspects of Intellectual Property Rights, known as TRIPS, requires signatories to improve and better enforce the rights of intellectual property holders. Unfortunately, too many countries are able to delay implementation of TRIPS for an inordinately long period of time. Developing countries have until 2000 and least developed countries are permitted to delay some TRIPS requirements for as long as 2006. The United States simply cannot afford to permit piracy to continue unabated for such a lengthy period.

The GSP program enables certain products from developing countries to be exported to the United States duty-free. Through the years, Congress has conditioned the receipt of these tariff preferences on such factors as whether a country enforces arbitral awards in favor of US citizens, whether it affords internationally recognized worker rights to its workers, and whether it harbors terrorists. Although GSP beneficiaries are supposed to provide 'adequate and effective' intellectual property protection, it is an amorphous standard that has only been used a handful of times against countries, and then, only for a limited period of time, and with limited success. By tying the GSP program to expedited implementation of TRIPS and full compliance with agreements they have negotiated with the U.S., countries will know what they must do and by when to con-

tinue receiving GSP benefits. It also demonstrates our commitment to protecting American intellectual property rights overseas.

My legislation conforms to current law, which provides the President with the discretion, via a waiver, to continue or extend GSP benefits to a country that does not comply with the requirements of this bill by allowing a waiver. The President has every right to determine that designating a country as a GSP beneficiary is in the national economic interest of the United States. I thought it was important to maintain the existing flexibility in this program. My bill will also enable our government to provide support and technical assistance to countries having difficulty meeting their intellectual property protection requirements.

The GSP program provides countries with a benefit, not a right. Congress continues to downsize the federal government. Resources are scarce. In this climate, it is inappropriate to provide GSP benefits to countries that do not uphold our intellectual property rights. Industries reliant upon strong intellectual property protection, pharmaceutical, telecommunications, and motion picture companies, for example, are among this country's most competitive. We should be fostering this competitiveness by using appropriate tools to protect our innovators. Mr. President, this legislation will accomplish this goal.

This legislation is very similar to a bill I introduced several years ago with Senator ROTH. The modifications I have made account for the time countries have already had to commence changes to their intellectual property laws and regulations. Additionally, the bill clarifies that the standards provided in TRIPS should be the floor for intellectual property agreements, and that our government should continue seeking stronger protection for American intellectual property owners.

Mr. President, I urge my colleagues to support this legislation and ask unanimous consent that the text of the bill be inserted into the RECORD along with letters of support.

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

S. 1426

*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 "Rights of Intellectual Property Owners Fairness Facilitation Act of 1997".

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) United States industry loses billions of dollars each year to countries that do not provide adequate protection of intellectual property rights.

(2) According to the Department of Commerce, United States companies lose approximately \$50,000,000,000 annually as a result of violations of intellectual property rights by foreign countries.

(3) It is in the interest of the United States to leverage its foreign policy to achieve certain trade policy objectives, such as adequate, effective, and timely protection of intellectual property rights.

(4) Several countries that qualify under the generalized system of preferences provisions have been identified under section 182 of the Trade Act of 1974 (19 U.S.C. 2242) as countries that do not provide adequate and effective protection of patents, copyrights, and trademarks or deny fair and equitable market access to United States persons that rely on intellectual property rights protection.

(5) Several countries that receive United States foreign assistance also have been identified under section 182 of the Trade Act of 1974 as countries that do not provide adequate and effective protection of patents, copyrights, and trademarks or deny fair and equitable market access to United States persons that rely on intellectual property rights protection.

### SEC. 3. COUNTRIES INELIGIBLE FOR GSP TREATMENT.

(a) IN GENERAL.—

(1) IMPLEMENTATION OF AGREEMENT ON TRIPS AND OTHER AGREEMENTS RELATING TO INTELLECTUAL PROPERTY RIGHTS.—Section 502(b)(2) of the Trade Act of 1974 (19 U.S.C. 2462(b)(2)) is amended—

(A) by inserting immediately after subparagraph (G) the following new subparagraphs:

“(H) Such country is not implementing parts I, II, and III of the Agreement on TRIPS—

“(i) beginning on the date that is 1 year after the date of enactment of the Rights of Intellectual Property Owners Fairness Facilitation Act of 1997; or

“(ii) by January 1, 2000, in the case of a least-developed beneficiary developing country.

“(I) Beginning on the date that is 90 days after the date of enactment of the Rights of Intellectual Property Owners Fairness Facilitation Act of 1997, such country is not implementing—

“(i) article 70(9) of part VII of the Agreement on TRIPS; or

“(ii) any bilateral or multilateral agreement (other than an agreement described in subparagraph (H) or clause (i)) to protect and enforce intellectual property rights entered into with the United States.”.

(B) in the last sentence, by striking “(D), (E), (F), and (G)” and inserting “(D), (E), (F), (G), (H), and (I)”.

(2) CONFORMING AMENDMENT.—Section 507 of such Act (19 U.S.C. 2467) is amended by adding at the end the following new paragraph:

“(6) AGREEMENT ON TRIPS.—

“(A) TRIPS.—The term ‘Agreement on TRIPS’ means the Agreement on Trade-Related Aspects of Intellectual Property Rights entered into as part of the Uruguay Round Agreements.

“(B) URUGUAY ROUND AGREEMENTS.—The term ‘Uruguay Round Agreements’ means the trade agreements resulting from the Uruguay Round of multilateral trade negotiations under the auspices of the General Agreement on Tariffs and Trade.”.

(b) DESIGNATION AS ELIGIBLE GSP COUNTRY.—Section 502 of such Act (19 U.S.C. 2462) is amended by adding at the end the following new subsection:

“(g) DESIGNATION WHERE COUNTRY ADHERES TO THE AGREEMENT ON TRIPS AND OTHER INTELLECTUAL PROPERTY RIGHTS AGREEMENTS; ANNUAL REPORTS.—

“(1) DESIGNATION AS BENEFICIARY DEVELOPING COUNTRY.—A country—

“(A) which has been denied designation as a beneficiary developing country on the basis of subsection (b)(2)(H) or (I), or

“(B) with respect to which such designation has been withdrawn or suspended based on subsection (b)(2) (H) or (I),

may be designated as a beneficiary developing country under this title, if the President determines that the country is fully implementing parts I, II, III and article 70(9) of part VII of the Agreement on TRIPS, and any other agreement entered into with the United States that relates to intellectual property rights, and reports the determination to Congress.

“(2) REPORTS.—

“(A) ANNUAL REPORTS.—Not later than the date that is 1 year after the date of enactment of the Rights of Intellectual Property Owners Fairness Facilitation Act of 1997, and annually thereafter, the President shall determine whether each country designated as a beneficiary developing country under this title is fully implementing parts I, II, and III of the Agreement on TRIPS and shall report such findings to Congress.

“(B) OTHER REPORTS.—Not later than 90 days after the date of enactment of the Rights of Intellectual Property Owners Fairness Facilitation Act of 1997, and annually thereafter, the President shall determine whether each country designated as a beneficiary developing country under this title is fully implementing article 70(9) of part VII of the Agreement on TRIPS and any other agreement entered into with the United States that relates to intellectual property rights and shall report such determination to Congress.”.

### SEC. 4. COORDINATION OF TRADE POLICY AND FOREIGN POLICY.

(a) OTHER EFFORTS TO IMPROVE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS.—The United States Trade Representative shall notify the Secretary of State, the Secretary of Commerce, and the Administrator of the Agency for International Development on a regular basis of any country which is not fully implementing parts I, II, III and article 70(9) of part VII of the Agreement on TRIPS, and any other agreement entered into with the United States that relates to intellectual property rights.

(b) ENCOURAGING IMPLEMENTATION OF AGREEMENT ON TRIPS.—The Secretary of State, the Secretary of Commerce, and the Administrator of the Agency for International Development shall cooperate with the United States Trade Representative by encouraging any country that receives foreign assistance and is not fully implementing the Agreement on TRIPS or any other agreement entered into with the United States that relates to intellectual property rights to enact and enforce laws that will enable the country to implement the Agreement on TRIPS and any other intellectual property rights agreement. To further this objective, the Secretary of State shall instruct the head of each United States diplomatic mission abroad to include intellectual property rights protection as a priority objective of the mission.

(c) OTHER ACTIONS TO ENCOURAGE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS.—Notwithstanding any other provision of law, the President is authorized to undertake the following actions, where appropriate, with respect to a developing country to encourage and help the country improve the protection of intellectual property rights:

(1) Provide Overseas Private Investment Corporation insurance for intellectual property assets.

(2) Require foreign assistance programs to provide support for the development of national intellectual property laws and regulations and for the development of the infrastructure necessary to protect intellectual property rights.

(3) Establish technical cooperation committees on intellectual property standards within regional organizations.

(4) Establish, as a joint effort between the United States Government and the private sector, a council to facilitate and provide intellectual property-related technical assistance through the Agency for International Development and the Department of Commerce.

(5) Require United States representatives to multilateral lending institutions to seek the establishment of programs within the institutions to support strong intellectual property rights protection in recipient countries that have fully implemented parts I, II, III and article 70(9) of part VII of the Agreement on TRIPS, and any other agreement entered into with the United States that relates to intellectual property rights.

(d) DEFINITIONS.—In this section:

(1) AGREEMENT ON TRIPS.—The term “Agreement on TRIPS” means the Agreement on Trade-Related Aspects of Intellectual Property Rights entered into as part of the trade agreements resulting from the Uruguay Round of multilateral trade negotiations under the auspices of the General Agreement on Tariffs and Trade.

(2) DEVELOPING COUNTRY.—The term “developing country” means any country which is—

(A) eligible to be designated a beneficiary developing country pursuant to title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.); or

(B) designated as a least-developed beneficiary developing country pursuant to section 502 of such Act (19 U.S.C. 2462).

PHARMACEUTICAL RESEARCH AND  
MANUFACTURERS OF AMERICA,  
Washington, DC, September 19, 1997.

Hon. FRANK LAUTENBERG,  
United States Senate,  
Washington, DC.

DEAR SENATOR LAUTENBERG: I am writing to express PhRMA's appreciation and support for your legislation, the “Rights of Intellectual Property Owners Fairness Facilitation Act of 1997.” The protection and enhancement of American intellectual property is fundamental to the competitiveness of many U.S. industries, especially the research-based pharmaceutical industry. Thanks to the support of the Congress and the Executive Branch, over the years many countries such as Mexico and Brazil have improved their intellectual property regimes, thereby improving their prospects for economic development and setting a positive example for other countries around the world.

I believe your legislation, by providing a balanced range of incentives for countries to improve their protection of intellectual property rights, will send a positive signal to our trading partners. Please do not hesitate to contact me if there is anything PhRMA can do to support the passage of your legislation.

Sincerely,

ALAN F. HOLMER,  
President.

PROCTER & GAMBLE,  
Washington, DC, October 28, 1997.

Hon. FRANK LAUTENBERG,  
United States Senate,  
Washington, DC.

DEAR SENATOR LAUTENBERG: On behalf of Procter & Gamble, I write in strong support of your efforts to protect U.S. intellectual property rights through your bill, the “Rights of Intellectual Property Owners Fairness Facilitation Act of 1997.”

Procter & Gamble now generates over half of its \$35 billion annual sales from international markets. America's leadership to create rules-based international markets is

one of our primary concerns. As we continue to build our business in developing countries, we seek a "level playing field" in the form of transparent, rules-based treatment and protection of investments, including trademarks, technologies, and ideas. Your bill, which requires that developing countries adequately protect our intellectual property rights or lose GSP benefits, represents a positive step.

We are all too familiar with what can happen overseas when U.S. intellectual property rights are not adequately protected. For instance, in the Persian Gulf countries, P&G suffers from severe counterfeit activity. In certain other nations receiving GSP preferences, we estimate that nearly 10% of our total sales is lost to counterfeit products. If GSP can be used as an incentive for countries to implement the TRIPS standards at an accelerated pace, we would avoid those losses.

Your proposed similar legislation in 1994, which we and many of our trade associations such as IPO and PhRMA supported. We will encourage those organizations to again support this initiative.

Sincerely,

R. SCOTT MILLER,  
*Director.*

By Mr. FORD:

S. 1427. A bill to amend the Communications Act of 1934 to require the Federal Communications Commission to preserve lowpower television stations that provide community broadcasting, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE COMMUNITY BROADCASTERS PROTECTION  
ACT OF 1997

Mr. FORD. Mr. President, today, I am pleased to introduce the Community Broadcasters Protection Act of 1997. This legislation is designed to provide some limited protections for the owners and operators of low-power television, or LPTV.

Mr. President, when the Federal Communications Commission created low-power television licenses in the early 1980's, it did so with a simple premise: television stations unable to reach a large area, can still offer a valuable service to our communities. Low-power television stations operate at the higher ends of the broadcast spectrum and serve a more limited area, generally a coverage area of approximately 12 to 15 miles. In addition, LPTV licensees operate as a "secondary status". That is, they cannot interfere with the transmission of full power television stations.

Since their creation almost 20 years ago, LPTV stations have flourished. As entrepreneurs, LPTV owners and operators have experimented with various kinds of programming. Many have been extremely successful as local, community broadcasters, providing regional news and sports coverage. In fact, LPTV stations have much in common with full power stations. Many offer a full service daily program schedule. Other LPTV stations have predominantly religious, all news, all sports, or all movie formats. Still, many other LPTV stations offer more local and "niche" programming because their

service areas are smaller, their audiences more targeted.

Unfortunately, the transition to the digital television era threatens the viability of many LPTV stations. As their spectrum is reclaimed by the FCC for the purpose of providing the second channel for digital television, some of the LPTV stations may face darkness during the transition to digital television, or afterwards.

Let me say, Mr. President, that I have been and continue to be, a supporter of the transition to digital television. I believe the move to digital television is a prudent use of modern technology for the use of a scarce public resource, the electromagnetic spectrum. But I also believe that as we make this transition, good public policy must support the investments made by LPTV licensees. I would note, Mr. President, that a majority of Members of the Senate agreed with me on this point as a number of Members joined me on a March 6, 1997 letter to then FCC Chairman Reed Hundt in which we expressed concerns about the plans for the transition to digital television.

And while the FCC agrees that LPTV licensees have been successful and offer a valuable enterprise, there remains regulatory uncertainty for LPTV licensees in the digital age. That is why I have introduced the Community Broadcasters Protection Act of 1997. This legislation will elevate some LPTV stations from their current secondary status to a newly created Class A license. In so doing, Class A LPTV licensees would be treated under law and FCC regulations like a full power television station. That is, Class A LPTV licensees would assume the same duties and responsibilities as their full power counterparts.

To qualify for a Class A license, an LPTV station must broadcast a minimum of 18 hours per day, and broadcast an average of at least 3 hours per week of programming produced within the market area served by the LPTV station. LPTV stations must be operating under these conditions within the last 2 years before enactment of this legislation and within 6 months of filing for the license. Once an LPTV station obtains a Class A license, the FCC would be required to find spectrum for the station in the new digital television era. Like its full power counterparts, a Class A licensee could not be forced off the air by having its license terminated or rescinded. However, in those instances where the FCC cannot accommodate an LPTV licensee in one market, because of the potential for interference with full power digital transmissions, the FCC is authorized to award the LPTV Class A licensee another license in an adjacent community, or if that is not available, in another community acceptable to the licensee.

Lower-power television licensees are willing and prepared to join their full power counterparts in the transition to digital television—a transition which

is technically complex and potentially costly for both full power and low-power broadcasters. But as long as there remains a regulatory uncertainty about the future of LPTV, they will not be able to obtain the investments and capital to make that transition.

It is an interesting historic footnote, that at the time LPTV was authorized by the FCC, then FCC Chairman Charles Ferris suggested that one day, LPTV could develop into full power television stations. While this legislation does not elevate LPTV to full power status, I do believe that this legislation addresses a critical issue for LPTV supporters—the development of adequate protections in the digital age for broadcasters who provide a significant benefit to the public. I hope my colleagues, who are also supporters of their community broadcasters agree with me and will lend their support to move this legislation forward towards enactment.

By Mr. GRAHAM (for himself,  
Mr. MACK and Mr. BUMPERS):

S. 1428. A bill to waive time limitations specified by law in order to allow the Medal of Honor to be awarded to be awarded to Robert R. Ingram of Jacksonville, Florida, for acts of valor while a Navy Hospital Corpsman in the Republic of Vietnam during the Vietnam conflict; to the Committee on Armed Services.

THE ROBERT R. INGRAM RECOGNITION ACT OF  
1997

Mr. GRAHAM. Mr. President, I rise today to urge passage of a private bill that will honor a man that served this country with honor and bravery. This bill will allow Robert R. Ingram to receive the Medal of Honor for conspicuous gallantry and intrepidity at the risk to his life above and beyond the call of duty.

Robert R. Ingram served as Corpsman with Company C, First Battalion, Seventh Marines in Vietnam. On March 28, 1966, Corpsman Ingram accompanied Marine point platoon as it dispatched an outpost of a North Vietnam Aggressor battalion in Quang Ngai Province, Republic of Vietnam. They were sabotaged by the Vietnamese, and the platoon was decimated, suffering numerous casualties. Corpsman Ingram was himself injured four times during the attack while he administered first aid to other members of his platoon.

Enduring the pain from his many injuries and disregarding his own life, Corpsman Ingram's selfless actions saved many U.S. soldiers that day. By his indomitable fighting spirit, daring initiative, and unflinching dedication to duty, Corpsman Ingram clearly earned the Medal of Honor as a result of his actions. However, the Navy failed to process an award, and Corpsman Ingram received no official commendation for his actions. The men with whom he served that fateful day, and the men whose lives he saved, all feel that a commendation is due. However, there is no evidence of an award recommendation.

Mr. President, it is time that Robert R. Ingram receives an honor that should have been bestowed upon him over thirty years ago. This bill calls for the time limitations in Section 6248 to be waived so that this action may be taken.

Mr. President, I ask unanimous consent that the full text of the legislation be printed in the RECORD.

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

S. 1428

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AUTHORITY FOR AWARD OF MEDAL OF HONOR TO ROBERT R. INGRAM FOR VALOR DURING THE VIETNAM CONFLICT.**

(a) **WAIVER OF TIME LIMITATIONS.**—Notwithstanding the time limitations specified in section 6248 of title 10, United States Code, or any other time limitation with respect to the awarding of certain medals to persons who served in the naval service, the President may award the Medal of Honor under section 6241 of that title to Robert R. Ingram of Jacksonville, Florida, for the acts of valor referred to in subsection (b).

(b) **ACTION DESCRIBED.**—The acts of valor referred to in subsection (a) are the actions of Robert R. Ingram on March 28, 1966, as a Hospital Corpsman Third Class in the Navy serving in the Republic of Vietnam with Company C of the First Battalion, Seventh Marines, during a combat operation designated as Operation Indiana.

By Mr. ROCKEFELLER (for himself, Mr. BURNS, and Mr. DORGAN):

S. 1429. A bill to enhance rail competition and to ensure reasonable rail rates in any case in which there is an absence of effective competition; to the Committee on Commerce, Science, and Transportation.

**THE RAILROAD SHIPPER PROTECTION ACT OF 1997**

Mr. ROCKEFELLER. Mr. President, I am pleased and proud to be joined by two of my distinguished colleagues, Senator CONRAD BURNS and Senator BYRON DORGAN, in introducing today the Railroad Shipper Protection Act of 1997. This legislation is the result of many months of effort to develop constructive and pragmatic proposals for addressing the increasingly serious problems faced by shippers in need of affordable access to railroad service in every region of the country. As a bipartisan team committed to achieving urgently needed results in the coming year, we offer this bill with the hope that it will generate the interest, input, and support needed to help shippers obtain fair treatment and true competitive access from railroads across the country. I commend both Senators BURNS and DORGAN for their leadership and constant attention to these issues, which can be complex and yet affect numerous communities, key industries, and workers nationwide.

This legislation deals with issues of longstanding concern to me. Because of the importance of the relationship between the Nation's railroads and the shippers and communities that they

serve, especially in my State of West Virginia, I have made a special effort throughout my tenure in the Senate to promote a rail transportation system that is fair and economically sound for all parties. Of all of the things that have troubled me about that system over the years, none is more troubling than the plight of captive rail shippers—businesses and communities that are dependent on a single railroad for freight transportation service.

West Virginia has more than its fair share of captive shippers. Many of our coal fields, most of our chemical manufacturers, and one of our finest steel manufacturing facilities—and the largest single employer in our State—all are captive to a single railroad for shipments to domestic and foreign markets. The result is that West Virginia businesses too often suffer from unreasonable freight rates and inadequate transportation service.

Today, two events are conspiring to create additional captive rail shippers—and worsen the competitive position of existing captive rail shippers—in West Virginia and across the Nation.

First, our national freight rail system continues to concentrate into fewer and fewer major railroads. Since Congress deregulated the railroads in 1980, the number of major Class I railroads has declined from 43 to 5—and will drop to 4 if the division of Conrail is approved. For a long time the fears expressed by shippers, and by those of us in Congress who are dedicated to protecting shippers, have fallen on deaf ears. In the past several months, however, the entire Nation has witnessed the far-reaching economic impact of a merger gone awry. The 1996 merger of Union Pacific and Southern Pacific has made dramatic headlines as service is disrupted, trains pile up, shipments are lost, and ultimately facilities and jobs are put in jeopardy. The chemical industry alone has had to grapple with service disruptions costing an average of \$35 to \$60 million per month through the summer and into the fall.

The UP-SP service crisis has caught my attention in part because the effects are so far-reaching that a number of West Virginia shippers have asked for my help, and in part because I now face a major merger in my own backyard with the proposal to divide Conrail between CSX and Norfolk Southern. The UP-SP situation is expected to improve in the coming months, following implementation of a comprehensive service recovery plan and unprecedented intervention by the Surface Transportation Board, but the UP-SP story has only reinforced my belief that concentration of the Nation's railroads is an ominous development for many shippers and for States like West Virginia. Railroad concentration is reducing transportation options and worsening the competitive position of captive shippers.

Second, the Surface Transportation Board, established in 1995 to succeed the Interstate Commerce Commission,

is understaffed and underfunded, and is not adequately promoting rail competition and protecting captive shippers. As I feared at the time it was passed, the effect of the ICC Termination Act has been to reduce our national commitment to a strong and effective regulatory body to protect rail shippers. Rather than being vigilant in protecting captive shippers from railroad abuses, the STB has instead been consumed with reviewing major railroad mergers, conducting annual revenue adequacy determinations which serve no purpose, and making matters worse for shippers by deciding in December 1996 that railroads may render captive a shipper that is otherwise positioned to enjoy competitive service by refusing to quote a rate on a bottleneck segment.

Mr. President, just as the railroad industry has become more and more concentrated, the regulatory agency charged with protecting captive railroad customers has become less and less able to do its job.

Some may wonder how the STB, which is directly charged with protecting against unreasonable rates and promoting competition, came to make such an anticompetitive and antishipper decision as that set forth in the 1996 bottleneck cases, and I think the answer illustrates well the need for Congress to correct the current imbalance between railroads and their customers.

The answer lies in the confusing instructions that were given to the STB in the ICC Termination Act, and previously in the Staggers Rail Act of 1980 and the Railroad Revitalization and Regulatory Reform Act of 1976. In these statutes Congress directed the STB and its predecessor, the ICC, to promote our national rail transportation system “by allowing rail carriers to earn adequate revenues” (49 U.S.C. 10101(3)) and by making “an adequate and continuing effort to assist those carriers in attaining revenue levels” that allow them “to attract and retain capital in amounts adequate to provide a sound transportation system in the United States” (49 U.S.C. 10704(a)(2)). Congress has further directed the STB to make an annual determination of each railroad's revenue adequacy—a determination that finds most class I railroads to be revenue inadequate, contrary to the view of Wall Street and industry observers about the financial strength of individual railroads and the industry as a whole.

As is evident in reading the Board's bottleneck decision, the perceived revenue inadequacy of the major railroads, and the belief that protecting revenue adequacy is the preeminent responsibility of the agency, formed the basis of the STB's agreement with the railroads that they should have the right to prevent rail-to-rail competition even where competition is physically possible. At this point in the evolution of the railroad industry, such an approach is not only inequitable, it is harmful to our national economy.

Today, I join with my colleagues in proposing legislation to clarify the policy of the U.S. Government with regard to railroad competition and to restore the intended balance between railroads and shippers in the laws governing their relationship and the oversight role of the STB. This bill would accomplish five major objectives: First, making clear that it is the policy of the U.S. Government to promote rail competition and protect captive shippers; second, reducing the regulatory burden on captive shippers by simplifying the market dominance test; third, overturning the bottleneck decision by requiring railroads to quote a rate on any available segment of service; fourth, eliminating the "revenue adequacy" test, which serves no practical purpose and perpetuates the erroneous view that railroads are in dire financial straits; and fifth, requiring the STB to open its process more widely in order to meet the needs of small shippers.

It is our intention to pursue this legislation in the context of the STB's reauthorization next year. I am firmly committed to ensuring that the Board is reauthorized in a timely way and is provided with the funds it needs to perform its mission as the primary oversight agency for the Nation's railroads, but I want to make clear that I will not support continuation of the status quo in the relationship between railroads and shippers.

The legislation I introduce today will begin to afford rail-to-rail competition and captive shipper protection the priority they deserve in our national transportation policy. It is an important first-step, and I look forward to working with Senator BURNS, Senator DORGAN, and others over the course of the next several months to expand upon the shipper protections we propose today. I invite our colleagues to join us in this effort, and genuinely seek constructive input and assistance to achieve needed solutions.

Mr. President, I ask unanimous consent that a copy of the bill be printed in its entirety in the RECORD.

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

S. 1429

*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 "Railroad Shipper Protection Act of 1997".

#### SEC. 2. FINDINGS.

The Congress finds that—

(1) the railroad industry has consolidated dramatically since passage of the Staggers Rail Act of 1980 (94 Stat. 1895 et seq.), leaving the railroad industry with only a few major carriers and providing shippers with limited competitive options;

(2) the financial health of the railroad industry has improved substantially since the passage of the Staggers Rail Act of 1980;

(3) due partly to the continued consolidation of the railroad industry, captive rail shippers—

- (A) continue to exist; and
- (B) are increasing in number; and

(4) rail shippers, including captive rail shippers, will benefit from increased competition among railroads and a streamlined process under which the Surface Transportation Board determines the reasonableness of captive rail shipper rates.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(2) SURFACE TRANSPORTATION BOARD.—The term "Surface Transportation Board" or "Board" means the Surface Transportation Board established under section 701 of title 49, United States Code.

#### SEC. 4. PURPOSES.

The purposes of this Act are—

(1) to clarify the rail transportation policy of the United States;

(2) to ensure rail competition for shippers in geographic areas in which rail competition is physically available;

(3) to ensure reasonable rates for captive rail shippers; and

(4) to remove unnecessary regulatory burdens from the rate reasonableness process of the Surface Transportation Board.

#### SEC. 5. CLARIFICATION OF RAIL TRANSPORTATION POLICY.

Section 10101 of title 49, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "In regulating"; and

(2) by adding at the end the following:

"(b) PRIMARY OBJECTIVES.—The primary objectives of the rail transportation policy of the United States shall be—

"(1) to ensure effective competition among rail carriers at origin and destination; and

"(2) to maintain reasonable rates in the absence of effective competition.".

#### SEC. 6. REQUIREMENT OF RAILROADS TO ESTABLISH RATES TO FACILITATE RAIL TO RAIL COMPETITION.

(a) ESTABLISHMENT OF RATE.—Section 11101(a) of title 49, United States Code, is amended by inserting after the first sentence the following: "Upon the request of a shipper, a rail carrier shall establish a rate for transportation requested by the shipper between any 2 points on the system of that rail carrier where traffic originates, terminates, or may be interchanged. A rate established under the preceding sentence shall apply to the shipper that makes the request for the rate without regard to whether the rate established is for part of a through transportation route between an origin and a destination or whether the shipper has made arrangements for transportation over any other part of that through route.".

(b) REVIEW OF REASONABLENESS OF RATE.—Section 10701(d) of title 49, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

"(3) If a rail carrier establishes a rate for transportation between any 2 points on the system of that rail carrier where rail traffic originates, terminates, or may be interchanged, the shipper may challenge the reasonableness of—

"(A) that rate; or

"(B) the aggregate rate between origin and destination (if the rate established is for part of a through route).".

#### SEC. 7. SIMPLIFIED STANDARD FOR MARKET DOMINANCE.

Section 10707(d) of title 49, United States Code, is amended—

(1) by striking paragraph (2);

(2) by striking "(1)(A)" and inserting "(3)";

(3) by striking "(B) For purposes" and inserting "(4) For purposes"; and

(4) by inserting before paragraph (3), as redesignated, the following:

"(1) In making a determination under this section, the Board shall find that the rail carrier establishing the challenged rate referred to in subsection (b) has market dominance over the transportation to which the rate applies if that rail carrier—

"(A) is the only rail carrier serving the origin, destination, or intermediate portion of the route involved; and

"(B) does not prove to the Board that the rate charged results in a revenue-variable cost percentage for that transportation that is less than 180 percent.

"(2) In making a market dominance determination under this section in any case in which 2 or more rail carriers provide service at an origin or destination, the Board shall consider only transportation competition at that origin or destination.".

#### SEC. 8. REVENUE ADEQUACY DETERMINATIONS.

(a) RAIL TRANSPORTATION POLICY.—Section 10101(3) of title 49, United States Code, is amended by striking ", as determined by the Board;".

(b) AUTHORITY FOR REVENUE ADEQUACY DETERMINATION.—Section 10704(a) of title 49, United States Code, is amended—

(1) by striking "(a)(1)" and inserting "(a)"; and

(2) by striking paragraphs (2) and (3).

#### SEC. 9. REDUCTION OF PROCEDURAL BARRIERS FACED BY SMALL SHIPPERS.

(a) ADMINISTRATIVE RELIEF.—Not later than 180 days after the date of enactment of this Act, the Surface Transportation Board shall—

(1) review the rules and procedures applicable to rate complaints and other complaints filed with the Board by small shippers;

(2) identify any such rules or procedures that are unduly burdensome to small shippers; and

(3) take such action, including rulemaking, as is appropriate to reduce or eliminate the aspects of the rules and procedures that the Board determines under paragraph (2) to be unduly burdensome to small shippers.

(b) LEGISLATIVE RELIEF.—The Board shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives if the Board determines that additional changes in the rules and procedures described in subsection (a) are appropriate and require commensurate changes in statutory law. In making that notification, the Board shall make recommendations concerning those changes.

Mr. DORGAN. Mr. President, today I am joining Senator ROCKEFELLER and others in introducing legislation that is designed to address some chronic problems facing rail shippers, especially small, captive shippers such as the small grain elevators in agricultural States like North Dakota. As this bill is introduced in the Senate today, thousands of bushels of grain are lying on the ground in North Dakota because there are no cars available to small elevators to take wheat and barley to market. The frustration of North Dakota farmers and grain shippers is focused not only on the availability of grain cars to take their products to market this time of year, but also on what they have to pay when they have only one railroad serving them. The rates captive shippers pay to get their products to market reflect the basic principles of economics: where there is competition there are lower rates and where there is not, the captive shipper pays significantly more.

While the legislation we are introducing today will not create more grain cars this year and it will not solve full the myriad of concerns that many captive shippers have with respect to rail service in this country, this bill will take a step towards addressing some issues that will help improve the situation of captive shippers.

The inspiration of this bill is the fact that 20 years ago there were more than 40 Class I railroads and today there are eight, of which 5 of these "mega carriers" generate 94 percent of the Class I rail industry's gross income and own over 90 percent of the track miles, and produce nearly 95 percent of the gross ton miles. Today, the western two-thirds of the country is divided up between two mega carriers that own approximately 85 percent of the track, generate over 90 percent of the gross ton miles, and earn about 90 percent of the total net railroad operating income west of the Mississippi River.

As the railroad industry has consolidated over the past 20 years, more and more shippers have become captive to one carrier, replacing competitive service with monopoly service. At the same time, small captive shippers face insurmountable obstacles to seek relief on unreasonable rates before the Surface Transportation Board [STB]. It seems to me that the Congress needs to begin a serious debate on issues effecting captive shippers. The STB still operates under outdated regulatory structures and too many hurdles and red tape stand between the small shipper and relief on unreasonable rates. This legislation takes a modest step at addressing a few specific issues in these areas.

This legislation addresses the broader issues of promoting rail competition and protecting captive shippers where competition does not exist by identifying these issues as priorities for the STB. The bill also makes a couple of changes in specific policies of the STB. First, this bill overturns the STB's decision on the so-called "bottleneck" case where the STB concluded that carriers have no obligation to quote a rate for a segment of line. The essence of the bottleneck case was that some shippers believe that in areas where their products were being shipped where rail competition exists, they want to take advantage of the lower rates for that particular segment of line. This legislation would require a carrier to quote a rate for a specific segment at the request of the shipper. If the carrier did not quote a rate, then the STB would have to set a rate. This circumstance will permit captive shippers to take advantage of the little competition that does exist in the rail industry.

This legislation also repeals the outdated revenue adequacy test. The Vice Chairman of the STB, Gus Owen, has appropriately questioned the appropriateness and the relevance of the STB conducting this outdated exercise of determining the revenue adequacy of

railroads. This test is so out of date that the two largest railroads in the Nation failed the last revenue adequacy test by the STB. However, these and other major railroads have no problem leveraging capital and their own financial reports indicate record profits. It is a ridiculous test and it serves no useful purpose for STB procedures.

In addition, the legislation attempts to streamline the bureaucratic hurdles facing small shippers in seeking rate relief before the STB. One provision streamlines the requirements imposed on the shipper to demonstrate that the rail carrier serving them meets the STB's definition of "market dominance." Under current law, market dominance is defined as "the absence of effective competition from other rail carriers or modes of transportation" and the STB cannot find market dominance unless the revenue to variable cost percentage exceeds 180 percent. Under the STB's interpretation of this requirement, the STB requires shippers to demonstrate that there is no product nor geographic competition under he what constitutes transportation competition. This legislation makes the market dominance test simple and easier to understand. Under this bill, a shipper need only demonstrate that they are served by only one rail carrier and that their rates exceed 180 percent revenue to variable cost to determine market dominance.

This legislation would also require the STB to review its regulations and rules with respect to barriers that impede a small shippers' ability to file rate and other complaints against railroads before the STB. The STB would be required to minimize their red tape and barriers for shippers and also to report to Congress on barriers that require legislative action to remedy.

Mr. President, this legislation is modest, but it will make a difference for small shippers in this country. The premise of the bill is that the STB ought to emphasize competition and where competition does not exist, the STB needs to make it easier for captive shippers to seek relief from unreasonable rates.

Next year, the Senate Committee on Commerce, Science, and Transportation will be debating reauthorization legislation on the STB. That will be a very important debate. Senator ROCKEFELLER, I and others intend to make sure that one element of that debate will focus on the problems facing small, captive shippers and we consider this legislation as a building block for next year's debate. I hope my colleagues will support this legislation.

By Mr. DODD:

S. 1453. A bill to establish a Commission on Fairness in the Workplace, and for other purposes; to the Committee on Labor and Human Resources.

THE NATIONAL COMMISSION ON FAIRNESS IN THE  
WORKPLACE ACT

Mr. DODD. Mr. President, today I am introducing the National Commission

on Fairness in the Workplace Act. This commission will be tasked to review the trend of creating more part-time jobs than full-time jobs; assess the relationship between part-time work and wage levels, benefits, earning potential, and productivity; and examine the practice of having different wage and benefit levels for part-time and full-time workers. This commission, comprised of representatives of the business community, labor, academia and government, will report its findings and recommendations to Congress and the President.

I fully recognize that for many individuals, part-time employment is a perfect solution. Full-time students and individuals wanting to combine work and family responsibilities choose to work part-time. But, part-time work should not be a passport to second class status. Often these employees perform the same duties as their full-time counterparts, but for less money and no benefits. And for those individuals seeking employment, too often they can only find work that requires full-time hours, but not full-time pay and benefits.

Too many Americans are forced to work two and three part-time jobs to pay their rent or mortgage, and put food on their tables. Let's not forget that employees who work full-time, earning benefits and living wages, are often still struggling. How do we expect individuals and families to survive on part-time wages and no benefits. Their status may be classified as part-time, but their expenses certainly are not.

Employers must strive to provide salaries and benefits that meet the demands of today's circumstances, while searching for ways to increase productivity and remain competitive in a global environment.

The recent UPS experience put a national spotlight on this issue; working full-time hours at part-time status and receiving less money and fewer benefits than a full-time employee. One of the concessions of the negotiations was that UPS would agree to create 10,000 full-time jobs from existing part-time positions.

A poll of 500 individuals by the University of Connecticut in September found strong support for action that would guarantee part-time workers some benefits and compel employers to pay those workers hourly wages equal to their full-time counterparts. Part-time employees in Connecticut comprise 12 percent of the work-force, less than the 18 percent national average.

Our work-force is one of our countries most treasured assets. Employees deserve to receive living wages and benefits and we must act now. Therefore, I urge my colleagues to join me in cosponsoring this legislation.

Mr. President, I ask unanimous consent that a copy of the Hartford Courant article "Part-timers' Rights Backed" be included in the RECORD and I ask unanimous consent that the bill be printed in the RECORD.



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

S. 1453

*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 "National Commission on Fairness in the Workplace Act".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) there is an increasing trend toward the use of part-time workers;

(2) part-time jobs often have no or limited health or pension benefits and few labor protections;

(3) there is a trend toward the creation of more part-time jobs than full-time jobs;

(4) questions have been raised regarding the impact of part-time employment on wage levels, benefits, earning potential, and productivity; and

(5) a Federal commission should be established to conduct a thorough study of all matters relating to the impact of part-time employment on wage levels, benefits, earning potential, and productivity and to study the practice of providing different wage and benefit levels to part-time and full-time workers.

#### SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the National Commission on Fairness in the Workplace (hereafter referred to in this Act as the "Commission").

(b) MEMBERSHIP.—The Commission shall be composed of 9 members of whom—

(1) 3 shall be appointed by the President;

(2) 3 shall be appointed by the President pro tempore of the Senate, upon the recommendation of the Majority and Minority Leaders of the Senate; and

(3) 3 shall be appointed by the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting as directed by the President.

(e) MEETINGS.—After the initial meeting, the Commission shall meet at the call of the Chairperson.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among its members.

#### SEC. 4. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall conduct a comprehensive study of the impact of part-time employment in the United States.

(2) MATTERS TO BE STUDIED.—The matters to be studied by the Commission under paragraph (1) shall include—

(A) a review of the trend toward creation of more part-time than full-time jobs;

(B) an assessment of the relationship between part-time work and wage levels, benefits, earning potential, and productivity; and

(C) a review of the practice of providing different wage and benefit levels to part-time and full-time workers.

(b) REPORT.—No later than 12 months after the Commission holds its first meeting, the Commission shall submit a report on the study to the President and Congress. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

#### SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out its duties of this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairperson of the Committee, the head of such department or agency shall furnish such information to the Commission.

#### SEC. 6. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not otherwise an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. Each member of the Commission who is otherwise an officer or employee of the United States shall serve without compensation in addition to that received for services as an officer or employee of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of service for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment and termination of an executive director shall be subject to confirmation by a majority of the members of the Commission.

(2) COMPENSATION.—The executive director shall be compensated at a rate not to exceed the rate payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. The Chairperson may fix the compensation of other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for a position at level V of the Executive Schedule under section 5316 of such title.

(3) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee, with the approval of the head of the appropriate Federal agency, may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status, benefits, or privilege.

(d) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for indi-

viduals not to exceed the daily equivalent of the annual rate of basic pay prescribed for a position at level V of the Executive Schedule under section 5316 of such title.

#### SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as may be necessary to carry out the purposes of this Act. Any sums appropriated shall remain available, without fiscal year limitation, until expended.

#### SEC. 8. TERMINATION.

The Commission shall terminate 30 days after submission of its report under section 4(b).

[From the Hartford Courant, October 8, 1997]

PART-TIMERS' RIGHTS BACKED; RESIDENTS POLLED BY THE UNIVERSITY OF CONNECTICUT IN SEPTEMBER STRONGLY SUPPORT GOVERNMENT ACTION THAT WOULD GUARANTEE PART-TIMERS SOME BENEFITS; COURANT/UCONN CONNECTICUT POLL

(By Liz Halloran)

It was the workplace issue that tripped up UPS and snarled the nation's package delivery system during a 15-day strike this summer: the growing use of part-time employees to do America's business.

UPS workers agreed to go back to work after the giant delivery company said it would create 10,000 new full-time jobs from existing part-time positions.

The strike was over, but the national conversation about the country's estimated 23 million part-time workers—their rights and the government's role in protecting them—kicked into high gear.

"Not everyone can work full time, and part-time work offers extra freedom and income to families in need," said Sen. Christopher J. Dodd, D-Conn., who is urging Congress to set up a committee to study part-time work.

"[Part-time work] shouldn't be a passport to second-class status," he said.

It seems those in Connecticut agree strongly that part-time work that provides significant pay, benefits and stature must remain an option for families and individuals struggling to satisfy their own needs, those of their children and demands of their careers.

Part-timers in Connecticut make up about 12 percent of the work force—less than the 18 percent national average—and most don't want a full-time job, a new Courant/Connecticut Poll shows.

But the residents polled by telephone by the University of Connecticut Sept. 9-15 showed remarkable support for government action that would guarantee part-timers some benefits, and compel companies to pay those workers hourly wages equal to their full-time counterparts. Only one in three said they would support laws restricting companies from hiring part-time workers instead of creating full-time jobs.

But two-thirds said they would support laws requiring employers to give part-time workers benefits such as health insurance, pensions and vacations. Three out of four of those polled said that there should be no difference in the hourly pay of part- and full-time workers.

"There is backing for 'fairness'—especially in hourly rates and for the provision of at least some fringe benefits," said G. Donald Ferree Jr., poll director.

A majority of the 500 residents polled, however, seemed more interested in making sure that all workers—including part-timers—are paid equitably, than in judging whether jobs should be part or full time, Ferree said.

Democrats were more apt than Republicans to support government policies regarding part-time work, as were women, who

are more likely than men to work part time, he said.

The strong support the poll results show for part-time worker benefits and equal pay did not surprise Joseph F. Brennan, vice president of legislative affairs at the Connecticut Business and Industry Association.

"I think the timing of the poll may have skewed results somewhat because the UPS strike was in the headlines, and general polling at that time seemed to support the workers," Brennan said.

Polling done in the past by the business association tells a different story, he said, suggesting that residents do not support greater governmental control of general business practices. The association polls, however, have not asked specifically about part-time work.

Some business leaders have also argued that state intervention into policies regarding part-time employee pay and benefits could hamper Connecticut's ability to compete with other states for jobs. They have also said that any requirements should come from Congress and be applied uniformly nationwide.

A package of state legislative proposals aimed at regulating corporate behavior, including a requirement to pay part-timers the same hourly wage as full-timers doing the same job, made little headway in the General Assembly this year.

Union officials say they believe that public sentiment for part-time workers runs deeper than simply timing.

"The people in the poll have said it all—it's about equal pay and equal benefits for equal work," said John W. Olsen, president of the state AFL-CIO. "It's not as much about part and full time anymore."

Olsen said that if part-timers are compensated equally, employers will find it less attractive to use them to replace full-time positions.

The issue was central to a demonstration in mid-September against Pratt & Whitney, a division of United Technologies Corp. About 400 workers and supporters, dozens of whom were arrested, gathered in downtown Hartford to protest Pratt's decision to cut contracted full-time cleaning jobs and replace them with part-time, lower-paying positions.

While there are instances in Connecticut where workers have been affected by company decisions to replace full-time jobs with low-wage, no-benefit positions, most part-time employees polled said they are not looking for full-time work.

Only one out of five part-timers questioned in the poll said they were actively seeking full-time work.

"Part-time work plays a real role in Connecticut, and many engaged in it do not want full-time work instead," Ferree said.

One other thing the poll made clear, Ferree said, was that the days when one income was deemed enough for a family to live on are over. About half of those polled said their family could live on what the main earner is paid, but nearly as many said that their household needs the income of more than one person.

On the job, some of the time:

Connecticut residents show remarkable support for requiring employers to pay part-time workers at the same hourly rate as full-time workers and to provide part-time workers some benefits. Those polled also strongly believe it is important to preserve part-time employment as a work option.

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The Courant/Connecticut Poll on part-time workers was conducted by the University of Connecticut from Sept. 9-15. Five hundred randomly selected people were interviewed

by telephone. Percentages are rounded to the nearest whole number and may not add up to 100.

The poll has a margin of error of plus or minus 5 percentage points. This means there is a 1-in-20 chance that the results would differ by more than 5 points in either direction from the results of a survey of all adult residents.

A poll's margin of error increases as the sample size shrinks. Results for a subgroup within the poll have a higher margin of error.

The telephone numbers were generated by a computer in proportion to the number of adults living in each area. The actual respondent in each household also was selected at random.

#### ADDITIONAL COSPONSORS

S. 61

At the request of Mr. LOTT, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 263

At the request of Mr. MCCONNELL, the names of the Senator from Missouri [Mr. BOND] and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 263, a bill to prohibit the import, export, sale, purchase, possession, transportation, acquisition, and receipt of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 428

At the request of Mr. KOHL, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of S. 428, a bill to amend chapter 44 of title 18, United States Code, to improve the safety of handguns.

S. 751

At the request of Mr. SHELBY, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 751, a bill to protect and enhance sportsmen's opportunities and conservation of wildlife, and for other purposes.

S. 875

At the request of Mr. TORRICELLI, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 875, a bill to promote online commerce and communications, to protect consumers and service providers from the misuse of computer facilities by others sending bulk unsolicited electronic mail over such facilities, and for other purposes.

S. 951

At the request of Mr. TORRICELLI, the names of the Senator from New York [Mr. MOYNIHAN] and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of S. 951, a bill to reestablish the Office of Noise Abatement and Control in the Environmental Protection Agency.

S. 1044

At the request of Mr. LEAHY, the name of the Senator from Missouri

[Mr. ASHCROFT] was added as a cosponsor of S. 1044, a bill to amend the provisions of titles 17 and 18, United States Code, to provide greater copyright protection by amending criminal copyright infringement provisions, and for other purposes.

S. 1169

At the request of Mr. REED, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of S. 1169, a bill to establish professional development partnerships to improve the quality of America's teachers and the academic achievement of students in the classroom, and for other purposes.

S. 1188

At the request of Mr. KOHL, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 1188, a bill to amend chapters 83 and 85 of title 28, United States Code, relating to the jurisdiction of the District Court for the District of Columbia, and the United States Court of Appeals for the District of Columbia, and for other purposes.

S. 1195

At the request of Mr. CHAFEE, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 1195, a bill to promote the adoption of children in foster care, and for other purposes.

S. 1204

At the request of Mr. COVERDELL, the names of the Senator from Virginia [Mr. WARNER] the Senator from Indiana [Mr. LUGAR] and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 1204, a bill to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when government action is sufficiently final to ripen certain Federal claims arising under the Constitution.

S. 1221

At the request of Mr. STEVENS, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 1221, a bill to amend title 46 of the United States Code to prevent foreign ownership and control of United States flag vessels employed in the fisheries in the navigable waters and exclusive economic zone of the United States, to prevent the issuance of fishery endorsements to certain vessels, and for other purposes.

S. 1228

At the request of Mr. CHAFEE, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1228, a bill to provide for a 10-

year circulating commemorative coin program to commemorate each of the 50 States, and for other purposes.

S. 1251

At the request of Mr. D'AMATO, the names of the Senator from Idaho [Mr. CRAIG] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1252

At the request of Mr. D'AMATO, the names of the Senator from Idaho [Mr. CRAIG] the Senator from Massachusetts [Mr. KERRY] and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1256

At the request of Mr. HATCH, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 1256, a bill to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials, or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions in which no State law claim is alleged; to permit certification of unsettled State law questions that are essential to Federal claims arising under the Constitution; to allow for efficient adjudication of constitutional claims brought by injured parties in the United States district courts and the Court of Federal Claims; to clarify when government action is sufficiently final to ripen certain Federal claims arising under the Constitution; and for other purposes.

S. 1264

At the request of Mr. HARKIN, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 1264, a bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide for improved public health and food safety through enhanced enforcement.

S. 1287

At the request of Mr. JEFFORDS, the name of the Senator from New Jersey [Mr. TORRICELLI] was added as a cosponsor of S. 1287, a bill to assist in the conservation of Asian elephants by supporting and providing financial resources for the conservation programs of nations within the range of Asian elephants and projects of persons with demonstrated expertise in the conservation of Asian elephants.

S. 1297

At the request of Mr. COVERDELL, the name of the Senator from Alabama

[Mr. SESSIONS] was added as a cosponsor of S. 1297, a bill to redesignate Washington National Airport as "Ronald Reagan Washington National Airport".

S. 1311

At the request of Mr. LOTT, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1311, a bill to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles.

S. 1320

At the request of Mr. ROCKEFELLER, the names of the Senator from Massachusetts [Mr. KERRY] and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of S. 1320, a bill to provide a scientific basis for the Secretary of Veterans Affairs to assess the nature of the association between illnesses and exposure to toxic agents and environmental or other wartime hazards as a result of service in the Persian Gulf during the Persian Gulf War for purposes of determining a service connection relating to such illnesses, and for other purposes.

S. 1321

At the request of Mr. TORRICELLI, the names of the Senator from Rhode Island [Mr. CHAFEE] and the Senator from Rhode Island [Mr. REED] were added as cosponsors of S. 1321, a bill to amend the Federal Water Pollution Control Act to permit grants for the national estuary program to be used for the development and implementation of a comprehensive conservation and management plan, to reauthorize appropriations to carry out the program, and for other purposes.

S. 1334

At the request of Mr. BOND, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1334, a bill to amend title 10, United States Code, to establish a demonstration project to evaluate the feasibility of using the Federal Employees Health Benefits program to ensure the availability of adequate health care for Medicare-eligible beneficiaries under the military health care system.

S. 1335

At the request of Ms. SNOWE, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1335, a bill to amend title 5, United States Code, to ensure that coverage of bone mass measurements is provided under the health benefits program for Federal employees.

S. 1343

At the request of Mr. LAUTENBERG, the names of the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Illinois [Mr. DURBIN] were added as cosponsors of S. 1343, a bill to amend the Internal Revenue Code of 1986 to increase the excise tax rate on tobacco products and deposit the resulting revenues into a Public Health and Education Resource Trust Fund, and for other purposes.

S. 1351

At the request of Mr. BURNS, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1351, a bill to amend the Sikes Act to establish a mechanism by which outdoor recreation programs on military installations will be accessible to disabled veterans, military dependents with disabilities, and other persons with disabilities.

S. 1371

At the request of Mr. KOHL, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1371, a bill to establish felony violations for the failure to pay legal child support obligations, and for other purposes.

## SENATE CONCURRENT RESOLUTION 59

At the request of Mr. D'AMATO, the names of the Senator from Maine [Ms. SNOWE] and the Senator from Illinois [Mr. DURBIN] were added as cosponsors of Senate Concurrent Resolution 59, a concurrent resolution expressing the sense of Congress with respect to the human rights situation in the Republic of Turkey in light of that country's desire to host the next summit meeting of the heads of state or government of the Organization for Security and Cooperation in Europe (OSCE).

## SENATE RESOLUTION 116

At the request of Mr. JEFFORDS, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of Senate Resolution 116, a resolution designating November 15, 1997, and November 15, 1998, as "America Recycles Day".

## SENATE RESOLUTION 145

At the request of Mr. CAMPBELL, the names of the Senator from Alaska [Mr. MURKOWSKI] and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Resolution 145, A resolution designating the month of November 1997 as "National American Indian Heritage Month".

## SENATE RESOLUTION 146—ESTABLISHING AN ADVISORY ROLE FOR THE SENATE IN THE SELECTION OF SUPREME COURT JUSTICES

Mr. SPECTER (for himself and Mr. BYRD) submitted the following resolution; which as referred to the Committee on the Judiciary:

## S. RES. 146

Whereas, Article II, Section 2 of the United States Constitution authorizes the President to appoint Judges of the Supreme Court "by and with the Advice and Consent of the Senate";

Whereas, the Senate has exercised its "Consent" function with due diligence through extensive hearings and deliberation prior to voting on nominees to the Court;

Whereas, the Senate has not historically exercised its "Advice" function with the exception of a limited consultation with the President on the selection of a nominee in advance of the President making such a nomination;

Whereas, there is no systematic method for selecting Supreme Court nominees, with the

President having historically proceeded on an *ad hoc* basis to consider a limited number of individuals before making his nomination;

Whereas, there is an enormous pool of legal talent who could become Supreme Court nominees;

Whereas, in one case where the Senate exercised influence on the selection of a nominee, it was to replace Justice Oliver Wendell Holmes with Justice Benjamin Cardozo;

Whereas, the importance of having the best and brightest judges is reflected in the fact that the Supreme Court has decided numerous significant cases by a one-vote margin; and

Whereas, it would be useful to create a pool of recognized candidates of superior quality for consideration by the President; Now, therefore, be it

*Resolved*, That the Senate should better fulfill its "Advice" function under Article II, Section 2 by having the Senate Committee on the Judiciary establish a pool of possible Supreme Court nominees for the President to consider, based on suggestions from Federal and State judges, distinguished lawyers and law professors, and others with a similar level of insight into the suitability of individuals considered for appointment to the Supreme Court.

Mr. SPECTER. Mr. President, I have sought recognition today to discuss an idea which has the potential to have a major impact on the rule of law in the United States by having the U.S. Senate exercise its advise function under the advise and consent clause of the Constitution to advise Presidents on who the nominee should be for the Supreme Court of the United States.

The Supreme Court of the United States, as we all know, is the ultimate arbiter of determining what the law will be. In the session which ended last June, the Supreme Court of the United States handed down historic, really monumental decisions on dying, religion, speech, due process, States rights, congressional power, among many other decisions.

The Constitution of the United States established the Congress, in article I, the President in article II, the Court in article III, with an implicit suggestion that the legislative body was preeminent, the executive second, and the judiciary third.

But we know since the decision of the Supreme Court of the United States in *Marbury versus Madison*, the Supreme Court of the United States has been the preeminent institution, because the Supreme Court of the United States has the last word.

The Supreme Court Justice, the late Chief Justice Charles Evans Hughes, said that the Constitution is what the Supreme Court says it is.

We talk a great deal about the legislature having the power to make the laws and the courts having the limited power to interpret the laws, but the reality is, the brutal fact of life is that the Supreme Court of the United States makes the avant-garde decisions on the periphery and on the horizons of the law.

We can do better, I submit, in the deliberations, the decisions of the Supreme Court of the United States by a closer focus on the quality of those

men and women who go to the Supreme Court.

I expect our distinguished colleague, Senator BYRD, to join us on the floor in a few minutes to make a few comments about this idea, as the permanent resident scholar of the Senate and a great authority on constitutional law and a recent losing litigant in the decision of the Supreme Court of the United States in the line-item veto case, where Senator BYRD, along with Senator MOYNIHAN, Senator HATFIELD, and Senator LEVIN challenged the line-item veto in the case of *Raines versus Byrd*.

The Supreme Court of the United States, in that decision, ruled that Senator BYRD and the other Senators did not have standing to challenge the constitutionality of line-item veto—a curious decision. In my opinion, who would have greater status to challenge the constitutionality of line-item veto than sitting Senators, especially the existing chairman of Appropriations, Senator HATFIELD, and the former chairman of Appropriations, Senator BYRD? But that was the ruling of the Supreme Court.

When we take a look historically, Mr. President, at what the Supreme Court has decided, and in many, many cases by 5 to 4 decisions, it is really astonishing the authority and the power wielded by the Supreme Court of the United States on the lives of every man, woman and child in this country, in a fundamental sense, more so than what the Congress does, and in an equally fundamental sense, more so than what the President does and the bureaucracy of the United States.

In the famous *Lochner versus New York* case in 1905, the Supreme Court struck down an early attempt at labor regulation by holding that a law limiting bakers to a 60-hour workweek violated the liberty of contracts secured by the due process clause of the 14th amendment. It was a 5-4 decision holding up the efforts of the legislative branch to limit the workweek to 60 hours in the interests of public welfare.

In *Hammer versus Dagenhart* in 1918, the Supreme Court, again by a 5-4 decision, struck down a labor law. This time the Keating-Owen Federal Child Labor Act, on the grounds that the commerce clause did not give Congress the power to completely forbid certain categories of commerce.

In a celebrated decision, *Furman versus Georgia* in 1972, the Supreme Court of the United States, again by a 5-4 decision, struck down the death penalty provision under the cruel and unusual punishment clause of the eighth amendment.

We have had a series of very controversial decisions where the Court has imposed *seriatim* limitations on what States may do by way of imposing the death penalty.

In 1982, in *Plyler versus Doe*, the Supreme Court, again by a 5-4 decision, invoked the equal protection clause of the 14th amendment to strike down a Texas statute which denied State fund-

ing for the education of illegal immigrant children and authorized local school boards to deny enrollment to such children.

Again in a 5-4 decision in *Webster versus Reproductive Health Services* in 1989, the Supreme Court, in a case widely viewed as a retreat from *Roe versus Wade*, upheld various restrictions on the availability of abortion, including a ban on the use of public funds and facilities for abortions, and required viability testing after 20 weeks. Again, on a 5-4 decision in 1990 in *United States v. Eichman*, the Court invalidated State and Federal laws prohibiting flag desecration on the grounds that they violated the first amendment.

In *Adarand versus Pena*, 1995, the Court held that Federal racial classifications like those of a State must be viewed under strict scrutiny standards.

In the course of the past 5 years, on decisions from 1993-1997, there have been 74 decisions of the Supreme Court of the United States by a 5-4 decision.

Mr. President, when there is a vacancy in the Supreme Court of the United States, there is no existing systematic way for the selection process to occur with respect to the Senate involvement under the advice section of the Advice and Consent Clause. We do know historically that when Justice Oliver Wendell Holmes retired in 1931, there was unique concern about who his replacement should be and that was because of the unique status which Justice Holmes had on the life of the law; the author of "Common Law" in 1881, member of the Supreme Judicial Court of Massachusetts for 20 years from 1891 to 1901, and a member of the Supreme Court of the United States for 30 years, until 1931, the author of perhaps the most brilliant decisions on clear and present danger, a Justice extraordinarily gifted.

When he was set to retire, there was unusual public concern about who his replacement would be. President Hoover was reluctant to appoint a New Yorker when many people suggested Benjamin Cardozo, a very distinguished judge on the court of appeals in the State of New York. The chairman of the Judiciary Committee, George W. Norris, made an effort to persuade the President that Benjamin Cardozo ought to be the replacement for Oliver Wendell Holmes, but it was the chairman of the Foreign Relations Committee, William E. Borah, who is historically credited with making the critical suggestion when President Hoover handed Senator Borah a list on which he had ranked individuals whom he was considering for nomination in descending order of preference. The list contained 10 names, and the name on the bottom of the list was Benjamin Cardozo. The Senator looked at the list and replied, "Your list was all right, but you handed it to me upside down." And President Hoover finally conceded, even though reluctant to appoint a Democrat and even though reluctant to

appoint another nominee from the State of New York. Benjamin Cardozo was appointed on February 15, 1932, and the nomination won instant and unanimous approval by the U.S. Senate.

In modern times, we have been very diligent in the exercise of our consent function. The hearings in the Judiciary Committee have focused enormous public attention when the nominees come forward because at that point in time there is an awareness of the importance of the Supreme Court. The decisions which come down, and the 74 decisions which have come down in the last 5 years 5-4, really do not create much of a public ripple, do not attract very much public attention, even though these decisions are of enormous, enormous importance.

Because of this background, Mr. President, it is my thinking that the Senate ought to give consideration to establishing a panel of prospective Supreme Court nominees for submission to the President under our advice function, under the Advice and Consent Clause. Obviously, it is a matter that the President can take or leave, but at least we ought to make that pool available.

I advance this in the closing days of the first session of the 105th Congress so that our colleagues can think about it over the intervening several months, and I will seek cosponsors, seek advice from my colleagues. I have talked it over with a number of the Members of the Senate, including members of the Judiciary Committee and the leadership. There has been a very responsive note about it. I have talked to some on the Supreme Court of the United States. The effort would be to try to diversify the background. Few would know, and many would be surprised to learn, that of the nine Justices on the Supreme Court of the United States, eight of them came from prior judicial appointments.

From time to time when there is a suggestion that somebody be nominated who has a broader background—perhaps as a former Governor, perhaps as a former Cabinet officer, with more background—there is some reluctance. It is safer to appoint someone who has been on a court. It may well be, I think it is true, that the country would be better served by having a Supreme Court which had a more diverse background. One thought would be to ask for suggestions from, say, the chief judges of the Federal circuit courts of appeals to suggest individuals whom they know in their circuit—distinguished lawyers, distinguished professors, people from all walks of life; or to ask the chief judges of the U.S. district courts; or the chief justices of the supreme courts of the various States; or a cross-sampling of judges; or the bar associations of the States; or the American Bar Association; or from the public at large.

Then the Judiciary Committee might well establish a practice—and this is a matter of flexibility—where we would

inquire into the backgrounds of the individuals and compile a pool of prospective Supreme Court nominees. There are thousands of lawyers at this moment in America who would love to be judges, and all of them would love to be Justices of the Supreme Court of the United States as a very high honor and an opportunity to serve in a very, very important position. There is enormous legal talent in America, and very little of it, necessarily so, is called to the attention of the President of the United States when a vacancy occurs. From time to time you hear about a nomination and somebody was considered, and the next time a vacancy occurs that person is pretty much automatically put into the spot.

I think it is not betraying the confidence to retell a story about Senator Howard Baker, our distinguished majority leader who later became chief of staff to President Reagan. When Justice Potter Stewart left the bench in 1987, Senator Baker said to President Reagan, "I'll prepare a list of possible replacements for the Supreme Court of the United States." According to Senator Baker, President Reagan responded, "Do you think you could put Judge Bork on the list?" rather an interesting comment, perhaps even a curious comment, coming from the President of the United States. Of course he had the power to make the determination, certainly more than the power to decide who would be on the list among those who would be considered.

So I advance this idea, Mr. President, as I say, in the closing days of this session, with my stated intention to discuss the matter further with my colleagues in an effort to develop more ideas as to how we might function and how we might activate and motivate the advice function of the Advice and Consent Clause.

I ask unanimous consent that a very brief summary statement of the kernel of this idea be printed; a form of the resolution be printed with the caveat that it is not intended to be final but a suggested form; and that a listing of the Supreme Court decisions decided by 5-4 from 1994, 1995 and 1996—since I do not want to take the time to put them in the RECORD at this time—be printed, showing the tremendously important matters which are decided by a single Justice having such a profound impact on the law in the United States.

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

#### SUMMARY STATEMENT

I suggest to my Senate colleagues that we consider exercising our constitutional "advice" function under the "advice and consent" clause by establishing a panel of possible Supreme Court nominees for consideration by the President when a vacancy occurs.

There is no doubt about the great power exercised by the Supreme Court since the Court itself decided in *Marbury v. Madison* that it had the last word on interpretation of the relative powers of the Congress, the Executive Branch, the states and disputes be-

tween any parties who sought a constitutional adjudication.

The Supreme Court has the final say on what happens from conception to death.

In the last week of this June, the Court handed down historic/monumental decisions on dying, religion, speech, due process, states rights and congressional power. Several of the cases were decided by a single justice on a 5 to 4 vote. One case, following two other decisions in the past 2 years, reversed six decades of firmly established constitutional authority on the supremacy of federal laws over states rights under the commerce clause.

Without disparaging the Court's current personnel, it is worth noting that seldom are the justices compared to Oliver Wendell Holmes, Louis Dembitz Brandeis or Benjamin Cardozo.

While some nominees get strict scrutiny during the confirmation process, the Senate has traditionally been AWOL on its constitutional responsibility for "advice."

For the Supreme Court especially, we should seek the best and brightest.

To create a panel of the best and brightest, I suggest we call on State Supreme Court Chief Justices, Chief Judges from the 13 Federal Courts of Appeals, Chief Judges from the 94 Federal District Court panels, academic and lawyers' associations and others to make suggestions. The Judiciary Committee could then review and evaluate those suggested for submission of a panel to the President.

Frequent complaints are heard about nominations to satisfy a specific constituency. With sufficient early outreach, we can get diversity in the best and the brightest without accepting lesser qualifications.

#### SUPREME COURT DECISIONS OCTOBER 1996 TERM

*Abrams v. Johnson* 66 USLW 4478 (1997).

Opinion: Kennedy, Rehnquist, O'Connor, Scalia, Thomas.

Dissent: Breyer, Stevens, Souter, Ginsburg.

Holding: Georgia's congressional districting plan, imposed by a federal district court after the legislature deadlocked and was unable to adopt a new districting law in conformity with the Supreme Court's ruling in *Miller v. Johnson* (1995), is valid.

*Agostini v. Felton* 65 USLW 4524 (1997).

Opinion: O'Connor, Rehnquist, Scalia, Kennedy, Thomas.

Dissent: Souter, Stevens, Ginsburg, Breyer.

Holding: The First Amendment's Establishment Clause does not bar use of public school teachers in parochial schools to provide remedial education to disadvantaged children pursuant to Title I of the Elementary and Secondary Education Act of 1965.

*Camps Newfound/Owatonna v. Town of Harrison* 117 S.Ct. 1590 (1997).

Opinion: Stevens, O'Connor, Kennedy, Souter, Breyer.

Dissent: Scalia, Rehnquist, Thomas, Ginsburg.

Holding: Maine's property tax law, which contains an exemption for charitable institutions but limits that exception to institutions serving principally Maine residents, violates the "dormant" Commerce Clause as applied to deny exemption status to a non-profit corporation that operates a summer camp for children, most of whom are not Maine residents.

*Commissioners of Bryan County v. Brown* 117 S.Ct. 1382 (1997).

Opinion: O'Connor, Rehnquist, Scalia, Kennedy, Thomas.

Dissent: Souter, Stevens, Breyer, Ginsburg.

Holding: The county is not liable under 42 U.S.C. §1983 for personal injury resulting from the use of excessive force by a police officer who had been hired in spite of an arrest record for various misdemeanors that included assault and battery, resisting arrest, and public drunkenness.

*Glickman v. Wileman Bros. & Elliott, Inc.* 65 USLW 4597 (1997).

Opinion: Stevens, O'Connor, Kennedy, Ginsburg, Breyer.

Dissent: Souter, Rehnquist, Scalia, Thomas.

Holding: A requirement imposed by marketing orders promulgated under authority of the Agricultural Marketing Agreement Act of 1937 that California fruit growers finance generic advertising does not offend the First Amendment.

*Idaho v. Coeur d'Alene Tribe* 65 USLW 4540 (1997).

Opinion: Kennedy, Rehnquist, O'Connor, Scalia, Thomas.

Dissent: Souter, Stevens, Ginsburg, Breyer.

Holding: The Tribe's action against the State for a declaratory judgment and an injunction establishing the Tribe's ownership an control of the submerged lands and bed of Lake Coeur d'Alene is barred by the Eleventh Amendment.

*Kansas v. Hendricks* 65 USLW 4564 (1997)

Opinion: Thomas, Rehnquist, O'Connor, Scalia, Kennedy.

Dissent: Breyer, Stevens, Souter, Ginsburg.

Holding: Kansas's Sexually Violent Predator Act, which provides for civil commitment of persons who have been convicted or charged with a sexually violent offense, an who, due to a "mental abnormality" or "personality disorder" are likely to engage in "predatory acts of sexual violence," does not offend the substantive requirements of the Due Process Clause.

*Lambriz v. Singletary* 117 S.Ct. 1517 (1997).

Opinion: Scalia, Rehnquist, Kennedy, Souter, Thomas.

Dissent: Stevens, Ginsburg, Breyer, O'Connor.

Holding: A state prisoner whose conviction became final before the Court's decision in *Espinosa v. Florida* (1992) is foreclosed from relying on that decision in a federal habeas corpus proceeding because *Espinosa* announced a "new rule" within the meaning of *Teague v. Lane* (1989).

*Lawyer v. Department of Justice* 65 USLW 4629 (1997).

Opinion: Souter, Rehnquist, Stevens, Ginsburg, Breyer.

Dissent: Scalia, O'Connor, Kennedy, Thomas.

Holding: A federal district court did not err in approving a settlement agreement imposing new districts for election of members of the Florida Senate and House without first holding unconstitutional the existing plan.

*Lindh v. Murphy* 65 USLW 4557 (1997).

Opinion: Souter, Stevens, O'Connor, Ginsburg, Breyer.

Dissent: Rehnquist, Scalia, Kennedy, Thomas.

Holding: Amendments made by the Antiterrorism and Effective Death Penalty Act to the general habeas corpus provisions of chapter 153 of Title 28 do not apply to cases that were pending on the date of enactment.

*McMillan v. Monroe County* 117 S.Ct. 1734 (1997).

Opinion: Rehnquist, O'Connor, Scalia, Kennedy, Thomas.

Dissent: Ginsburg, Stevens, Souter, Breyer.

Holding: Sheriffs in Alabama, when exercising policy making authority in a law en-

forcement capacity, represent the State and not the county.

*O'Dell v. Netherland* 65 USLW 4506 (1997).

Opinion: Thomas, Rehnquist, O'Connor, Scalia, Kennedy.

Dissent: Stevens, Souter, Ginsburg, Breyer.

Holding: The rule set forth in *Simmons v. South Carolina* (1994)—that a capital defendant must be permitted to inform his sentencing jury that he is ineligible for parole if the prosecution argues that the defendant should receive the death penalty rather than life imprisonment because of his alleged future dangerousness to society—was a "new rule" that cannot be used to disturb a death sentence that had become final before *Simmons* was decided.

*Old Chief v. United States* 117 S. Ct. 644 (1997).

Opinion: Souter, Stevens, Kennedy, Ginsburg, Breyer.

Dissent: O'Connor, Rehnquist, Scalia, Thomas.

Holding: The district court abused its discretion under Rule 403, Federal Rules of Evidence, in ruling that the United States Attorney, in a prosecution for possession of a firearm by someone with a prior felony conviction, need not agree to the defendant's stipulation that he had a prior felony conviction.

*Printz v. United States* 65 USLW 4731 (1997).

Opinion: Scalia, Rehnquist, O'Connor, Kennedy, Thomas.

Dissent: Souter, Ginsburg, Breyer, Stevens.

Holding: Interim provisions of the Brady Handgun Violence Prevention Act that require state and local law enforcement officers to conduct background checks on prospective handgun purchasers and to perform certain related tasks are unconstitutional.

*Richardson v. McKnight* 65 USLW 4579 (1997).

Opinion: Breyer, Stevens, O'Connor, Souter, Ginsburg.

Dissent: Scalia, Rehnquist, Kennedy, Thomas.

Holding: Employees of private prison management companies are not entitled to the qualified immunity that is extended to publicly employed state prison guards in suits brought under 42 U.S.C. §1983.

*Turner Broadcasting System v. FCC* 117 S. Ct. 1174 (1997).

Opinion: Kennedy, Rehnquist, Stevens, Souter.

Dissent: O'Connor, Scalia, Thomas, Ginsburg.

Holding: Sections 4 and 5 of the Cable Television Consumer Protection and Competition Act of 1992, which require cable systems to carry local broadcast television stations, are consistent with the First Amendment.

#### OCTOBER 1995 TERM

*Bennis v. Michigan* 116 S. Ct. 994 (1996).

Opinion: Rehnquist, O'Connor, Scalia, Thomas, Ginsburg.

Dissent: Stevens, Souter, Breyer, Kennedy.

Holding: A Michigan court's order of forfeiture of an automobile, jointly owned by a husband and wife, conforms to due process requirement's even with no offset for the wife's half interest in the car.

*BMW of North America v. Gore* 116 S. Ct. 1589 (1996)

Opinion: Stevens, O'Connor, Kennedy, Souter, Breyer.

Dissent: Scalia, Thomas, Ginsburg, Rehnquist.

Holding: Award of \$2 million in punitive damages of \$4,000 was so "grossly excessive" that it violated the Due Process Clause of the Fourteenth Amendment.

*Bush v. Vera* 116 S. Ct. 1941 (1996)

Opinion: O'Connor, Rehnquist, Kennedy, Thomas, Scalia.

Dissent: Stevens, Ginsburg, Breyer, Souter.

Holding: Three congressional districts created by Texas law constitute racial gerrymanders that are unconstitutional under the Equal Protection Clause.

*Gasperini v. Center for Humanities, Inc.* 116 S. Ct. 2211 (1997)

Opinion: Ginsburg, O'Connor, Kennedy, Souter, Breyer.

Dissent: Stevens, Scalia, Rehnquist, Thomas.

Holding: A New York law authorizing appellate courts to review the size of civil jury verdicts and to order new trials when the jury's verdict "deviates materially from what would be reasonable compensation" can be given effect by federal district courts reviewing jury awards in cases based on diversity of citizenship without violating the Seventh Amendment.

*Gray v. Netherland* 116 S. Ct. 2074 (1996)

Opinion: Rehnquist, O'Connor, Scalia, Kennedy, Thomas.

Dissent: Stevens, Ginsburg, Souter, Breyer.

Holding: A habeas corpus petitioner's claim that he was denied due process of law because he was not given adequate notice of some of the evidence that the state would use against him in the penalty phase of his trial would, if sustained, necessitate creation of a "new rule," and therefore does not provide a basis upon which he may receive federal habeas relief.

*Holly Farms Corp. v. NLRB* 116 S. Ct. 1396 (1996)

Opinion: Ginsburg, Stevens, Kennedy, Souter, Breyer.

Dissent: O'Connor, Rehnquist, Scalia, Thomas.

Holding: The decision of the NLRB that workers described as "live-haul" crews—teams of chicken catchers, forklift operators, and truck drivers—are covered "employees" within the meaning of the National Labor Relations Act, and not exempt "agricultural laborers," is a reasonable interpretation entitled to deference.

*Leavitt v. Jane L.* 116 S.Ct. 2068 (1996).

Opinion: Per curiam.

Dissent: Stevens, Souter, Ginsburg, Breyer.

Holding: U.S. Court of Appeals for the Tenth Circuit erred in invalidating a provision of Utah's abortion law, regulating abortions after 20 weeks gestational age, on the grounds that it was not severable from another portion of the law, regulating earlier abortions, that had been ruled unconstitutional.

*Montana v. Egelhoff* 116 S.Ct. 2013 (1996).

Opinion: Scalia, Rehnquist, Kennedy, Thomas, Ginsburg.

Dissent: O'Connor, Stevens, Souter, Breyer, Stevens.

Holding: Montana's law providing that voluntary intoxication may not be taken into account in determining the existence of a mental state that is an element of a criminal offense does not violate the Due Process Clause.

*Morse v. Republican Party of Virginia* 116 S.Ct. 1186 (1996).

Opinion: Stevens, Ginsburg, Breyer, O'Connor, Souter.

Dissent: Scalia, Thomas, Kennedy, Rehnquist.

Holding: Section 5 of the Voting Rights Act, which prohibits covered jurisdictions from enforcing new voting qualification or procedure without first obtaining court approval or preclearance by the Attorney General, applies to selection of delegates to a political party's state nominating convention.

*Seminole Tribe of Florida v. Florida* 116 S.Ct. 1114 (1996).

Opinion: Rehnquist, O'Connor, Scalia, Kennedy, Thomas.



Dissent: Stevens, Souter, Ginsburg, Breyer.

Holding: A provision of the Indian Gaming Regulatory Act authorizing an Indian tribe to sue a state in federal court to compel performance of a duty to negotiate in good faith toward the formation of a compact violates the Eleventh Amendment.

*Shaw v. Hunt* 116 S.Ct. 1894 (1996).

Opinion: Rehnquist, O'Connor, Scalia, Kennedy, Thomas.

Dissent: Stevens, Ginsburg, Breyer, Souter.

Holding: North Carolina's congressional districting law, containing the racially gerrymandered 12th Congressional District as well as another majority-black district, violates the Equal Protection Clause because, under strict scrutiny applicable to racial classifications, creation of the district was not narrowly tailored to serve a compelling state interest.

#### OCTOBER 1994 TERM

*Adarand Constructors, Inc. v. Peña* 115 S.Ct. 2097 (1995).

Opinion: O'Connor, Rehnquist, Kennedy, Thomas, Scalia.

Dissent: Stevens, Ginsburg, Souter, Breyer.

Holding: Racial classifications imposed by federal law must be analyzed by a reviewing court under strict scrutiny.

*Florida Bar v. Went For It, Inc.* 63 USLW 4644 (1995).

Opinion: O'Connor, Rehnquist, Scalia, Thomas, Breyer.

Dissent: Kennedy, Stevens, Souter, Ginsburg.

Holding: Florida bar rules prohibiting attorneys from sending targeted direct-mail solicitations to victims and their relatives for 30 days following an accident or disaster do not violate the First Amendment.

*Gustafson v. Alloyd Co.* 115 S.Ct. 1061 (1995).

Opinion: Kennedy, Rehnquist, Stevens, O'Connor, Souter.

Dissent: Thomas, Scalia, Ginsburg, Breyer.

Holding: The right of rescission conferred by section 12(2) of the Securities Act of 1933 against sellers who make material misstatements "by means of a prospectus" applies only to a public offering, and does not apply to a private, secondary sale.

*Gutierrez de Martinez v. Lamagno* 115 S.Ct. 2227 (1995).

Opinion: Ginsburg, Stevens, O'Connor, Kennedy, Breyer.

Dissent: Souter, Rehnquist, Scalia, Thomas.

Holding: The Attorney General's certification under the Westfall Act, 28 U.S.C. §2679(d)(1), that a federal employee who was sued for a wrongful or negligent act had been acting within the scope of his employment at the time of the contested action is subject to judicial review.

*Hess v. Port Authority Trans-Hudson Corp.* 115 S.Ct. 394 (1995).

Opinion: Ginsburg, Stevens, Kennedy, Souter, Breyer.

Dissent: O'Connor, Rehnquist, Scalia, Thomas.

Holding: The Port Authority Trans-Hudson Corp., a wholly owned subsidiary of the Port Authority of New York and New Jersey that operates a commuter railroad, is not entitled to Eleventh Amendment immunity from suit in federal court.

*Kyles v. Whitley* 115 S.Ct. 1555 (1995).

Opinion: Souter, Stevens, O'Connor, Ginsburg, Breyer.

Dissent: Scalia, Rehnquist, Kennedy, Thomas.

Holding: The petitioner in this federal habeas corpus action is entitled to a new trial in state court because the net effect of the evidence withheld by the State during his

murder trial raised a reasonable probability that its disclosure would have produced a different result.

*Miller v. Johnson* 63 USLW 4726 (1995). Opinion: Kennedy, Rehnquist, O'Connor, Scalia, Thomas. Dissent: Stevens, Ginsburg, Breyer, Souter. Holding: Georgia's congressional districting plan violates the Equal Protection Clause.

*Missouri v. Jenkins* 115 S.Ct. 2038 (1995). Opinion: Rehnquist, O'Connor, Scalia, Kennedy, Thomas. Dissent: Souter, Stevens, Ginsburg, Breyer. Holding: The district court exceeded its authority in ordering remedies in the longstanding litigation over desegregation of the Kansas City, Missouri public schools.

*Oklahoma Tax Comm'n v. Chickasaw Nation* 115 S.Ct. 2214 (1995). Opinion: Ginsburg, Rehnquist, Scalia, Kennedy, Thomas. Dissent: Breyer, Stevens, O'Connor, Souter. Holding: Oklahoma may not impose its motor fuels excise tax upon fuel sold by Chickasaw Nation retail stores on tribal trust land, but the State may impose its income tax on members of the Chickasaw Nation who are employed by the Tribe but who reside in the State outside Indian country.

*Rosenberger v. University of Virginia* 63 USLW 4702 (1995). Opinion: Kennedy, Rehnquist, O'Connor, Scalia, Thomas. Dissent: Souter, Stevens, Ginsburg, Breyer. Holding: The University, which subsidizes the printing costs of publications by student groups that meet requirements for student participation and open membership, violated the free speech clause of the First Amendment by withholding payments for printing of a student magazine because the magazine "primarily promotes or manifests a particular belief in or about a deity or an ultimate reality."

*Sandin v. Connor* 63 USLW 4601 (1995). Opinion: Rehnquist, O'Connor, Scalia, Kennedy, Thomas. Dissent: Ginsburg, Stevens, Breyer, Souter. Holding: In some circumstances, state prisoners have liberty interests that are protected by the Due Process Clause, but these interests are generally limited to freedom from restraint which imposes "atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life."

*Schlup v. Delo* 63 USLW 4089 (1995). Opinion: Stevens, O'Connor, Souter, Ginsburg, Breyer. Dissent: Rehnquist, Kennedy, Thomas, Scalia. Holding: A habeas corpus petitioner under sentence of death who submits a second or "abusive" federal claim alleging both constitutional error at his trial and newly discovered evidence of innocence must satisfy the standard announced in *Murray v. Carrier* (1986), that it is "more likely than not that no reasonable juror would have convicted him" in light of the new evidence.

*Shalala v. Guernsey Memorial Hospital* 115 S.Ct. 1232 (1995). Opinion: Kennedy, Rehnquist, Stevens, Ginsburg, Breyer. Dissent: O'Connor, Scalia, Souter, Thomas. Holding: In making Medicare provider reimbursement determinations, the Secretary of HHS is not required to follow generally accepted accounting principles.

*Tome v. United States* 115 S.Ct. 696 (1995). Opinion: Kennedy, Stevens, Scalia, Souter, Ginsburg. Dissent: Breyer, Rehnquist, O'Connor, Thomas. Holding: Federal Rule of Evidence 801(d)(1)(B), which declares that a prior out-of-court statement by a witness "is not hearsay" if it is consistent with the witness' testimony and is used to rebut a charge of "recent fabrication or improper influence or motive," permits the introduction of such out-of-court statements only if such statements were made before the alleged fabrication or improper influence or motive originated.

*U.S. Term Limits Inc. v. Thornton* 115 S.Ct. 1842 (1995). Opinion: Stevens, Kennedy,

Souter, Ginsburg, Breyer. Dissent: Thomas, Rehnquist, O'Connor, Scalia. Holding: An Amendment to the Arkansas Constitution denying ballot access to congressional candidates who have already served three terms in the House of Representatives or two terms in the Senate is invalid as conflicting with the qualifications for office set forth in Article I of the U.S. Constitution (specifying age, duration, of U.S. citizenship, and state inhabitancy requirements.)

*United States v. Lopez* 115 S.Ct. 1624 (1995). Opinion: Rehnquist, O'Connor, Scalia, Kennedy, Thomas. Dissent: Stevens, Souter, Breyer, Ginsburg. Holding: The Gun Free School Zones Act of 1990, which makes it a criminal offense to knowingly possess a firearm within a school zone, exceeds congressional power under the Commerce Clause.

Mr. SPECTER. I noticed the arrival of our very distinguished colleague, Senator ROBERT BYRD, and I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank my very distinguished colleague, the senior Senator from Pennsylvania, Mr. SPECTER, for yielding to me and for allowing me to be a cosponsor of the legislation which he has just been discussing before the Senate. I am proud to be one of his colleagues. I have great admiration for Senator Specter and admiration for his knowledge of the law. He has had long and varied experiences. I admire him for that experience.

Senator SPECTER is a good lawyer. If I wanted a lawyer to plead my case to the Supreme Court, I think I would like ARLEN SPECTER. If I were President of the United States—of course, I guess that will never become a reality—I would consider him for Attorney General, even though he is on the other side of the aisle. He calls the shots like they are.

I am pleased to join with my distinguished colleague in introducing the legislation. Our proposal is aimed at helping the Senate to fulfill its constitutional duty by directing the Judiciary Committee to establish a pool of the best and the brightest Supreme Court candidates for the President's consideration whenever there is a vacancy on the Court—the best and the brightest.

I personally do not promote the idea that we must make diversity a criterion. I have no problem with diversity, as long as the chosen ones are chosen because of their merit—their merit. That is what we seek to do here. We want the best and the brightest—not because they are Republicans, or not because they are Democrats, necessarily, but because they are the best and the brightest.

As anyone who has ever read the Constitution knows, one of the most important differences between the Senate and the House of Representatives is the Senate's constitutional duty to advise and consent on Presidential nominations. Specifically, that power which is contained in article II, section 2, stipulates that the President, "by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of

the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law."

While it may be true that the Senate has traditionally given a President great leeway in choosing his executive branch subordinates, especially those in Cabinet and sub-Cabinet positions, such deference on the part of the Senate has generally not applied to judicial nominations, particularly Supreme Court nominations. On the contrary, the Senate has historically exercised great caution to ensure that it carries out its responsibility, a responsibility that is a fundamental element of the separation of powers established in the Constitution.

While we have been very diligent in granting our consent, I believe, as does Senator SPECTER, that the Senate has been less than energized with respect to the offering of its advice. The Constitution refers to the "Advice and Consent."

It doesn't just refer to the word "consent," nor does it put the word "consent" in front of the word "advise." It uses the phrase "advise and consent of the Senate." Too often, as the American people are acutely aware, nominations to the High Court have become embroiled in special interest battles. All too often, the qualifications of a nominee have been aside as outside forces—interest groups and so on—have sought to use a nomination as a means of furthering their particular ideological agenda. That is not what the Supreme Court is for. Too often, the eventual loser in the process is not just the individual who has been nominated, but also the Court and its integrity, and also, more than that even, the people of the United States—the whole people, not just some particular interest group, but all of the people.

Mr. President, in an era when the nine life-tenured Justices who sit on our highest Court routinely decide questions that go to the very heart of life, liberty, and the pursuit of happiness, we cannot afford to have anything less than the most highly qualified individuals serving on that Court.

While I do not mean to disparage any of the current Justices, the fact remains that, more and more, nominees are being selected for reasons that go beyond their qualifications, that go beyond their abilities, that go beyond their dedication, their reverence for and dedication to the Constitution. Accordingly, Senator SPECTER has come to the conclusion—and he has allowed me to join him—that the best way to resolve this problem and the best way for the Senate to undertake its advice responsibility is to direct the Judiciary Committee, after consultation with the finest legal minds in our country, to establish a panel of potential nominees that would be made available to the President—this President, or any other President. In so doing, it is our hope that we can begin to depoliticize the

nomination process and, in turn, help restore to the High Court the esteem, much of which has been lost over the past few years.

In closing, I again want to thank Senator SPECTER for his thoughtfulness, for his vision, as we have worked on the resolution. I know that he shares my concern that the Senate has not only this responsibility, but it has a duty, a constitutional duty, to ensure that the highest Court in the land is comprised of the best and the brightest talent that our Nation has to offer. I hope that others will join us in this effort.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I thank my colleague, Senator BYRD, for those comments about the substance of the resolution. When Senator BYRD joins on an issue of constitutional import, there is great weight. I thank him on a personal level for his very kind comments about me. When he started to talk about an appointment of ARLEN SPECTER if Senator BYRD were President, I was about to start a rumor on "Byrd for President." I still might. If it was the Attorney General job, I am not so sure, but if it had been the Supreme Court he was talking about, I might have had a little more motivation on that.

In the case of Raines versus Byrd, where Senator BYRD challenged the line-item veto, in which a curious decision of the Supreme Court said that Senator BYRD, Senator HATFIELD, Senator MOYNIHAN, and Senator LEVIN didn't have standing, that goes to show you we need more advice from the Senate in anticipation. When Senator BYRD said he might have asked me to argue the case, I have argued three cases in the Supreme Court—most recently, in March of 1994, on the Base Closing Commission. It was the fastest 30 minutes of my life, to appear before the Supreme Court, and 7 of those sitting nine Justices had appeared before the Senate Judiciary Committee. I noted a certain tenor of questions from the Court, similar to the ones, I had asked when they appeared as nominees for the Supreme Court. Although, I was not successful in that case, the Court being reluctant to upset 300 base closings, the Harvard Law Review published a detailed critique of the case and found that my position was right on the separation of powers. That was just a word or two on a parenthetical expression.

Mr. President, I am going to revise my approach a little bit and at this time formally offer this resolution on behalf of Senator BYRD and myself on the advise and consent function. I realize that it cannot be acted on in this session, but it will be a guidepost for revision after consultation with our colleagues.

I again thank my colleague, Senator BYRD, and I yield the floor.

## SENATE RESOLUTION 147—RELATIVE TO AUTHORIZING TESTIMONY, PRODUCTION OF DOCUMENTS, AND REPRESENTATION

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to.

S. RES. 147

Whereas, in the case of First American Corp., et al. v. Sheikh Zayed Bin Sultan Al-Nahyan, et al., C.A. No. 93-1309 (JHG/PJA), pending in the United States District Court for the District of Columbia, the plaintiff has requested testimony from Jack Blum, a former employee on the staff of the Committee on Foreign Relations, and the production of documents of the Committee on Foreign Relations;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members, employees, committees, and subcommittees, of the Senate with respect to any subpoena, order, or request for testimony or documents relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

*Resolved*, That Jack Blum is authorized to testify in the case of First American Corp., et al. v. Sheikh Zayed Bin Sultan Al-Nahyan, et al., except concerning matters for which a privilege should be asserted, and the chairman and ranking minority member of the Committee on Foreign Relations, acting jointly, are authorized to produce records of the Committee relating to the investigation of the Subcommittee on Terrorism, Narcotics, and International Operations into the Bank of Credit and Commerce, International.

SEC. 2. That the Senate Legal Counsel is authorized to represent Jack Blum, the Committee on Foreign Relations, and any present or former Member or employee of the Senate, in connection with First American Corp., et al. v. Sheikh Zayed Bin Sultan Al-Nahyan, et al.

## AMENDMENTS SUBMITTED

### THE RECIPROCAL TRADE AGREEMENT ACT OF 1997

#### CRAIG AMENDMENTS NOS. 1603-1608

(Ordered to lie on the table.)

Mr. CRAIG submitted six amendments intended to be proposed by him to the bill (S. 1269) to establish objectives for negotiating and procedures for implementing certain trade agreements; as follows:

#### AMENDMENT No. 1603

On page 41, between lines 16 and 17, insert the following:

(d) ADDITIONAL LIMITATIONS ON APPLICATION OF TRADE AGREEMENT APPROVAL PROCEDURES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the provisions of section 151 of the Trade Act of 1974, as modified by section 3(b)(3), shall not apply to any provision in an implementing bill that has the purpose or effect of, or permits a decision-making process (including the creation of, or delegation of authority to, any international or private body) that may result in, limiting or transferring the jurisdiction or authority of a Federal court.

(2) PROCEDURES FOR CONSIDERING AMENDMENTS.—Debate on all amendments to a provision in an implementing bill described in paragraph (1) (including debate on any debatable motions and appeals in connection therewith) shall be limited to 5 hours in the Senate and 5 hours in the House of Representatives. Such time shall be equally divided between, and controlled by, the majority leader and the minority leader, or their designees. No amendment that is not germane to the implementing bill shall be in order.

#### AMENDMENT NO. 1604

At the appropriate place, insert the following:

#### SEC. . IMPORTATION OF FIREARMS.

(a) IN GENERAL.—Section 925(d) of title 18, United States Code, is amended to read as follows:

“(d)(1) Within 30 days after the Secretary receives an application therefor, the Secretary shall authorize a firearm or ammunition to be imported or brought into the United States or any possession thereof if the firearm or ammunition—

“(A) is being imported or brought in for scientific or research purposes, or is for use in connection with competition or training pursuant to chapter 401 of title 10;

“(B) is an unserviceable firearm, other than a machine gun as defined in section 5845(b) of the Internal Revenue Code of 1986 (not readily restorable to firing condition), imported or brought in as a curio or museum piece;

“(C) is not—

“(i) a firearm (as defined in section 5845(a) of the Internal Revenue Code of 1986); or

“(ii) subject to the prohibition of section 922(v) of this title, and if the Secretary has denied an application to import a firearm pursuant to this subparagraph, it shall be unlawful to import any frame, receiver, or barrel of such firearm which would be prohibited if assembled; or

“(D) was previously taken out of the United States or a possession by the person who is bringing in the firearm or ammunition.

“(2) Within 30 days after the Secretary receives an application therefor, the Secretary shall permit the conditional importation or bringing in of a firearm or ammunition for examination and testing in connection with the making of a determination as to whether the importation or bringing in of such firearm or ammunition will be allowed under this subsection.”.

(b) CONFORMING AMENDMENT.—Section 922(r) of such title is amended by striking “925(d)(3)” and inserting “925(d)(1)(C)”.

#### AMENDMENT NO. 1605

On page 31, between lines 3 and 4, insert the following:

(d) LIMITATIONS ON TRADE AGREEMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the President shall not enter into any treaty or other international agreement that, in whole or in part, has the purpose or effect of transferring the jurisdiction or authority of a Federal court to decide cases under United States law.

(2) LIMITS ON USE OF APPROVAL PROCEDURES.—Notwithstanding any other provi-

sion of law, the trade agreement approval procedures in this section shall not apply to any trade agreement or bill to implement any trade agreement that has the purpose or effect of transferring the jurisdiction or authority of a Federal court to decide cases under United States law.

#### AMENDMENT NO. 1606

On page 41, between lines 16 and 17, insert the following:

(d) ADDITIONAL LIMITATIONS ON APPLICATION OF TRADE AGREEMENT APPROVAL PROCEDURES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the provisions of section 151 of the Trade Act of 1974, as modified by section 3(b)(3), shall not apply to any provision in an implementing bill that is a domestic revenue provision. An amendment to a domestic revenue provision shall be in order if the amendment meets the requirements of paragraph (4).

(2) DOMESTIC REVENUE PROVISION.—For purposes of this subsection, the term “domestic revenue provision” means a provision in an implementing bill that increases revenues for the fiscal years covered by the implementing bill in order to comply with the Balanced Budget and Emergency Deficit Control Act of 1985 and a majority of the revenues raised by the provision would be paid by a United States person.

(3) UNITED STATES PERSON.—The term “United States person” means—

(A) a United States citizen;

(B) a partnership, corporation, or other legal entity organized under the laws of the United States; and

(C) a partnership, corporation, or other legal entity that is organized under the laws of a foreign country and is controlled by entities described in subparagraph (B) or United States citizens, or both.

(4) REQUIREMENTS FOR AMENDMENT.—It shall not be in order in the House of Representatives or the Senate to consider any amendment to a domestic revenue provision in an implementing bill that would have the effect of reducing any specific revenues below the level of such revenues provided in the implementing bill for such fiscal years, unless such amendment makes at least an equivalent reduction in other specific budget outlays, an equivalent increase in other specific Federal revenues, an equivalent increase or reduction in another provision of the implementing bill, or an equivalent combination thereof for such fiscal years. For purposes of this paragraph, the levels of budget outlays and Federal revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate or of the House of Representatives, as the case may be.

(5) PROCEDURES FOR CONSIDERING AMENDMENTS.—Debate on all amendments to domestic revenue provisions in an implementing bill (including debate on any debatable motions and appeals in connection therewith) shall be limited to 5 hours in the Senate and 5 hours in the House of Representatives. Such time shall be equally divided between, and controlled by, the majority leader and the minority leader, or their designees. No amendment that is not germane to the implementing bill shall be in order.

#### AMENDMENT NO. 1607

On page 26, between lines 18 and 19, insert the following:

(4) LIMITATIONS ON PROVISIONS COVERED BY TRADE AGREEMENT APPROVAL PROCEDURES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the provisions of section 151 of the Trade Act of 1974, as modified

by paragraph (3), shall not apply to any provision in an implementing bill that is an extraneous provision and an amendment to an extraneous provision shall be in order.

(B) EXTRANEAN PROVISION.—For purposes of this paragraph, the term “extraneous provision” means a provision in an implementing bill that—

(i) is not necessary to implement a trade agreement;

(ii) does not otherwise relate to the implementation or enforcement of a trade agreement; or

(iii) is not necessary in order to comply with the Balanced Budget and Emergency Deficit Control Act of 1985.

#### AMENDMENT NO. 1608

On page 48, strike line 3 and insert the following:

#### SEC. 10. JOINT UNITED STATES-CANADA COMMISSION ON AGRICULTURAL COMMODITIES.

(A) ESTABLISHMENT.—There is established a Joint United States—Canada Commission on Agricultural Commodities to identify, and recommend means of resolving, national, regional, and provincial trade-distorting differences between the United States and Canada with respect to the production, processing, and sale of agricultural commodities, with particular emphasis on—

(1) fair and open market access and competition for all agricultural commodities especially—

(A) cattle and beef;  
(B) wheat and feed grains;  
(C) potatoes; and  
(D) timber and forest products;  
(2) transportation differences; and  
(3) market-distorting direct and indirect subsidies.

(b) COMPOSITION.—

(1) IN GENERAL.—The Commission shall be composed of—

(A) 5 members representing the United States including—

(i) 2 members appointed by the Majority Leader of the Senate;

(ii) 2 members appointed by the Speaker of the House of Representatives; and

(iii) 1 member appointed by the Secretary of Agriculture;

(B) 5 members representing Canada, appointed by the Government of Canada; and

(C) nonvoting members appointed by the Commission to serve as advisers to the Commission, including university faculty, State veterinarians, trade experts, and other members.

(3) APPOINTMENT.—Members of the Commission shall be appointed not later than 30 days after the date of enactment of this Act.

(c) REPORT.—Not later than 1 year after the first meeting of the Commission, the Commission shall submit a report to Congress and the Government of Canada that identifies, and recommends means of resolving, differences between the United States and Canada with respect to the production, processing, and sale of agricultural commodities.

#### SEC. 11. DEFINITIONS.

#### THE AMTRAK REFORM AND ACCOUNTABILITY ACT OF 1997

#### HUTCHISON (AND OTHERS) AMENDMENT NO. 1609

Mrs. HUTCHISON (for herself, Mr. LOTT, Mr. MCCAIN, Mr. JEFFORDS, and Mr. SANTORUM) proposed an amendment to the bill (S. 738) to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49; TABLE OF SECTIONS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Amtrak Reform and Accountability Act of 1997”.

(b) **AMENDMENT OF TITLE 49, UNITED STATES CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(c) **TABLE OF SECTIONS.**—The table of sections for this Act is as follows:

Sec. 1. Short title; amendment of title 49; table of sections.

Sec. 2. Findings.

**TITLE I—REFORMS**

**Subtitle A—Operational Reforms**

Sec. 101. Basic system.

Sec. 102. Mail, express, and auto-ferry transportation.

Sec. 103. Route and service criteria.

Sec. 104. Additional qualifying routes.

Sec. 105. Transportation requested by States, authorities, and other persons.

Sec. 106. Amtrak commuter.

Sec. 107. Through service in conjunction with intercity bus operations.

Sec. 108. Rail and motor carrier passenger service.

Sec. 109. Passenger choice.

Sec. 110. Application of certain laws.

**Subtitle B—Procurement**

Sec. 121. Contracting out.

**Subtitle C—Employee Protection Reforms**

Sec. 141. Railway Labor Act Procedures.

Sec. 142. Service discontinuance.

**Subtitle D—Use of Railroad Facilities**

Sec. 161. Liability limitation.

Sec. 162. Retention of facilities.

**TITLE II—FISCAL ACCOUNTABILITY**

Sec. 201. Amtrak financial goals.

Sec. 202. Independent assessment.

Sec. 203. Amtrak Reform Council.

Sec. 204. Sunset trigger.

Sec. 205. Senate procedure for consideration of restructuring and liquidation plans.

Sec. 206. Access to records and accounts.

Sec. 207. Officers' pay.

Sec. 208. Exemption from taxes.

Sec. 209. Limitation on use of tax refund.

**TITLE III—AUTHORIZATION OF APPROPRIATIONS**

Sec. 301. Authorization of appropriations.

**TITLE IV—MISCELLANEOUS**

Sec. 401. Status and applicable laws.

Sec. 402. Waste disposal.

Sec. 403. Assistance for upgrading facilities.

Sec. 404. Demonstration of new technology.

Sec. 405. Program master plan for Boston-New York main line.

Sec. 406. Americans with Disabilities Act of 1990.

Sec. 407. Definitions.

Sec. 408. Northeast Corridor cost dispute.

Sec. 409. Inspector General Act of 1978 amendment.

Sec. 410. Interstate rail compacts.

Sec. 411. Composition of Amtrak board of directors.

Sec. 412. Educational participation.

Sec. 413. Report to Congress on Amtrak bankruptcy.

Sec. 414. Amtrak to notify Congress of lobbying relationships.

**SEC. 2. FINDINGS.**

The Congress finds that—

(1) intercity rail passenger service is an essential component of a national intermodal passenger transportation system;

(2) Amtrak is facing a financial crisis, with growing and substantial debt obligations severely limiting its ability to cover operating costs and jeopardizing its long-term viability;

(3) immediate action is required to improve Amtrak's financial condition if Amtrak is to survive;

(4) all of Amtrak's stakeholders, including labor, management, and the Federal government, must participate in efforts to reduce Amtrak's costs and increase its revenues;

(5) additional flexibility is needed to allow Amtrak to operate in a businesslike manner in order to manage costs and maximize revenues;

(6) Amtrak should ensure that new management flexibility produces cost savings without compromising safety;

(7) Amtrak's management should be held accountable to ensure that all investment by the Federal Government and State governments is used effectively to improve the quality of service and the long-term financial health of Amtrak;

(8) Amtrak and its employees should proceed quickly with proposals to modify collective bargaining agreements to make more efficient use of manpower and to realize cost savings which are necessary to reduce Federal financial assistance;

(9) Amtrak and intercity bus service providers should work cooperatively and develop coordinated intermodal relationships promoting seamless transportation services which enhance travel options and increase operating efficiencies;

(10) Amtrak's Strategic Business Plan calls for the establishment of a dedicated source of capital funding for Amtrak in order to ensure that Amtrak will be able to fulfill the goals of maintaining—

(A) a national passenger rail system; and

(B) that system without Federal operating assistance; and

(11) Federal financial assistance to cover operating losses incurred by Amtrak should be eliminated by the year 2002.

**TITLE I—REFORMS**

**SUBTITLE A—OPERATIONAL REFORMS**

**SEC. 101. BASIC SYSTEM.**

(a) **OPERATION OF BASIC SYSTEM.**—Section 24701 is amended to read as follows:

**“§ 24701. Operation of basic system**

“Amtrak shall provide intercity rail passenger transportation within the basic system. Amtrak shall strive to operate as a national rail passenger transportation system which provides access to all areas of the country and ties together existing and emergent regional rail passenger corridors and other intermodal passenger service.”.

(b) **IMPROVING RAIL PASSENGER TRANSPORTATION.**—Section 24702 and the item relating thereto in the table of sections for chapter 247 are repealed.

(c) **DISCONTINUANCE.**—Section 24706 is amended—

(1) by striking “90 days” and inserting “180 days” in subsection (a)(1);

(2) by striking “24707(a) or (b) of this title,” in subsection (a)(1) and inserting “or discontinuing service over a route.”;

(3) by inserting “or assume” after “agree to share” in subsection (a)(1); and

(4) by striking “section 24707(a) or (b) of this title” in subsections (a)(2) and (b)(1) and inserting “paragraph (1)”.’

(d) **COST AND PERFORMANCE REVIEW.**—Section 24707 and the item relating thereto in the table of sections for chapter 247 are repealed.

(e) **SPECIAL COMMUTER TRANSPORTATION.**—Section 24708 and the item relating thereto in the table of sections for chapter 247 are repealed.

(f) **CONFORMING AMENDMENT.**—Section 24312(a)(1) is amended by striking “, 24710(a).”.

**SEC. 102. MAIL, EXPRESS, AND AUTO-FERRY TRANSPORTATION.**

(a) **REPEAL.**—Section 24306 is amended—

(1) by striking the last sentence of subsection (a); and

(2) by striking subsection (b) and inserting the following:

“(b) **AUTHORITY OF OTHERS TO PROVIDE AUTO-FERRY TRANSPORTATION.**—State and local laws and regulations that impair the provision of auto-ferry transportation do not apply to Amtrak or a rail carrier providing auto-ferry transportation. A rail carrier may not refuse to participate with Amtrak in providing auto-ferry transportation because a State or local law or regulation makes the transportation unlawful.”.

**SEC. 103. ROUTE AND SERVICE CRITERIA.**

Section 24703 and the item relating thereto in the table of sections for chapter 247 are repealed.

**SEC. 104. ADDITIONAL QUALIFYING ROUTES.**

Section 24705 and the item relating thereto in the table of sections for chapter 247 are repealed.

**SEC. 105. TRANSPORTATION REQUESTED BY STATES, AUTHORITIES, AND OTHER PERSONS.**

Section 24101(c)(2) is amended by inserting “, separately or in combination,” after “and the private sector”.

**SEC. 106. AMTRAK COMMUTER.**

(a) **REPEAL OF CHAPTER 245.**—Chapter 245 and the item relating thereto in the table of chapters for subtitle V of such title, are repealed.

(b) **CONFORMING AMENDMENT.**—Section 24301(f) is amended to read as follows:

“(f) **TAX EXEMPTION FOR CERTAIN COMMUTER AUTHORITIES.**—A commuter authority that was eligible to make a contract with Amtrak Commuter to provide commuter rail passenger transportation but which decided to provide its own rail passenger transportation beginning January 1, 1983, is exempt, effective October 1, 1981, from paying a tax or fee to the same extent Amtrak is exempt.”.

(c) **TRACKAGE RIGHTS NOT AFFECTED.**—The repeal of chapter 245 of title 49, United States Code, by subsection (a) of this section is without prejudice to the retention of trackage rights over property owned or leased by commuter authorities.

**SEC. 107. THROUGH SERVICE IN CONJUNCTION WITH INTERCITY BUS OPERATIONS.**

(a) **IN GENERAL.**—Section 24305(a) is amended by adding at the end the following new paragraph:

“(3)(A) Except as provided in subsection (d)(2), Amtrak may enter into a contract with a motor carrier of passengers for the intercity transportation of passengers by motor carrier over regular routes only—

“(i) if the motor carrier is not a public recipient of governmental assistance, as such term is defined in section 13902(b)(8)(A) of this title, other than a recipient of funds under section 5311 of this title;

“(ii) for passengers who have had prior movement by rail or will have subsequent movement by rail; and

“(iii) if the buses, when used in the provision of such transportation, are used exclusively for the transportation of passengers described in clause (ii).

“(B) Subparagraph (A) shall not apply to transportation funded predominantly by a State or local government, or to ticket selling agreements.”.

(b) **POLICY STATEMENT.**—Section 24305(d) is amended by adding at the end the following new paragraph:

“(3) Congress encourages Amtrak and motor common carriers of passengers to use

the authority conferred in section 11342(a) of this title for the purpose of providing improved service to the public and economy of operation.”.

#### SEC. 108. RAIL AND MOTOR CARRIER PASSENGER SERVICE.

(a) IN GENERAL.—Notwithstanding any other provision of law (other than section 24305(a) of title 49, United States Code), Amtrak and motor carriers of passengers are authorized—

(1) to combine or package their respective services and facilities to the public as a means of increasing revenues; and

(2) to coordinate schedules, routes, rates, reservations, and ticketing to provide for enhanced intermodal surface transportation.

(b) REVIEW.—The authority granted by subsection (a) is subject to review by the Surface Transportation Board and may be modified or revoked by the Board if modification or revocation is in the public interest.

#### SEC. 109. PASSENGER CHOICE.

Federal employees are authorized to travel on Amtrak for official business where total travel cost from office to office is competitive on a total trip or time basis.

#### SEC. 110. APPLICATION OF CERTAIN LAWS.

(a) APPLICATION OF FOIA.—Section 24301(e) is amended by adding at the end thereof the following: “Section 552 of title 5, United States Code, applies to Amtrak for any fiscal year in which Amtrak receives a Federal subsidy.”.

(b) APPLICATION OF FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT.—Section 303B(m) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b(m)) applies to a proposal in the possession or control of Amtrak.

#### SUBTITLE B—PROCUREMENT

#### SEC. 121. CONTRACTING OUT.

(a) REPEAL OF BAN ON CONTRACTING OUT.—Section 24312 of title 49, United States Code, is amended—

(1) by striking subsection (b);

(2) by striking “(1)” in subsection (a); and

(3) by striking “(2)” in subsection (a) and inserting “(b) WAGE RATES.—”.

(b) AMENDMENT OF EXISTING COLLECTIVE BARGAINING AGREEMENT.—

(1) CONTRACTING OUT.—Any collective bargaining agreement entered into between Amtrak and an organization representing its employees before the date of enactment of this Act is deemed amended to include the language of section 24312(b) of title 49, United States Code, as that section existed on the day before the effective date of the amendments made by subsection (a).

(2) ENFORCEABILITY OF AMENDMENT.—The amendment to any such collective bargaining agreement deemed to be made by paragraph (1) of this subsection is binding on all parties to the agreement and has the same effect as if arrived at by agreement of the parties under the Railway Labor Act.

(c) CONTRACTING-OUT ISSUES TO BE INCLUDED IN NEGOTIATIONS.—Proposals on the subject matter of contracting out work, other than work related to food and beverage service, which results in the layoff of an Amtrak employee—

(1) shall be included in negotiations under section 6 of the Railway Labor Act, 45 U.S.C. 156, between Amtrak and an organization representing Amtrak employees, which shall be commenced by—

(A) the date on which labor agreements under negotiation on the date of enactment of this Act may be re-opened; or

(B) November 1, 1999, whichever is earlier;

(2) may, at the mutual election of Amtrak and an organization representing Amtrak employees, be included in any negotiation in

progress under section 6 of the Railway Labor Act, 45 U.S.C. 156, on the date of enactment of this Act; and

(3) may not be included in any negotiation in progress under section 6 of the Railway Labor Act, 45 U.S.C. 156, on the date of enactment of this Act, unless both Amtrak and the organization representing Amtrak employees agree to include it in the negotiation.

No contract between Amtrak and an organization representing Amtrak employees, that is under negotiation on the date of enactment of this Act, may contain a moratorium that extends more than 5 years from the date of expiration of the last moratorium.

(d) NO INFERENCE.—The amendment made by subsection (a) is without prejudice to the power of Amtrak to contract out the provision of food and beverage services on board Amtrak trains or to contract out work not resulting in the layoff of Amtrak employees.

#### SUBTITLE C—EMPLOYEE PROTECTION REFORMS

#### SEC. 141. RAILWAY LABOR ACT PROCEDURES.

(a) NOTICES.—Notwithstanding any arrangement in effect before the date of the enactment of this Act, notices under section 6 of the Railway Labor Act (45 U.S.C. 156) with respect to all issues relating to employee protective arrangements and severance benefits which are applicable to employees of Amtrak, including all provisions of Appendix C-2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973, shall be deemed served and effective on the date which is 45 days after the date of the enactment of this Act. Amtrak, and each affected labor organization representing Amtrak employees, shall promptly supply specific information and proposals with respect to each such notice.

(b) NATIONAL MEDIATION BOARD EFFORTS.—Except as provided in subsection (c), the National Mediation Board shall complete all efforts, with respect to the dispute described in subsection (a), under section 5 of the Railway Labor Act (45 U.S.C. 155) not later than 120 days after the date of the enactment of this Act.

(c) RAILWAY LABOR ACT ARBITRATION.—The parties to the dispute described in subsection (a) may agree to submit the dispute to arbitration under section 7 of the Railway Labor Act (45 U.S.C. 157), and any award resulting therefrom shall be retroactive to the date which is 120 days after the date of the enactment of this Act.

(d) DISPUTE RESOLUTION.—

(1) With respect to the dispute described in subsection (a) which

(A) is unresolved as of the date which is 120 days after the date of the enactment of this Act; and

(B) is not submitted to arbitration as described in subsection (c), Amtrak shall, and the labor organization parties to such dispute shall, within 127 days after the date of the enactment of this Act, each select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within 134 days after the date of the enactment of this Act, the individuals selected under the preceding sentence shall jointly select an individual from such roster to make recommendations with respect to such dispute under this subsection. If the National Mediation Board is not informed of the selection under the preceding sentence 134 days after the date of enactment of this Act, the Board will immediately select such individual.

(2) No individual shall be selected under paragraph (1) who is pecuniarily or otherwise interested in any organization of employees or any railroad or who is selected pursuant to section 121(e) of this Act.

(3) The compensation of individuals selected under paragraph (1) shall be fixed by

the National Mediation Board. The second paragraph of section 10 of the Railway Labor Act shall apply to the expenses of such individuals as if such individuals were members of a board created under such section 10.

(4) If the parties to a dispute described in subsection (a) fail to reach agreement within 150 days after the date of the enactment of this Act, the individual selected under paragraph (1) with respect to such dispute shall make recommendations to the parties proposing contract terms to resolve the dispute.

(5) If the parties to a dispute described in subsection (a) fail to reach agreement, no change shall be made by either of the parties in the conditions out of which the dispute arose for 30 days after recommendations are made under paragraph (4).

(6) Section 10 of the Railway Labor Act (45 U.S.C. 160) shall not apply to a dispute described in subsection (a).

(e) NO PRECEDENT FOR FREIGHT.—Nothing in this Act, or in any amendment made by this Act, shall affect the level of protection provided to freight railroad employees and mass transportation employees as it existed on the day before the date of enactment of this Act.

#### SEC. 142. SERVICE DISCONTINUANCE.

(a) REPEAL.—Section 24706(c) of title 49, United States Code, is repealed.

(b) EXISTING CONTRACTS.—Any provision of a contract entered into before the date of the enactment of this Act between Amtrak and a labor organization representing Amtrak employees relating to employee protective arrangements and severance benefits applicable to employees of Amtrak is extinguished, including all provisions of Appendix C-2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973.

(c) SPECIAL EFFECTIVE DATE.—Subsections (a) and (b) of this section shall take effect 180 days after the date of the enactment of this Act.

(d) NONAPPLICATION OF BANKRUPTCY LAW PROVISION.—Section 1172(c) of title 11, United States Code, shall not apply to Amtrak and its employees.

#### SUBTITLE D—USE OF RAILROAD FACILITIES

#### SEC. 161. LIABILITY LIMITATION.

(A) IN GENERAL.—Chapter 281 is amended by adding at the end the following new section:

#### “§ 28103. Limitations on rail passenger transportation liability

“(a) LIMITATIONS.—(1) Notwithstanding any other statutory or common law or public policy, or the nature of the conduct giving rise to damages or liability, in a claim for personal injury to a passenger, death of a passenger, or damage to property of a passenger arising from or in connection with the provision of rail passenger transportation, or from or in connection with any rail passenger transportation operations or rail passenger transportation use of right-of-way or facilities owned, leased, or maintained by any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State, punitive damages, to the extent permitted by applicable State law, may be awarded in connection with any such claim only if the plaintiff establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct carried out by the defendant with a conscious, flagrant indifference to the rights and safety of others. If, in any case wherein death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, this paragraph shall not apply.

(2) The aggregate allowable awards to all rail passengers, against all defendants, for

all claims, including claims for punitive damages, arising from a single accident or incident, shall not exceed \$200,000,000.

“(b) CONTRACTUAL OBLIGATIONS.—A provider of rail passenger transportation may enter into contracts that allocate financial responsibility for claims.

“(c) MANDATORY COVERAGE.—Amtrak shall maintain a total minimum liability coverage through insurance and self-insurance of at least \$200,000,000.

“(d) EFFECT ON OTHER LAWS.—This section shall not affect the damages that may be recovered under the Act of April 27, 1908 (45 U.S.C. 51 et seq.; popularly known as the ‘Federal Employers’ Liability Act) or under any workers compensation Act.

“(e) DEFINITION.—For purposes of this section—

“(1) the term ‘claim’ means a claim made—  
“(A) against Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any States; or

“(B) against an officer, employee, affiliate engaged in railroad operations, or agent of Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State;

“(2) the term ‘punitive damages’ means damages awarded against any person or entity to punish or deter such person or entity, or others, from engaging in similar behavior in the future; and

“(3) the term ‘rail carrier’ includes a person providing excursion, scenic, or museum train service, and an owner or operator of a privately owned rail passenger car.”

“(b) CONFORMING AMENDMENT.—The table of sections for chapter 281 is amended by adding at the end the following new item:

“28103. Limitations on rail passenger transportation liability.”

#### SEC. 162. RETENTION OF FACILITIES.

Section 24309(b) is amended by inserting “or on January 1, 1997,” after “1979.”

### TITLE II—FISCAL ACCOUNTABILITY

#### SEC. 201. AMTRAK FINANCIAL GOALS.

Section 24101(d) is amended by adding at the end thereof the following: “Amtrak shall prepare a financial plan to operate within the funding levels authorized by section 24104 of this chapter, including budgetary goals for fiscal years 1998 through 2002. Commencing no later than the fiscal year following the fifth anniversary of the Amtrak Reform and Accountability Act of 1997, Amtrak shall operate without Federal operating grant funds appropriated for its benefit.”

#### SEC. 202. INDEPENDENT ASSESSMENT.

(a) INITIATION.—Not later than 15 days after the date of enactment of this Act, the Secretary of Transportation shall contract with an entity independent of Amtrak and not in any contractual relationship with Amtrak and of the Department of Transportation to conduct a complete independent assessment of the financial requirements of Amtrak through fiscal year 2002. The entity shall have demonstrated knowledge about railroad industry accounting requirements, including the uniqueness of the industry and of Surface Transportation Board accounting requirements. The Department of Transportation, Office of Inspector General, shall approve the entity’s statement of work and the award and shall oversee the contract. In carrying out its responsibilities under the preceding sentence, the Inspector General’s Office shall perform such overview and validation or verification of data as may be necessary to assure that the assessment conducted under this subsection meets the requirements of this section.

(b) ASSESSMENT CRITERIA.—The Secretary and Amtrak shall provide to the independent

entity estimates of the financial requirements of Amtrak for the period described above, using as a base the fiscal year 1997 appropriation levels established by the Congress. The independent assessment shall be based on an objective analysis of Amtrak’s funding needs.

(c) CERTAIN FACTORS TO BE TAKEN INTO ACCOUNT.—The independent assessment shall take into account all relevant factors, including Amtrak’s—

(1) cost allocation process and procedures;  
(2) expenses related to intercity rail passenger service, commuter service, and any other service Amtrak provides;

(3) Strategic Business Plan, including Amtrak’s projected expenses, capital needs, ridership, and revenue forecasts; and

(4) Amtrak’s assets and liabilities.

For purposes of paragraph (3), in the capital needs part of its Strategic Business Plan Amtrak shall distinguish between that portion of the capital required for the Northeast corridor and that required outside the Northeast corridor, and shall include rolling stock requirements, including capital leases, “state of good repair” requirements, and infrastructure improvements.

(d) BIDDING PRACTICES.—

(1) STUDY.—The independent assessment also shall determine whether, and to what extent, Amtrak has performed each year during the period from 1992 through 1996 services under contract at amounts less than the cost to Amtrak of performing such services with respect to any activity other than the provision of intercity rail passenger transportation, or mail or express transportation. For purposes of this clause, the cost to Amtrak of performing services shall be determined using generally accepted accounting principles for contracting. If identified, such contracts shall be detailed in the report of the independent assessment, as well as the methodology for preparation of bids to reflect Amtrak’s actual cost of performance.

(2) REFORM.—If the independent assessment performed under this subparagraph reveals that Amtrak has performed services under contract for an amount less than the cost to Amtrak of performing such services, with respect to any activity other than the provision of intercity rail passenger transportation, or mail or express transportation, then Amtrak shall revise its methodology for preparation of bids to reflect its cost of performance.

(d) DEADLINE.—The independent assessment shall be completed not later than 180 days after the contract is awarded, and shall be submitted to the Council established under section 203, the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the United States Senate, and the Committee on Transportation and Infrastructure of the United States House of Representatives.

#### SEC. 203. AMTRAK REFORM COUNCIL.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the Amtrak Reform Council.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of 11 members, as follows:

(A) The Secretary of Transportation.

(B) Two individuals appointed by the President, of which—

(i) one shall be a representative of a rail labor organization; and

(ii) one shall be a representative of rail management.

(C) Three individuals appointed by the Majority Leader of the United States Senate.

(D) One individual appointed by the Minority Leader of the United States Senate.

(E) Three individuals appointed by the Speaker of the United States House of Representatives.

(F) One individual appointed by the Minority Leader of the United States House of Representatives.

(2) APPOINTMENT CRITERIA.—

(A) TIME FOR INITIAL APPOINTMENTS.—Appointments under paragraph (1) shall be made within 30 days after the date of enactment of this Act.

(B) EXPERTISE.—Individuals appointed under subparagraphs (C) through (F) of paragraph (1)—

(i) may not be employees of the United States;

(ii) may not be board members of employees of Amtrak;

(iii) may not be representatives of rail labor organizations or rail management; and

(iv) shall have technical qualifications, professional standing, and demonstrated expertise in the field of corporate management, finance, rail or other transportation operations, labor, economics, or the law, or other areas of expertise relevant to the Council.

(3) TERM.—Members shall serve for terms of 5 years. If a vacancy occurs other than by the expiration of a term, the individual appointed to fill the vacancy shall be appointed in the same manner as, and shall serve only for the unexpired portion of the term for which, that individual’s predecessor was appointed.

(4) CHAIRMAN.—The Council shall elect a chairman from among its membership within 15 days after the earlier of—

(A) the date on which all members of the Council have been appointed under paragraph (2)(A); or

(B) 45 days after the date of enactment of this Act.

(4) MAJORITY REQUIRED FOR ACTION.—A majority of the members of the Council present and voting is required for the Council to take action. No person shall be elected chairman of the Council who receives fewer than 5 votes.

(c) ADMINISTRATIVE SUPPORT.—The Secretary of Transportation shall provide such administrative support to the Council as it needs in order to carry out its duties under this section.

(d) TRAVEL EXPENSES.—Each member of the Council shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with section 5702 and 5703 of title 5, United States Code.

(e) MEETINGS.—Each meeting of the Council, other than a meeting at which proprietary information is to be discussed, shall be open to the public.

(f) ACCESS TO INFORMATION.—Amtrak shall make available to the Council all information the Council requires to carry out its duties under this section. The Council shall establish appropriate procedures to ensure against the public disclosure of any information obtained under this subsection that is a trade secret or commercial or financial information that is privileged or confidential.

(g) DUTIES.—

(1) EVALUATION AND RECOMMENDATION.—The Council—

(A) shall evaluate Amtrak’s performance; and

(B) make recommendations to Amtrak for achieving further cost containment and productivity improvements, and financial reforms.

(2) SPECIFIC CONSIDERATIONS.—In making its evaluation and recommendations under paragraph (1), the Council shall take into consideration all relevant performance factors, including—

(A) Amtrak’s operation as a national passenger rail system which provides access to all regions of the country and ties together existing and emerging rail passenger corridors;



(B) appropriate methods for adoption of uniform cost and accounting procedures throughout the Amtrak system, based on generally accepted accounting principles; and

(C) management efficiencies and revenue enhancements, including savings achieved through labor and contracting negotiations.

(3) **MONITOR WORK-RULE SAVINGS.**—If, after January 1, 1997, Amtrak enters into an agreement involving work-rules intended to achieve savings with an organization representing Amtrak employees, then Amtrak shall report quarterly to the Council—

(A) the savings realized as a result of the agreement; and

(B) how the savings are allocated.

(h) **ANNUAL REPORT.**—Each year before the fifth anniversary of the date of enactment of this Act, the Council shall submit to the Congress a report that includes an assessment of Amtrak's progress on the resolution or status of productivity issues; and makes recommendations for improvements and for any changes in law it believes to be necessary or appropriate.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Council such sums as may be necessary to enable the Council to carry out its duties.

#### **SEC. 204. SUNSET TRIGGER.**

(a) **IN GENERAL.**—If at any time more than 2 years after the date of enactment of this Act and implementation of the financial plan referred to in section 201 the Amtrak Reform Council finds that—

(1) Amtrak's business performance will prevent it from meeting the financial goals set forth in section 201; or

(2) Amtrak will require operating grant funds after the fifth anniversary of the date of enactment of this Act, then

the Council shall immediately notify the President, the Committee on Commerce, Science, and Transportation of the United States Senate; and the Committee on Transportation and Infrastructure of the United States House of Representatives.

(b) **FACTORS CONSIDERED.**—In making a finding under subsection (a), the Council shall take into account—

(1) Amtrak's performance;

(2) the findings of the independent assessment conducted under section 202;

(3) the level of Federal funds made available for carrying out the financial plan referred to in section 201; and

(4) Acts of God, national emergencies, and other events beyond the reasonable control of Amtrak.

(c) **ACTION PLAN.**—Within 90 days after the Council makes a finding under subsection (a)—

(1) it shall develop and submit to the Congress an action plan for a restructured and rationalized national intercity rail passenger system; and

(2) Amtrak shall develop and submit to the Congress an action plan for the complete liquidation of Amtrak, after having the plan reviewed by the Inspector General of the Department of Transportation and the General Accounting Office for accuracy and reasonableness.

#### **SEC. 205. SENATE PROCEDURE FOR CONSIDERATION OF RESTRUCTURING AND LIQUIDATION PLANS.**

(a) **IN GENERAL.**—If, within 90 days (not counting any day on which either House is not in session) after a restructuring plan is submitted to the House of Representatives and the Senate by the Amtrak Reform Council under section 204 of the Amtrak Reform and Accountability Act of 1997, an implementing Act with respect to a restructuring plan (without regard to whether it is the plan submitted) has not been passed by the

Congress, then a liquidation disapproval resolution shall be introduced in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. The liquidation disapproval resolution shall be held at the desk at the request of the Presiding Officer.

(b) **CONSIDERATION IN THE SENATE.**—

(1) **REFERRAL AND REPORTING.**—A liquidation disapproval resolution introduced in the Senate shall be placed directly and immediately on the Calendar.

(2) **IMPLEMENTING RESOLUTION FROM HOUSE.**—When the Senate receives from the House of Representatives a liquidation disapproval resolution, the resolution shall not be referred to committee and shall be placed on the Calendar.

(3) **Consideration of single liquidation disapproval resolution.**—After the Senate has proceeded to the consideration of a liquidation disapproval resolution under this subsection, then no other liquidation disapproval resolution originating in that same House shall be subject to the procedures set forth in this subsection.

(4) **AMENDMENTS.**—No amendment to the resolution is in order except an amendment that is relevant to liquidation of Amtrak. Consideration of the resolution for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. No amendment shall be subject to further amendment, except for perfecting amendments.

(5) **MOTION NONDEBATABLE.**—A motion to proceed to consideration of a liquidation disapproval resolution under this subsection shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to proceed was adopted or rejected, although subsequent motions to proceed may be made under this paragraph.

(6) **LIMIT ON CONSIDERATION.**—

(A) After no more than 20 hours of consideration of a liquidation disapproval resolution, the Senate shall proceed, without intervening action or debate (except as permitted under paragraph (9)), to vote on the final disposition thereof to the exclusion of all amendments not then pending and to the exclusion of all motions, except a motion to reconsider or table.

(B) The time for debate on the liquidation disapproval resolution shall be equally divided between the Majority Leader and the Minority Leader or their designees.

(7) **DEBATE OF AMENDMENTS.**—Debate on any amendment to a liquidation disapproval resolution shall be limited to one hour, equally divided and controlled by the Senator proposing the amendment and the majority manager, unless the majority manager is in favor of the amendment, in which case the minority manager shall be in control of the time in opposition.

(8) **NO MOTION TO RECOMMIT.**—A motion to recommit a liquidation disapproval resolution shall not be in order.

(9) **DISPOSITION OF SENATE RESOLUTION.**—If the Senate has read for the third time a liquidation disapproval resolution that originated in the Senate, then it shall be in order at any time thereafter to move to proceed to the consideration of a liquidation disapproval resolution for the same special message received from the House of Representatives and placed on the Calendar pursuant to paragraph (2), strike all after the enacting clause, substitute the text of the Senate liquidation disapproval resolution, agree to the Senate amendment, and vote on final disposition of the House liquidation disapproval resolution, all without any intervening action or debate.

(10) **CONSIDERATION OF HOUSE MESSAGE.**—Consideration in the Senate of all motions,

amendments, or appeals necessary to dispose of a message from the House of Representatives on a liquidation disapproval resolution shall be limited to not more than 4 hours. Debate on each motion or amendment shall be limited to 30 minutes. Debate on any appeal or point of order that is submitted in connection with the disposition of the House message shall be limited to 20 minutes. Any time for debate shall be equally divided and controlled by the proponent and the majority manager, unless the majority manager is a proponent of the motion, amendment, appeal, or point of order, in which case the minority manager shall be in control of the time in opposition.

(c) **CONSIDERATION IN CONFERENCE.**—

(1) **CONVENING OF CONFERENCE.**—In the case of disagreement between the two Houses of Congress with respect to a liquidation disapproval resolution passed by both Houses, conferees should be promptly appointed and a conference promptly convened, if necessary.

(2) **SENATE CONSIDERATION.**—Consideration in the Senate of the conference report and any amendments in disagreement on a liquidation disapproval resolution shall be limited to not more than 4 hours equally divided and controlled by the Majority Leader and the Minority Leader or their designees. A motion to recommit the conference report is not in order.

(d) **DEFINITIONS.**—For purposes of this section—

(1) **LIQUIDATION DISAPPROVAL RESOLUTION.**—The term "liquidation disapproval resolution" means only a resolution of either House of Congress which is introduced as provided in subsection (a) with respect to the liquidation of Amtrak.

(2) **RESTRUCTURING PLAN.**—The term "restructuring plan" means a plan to provide for a restructured and rationalized national intercity rail passenger transportation system.

(e) **RULES OF SENATE.**—This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate, and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a liquidation disapproval resolution; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

#### **SEC. 206. ACCESS TO RECORDS AND ACCOUNTS.**

Section 24315 is amended by adding at the end the following new subsection:

"(h) **ACCESS TO RECORDS AND ACCOUNTS.**—A State shall have access to Amtrak's records, accounts, and other necessary documents used to determine the amount of any payment to Amtrak required of the State."

#### **SEC. 207. OFFICERS' PAY.**

Section 24303(b) is amended by adding at the end the following: "The preceding sentence shall not apply for any fiscal year for which no Federal assistance is provided to Amtrak."

#### **SEC. 208. EXEMPTION FROM TAXES.**

(a) **IN GENERAL.**—Subsection (1) of section 24301 is amended—

(1) by striking so much of paragraph (1) as precedes "exempt" and inserting the following:

"(1) **IN GENERAL.**—Amtrak, a rail carrier subsidiary of Amtrak, and any passenger or other customer of Amtrak or such subsidiary, are";

(2) by striking "tax or fee imposed" in paragraph (1) and all that follows through

“levied on it” and inserting “tax, fee, head charge, or other charge, imposed or levied by a State, political subdivision, or local taxing authority on Amtrak, a rail carrier subsidiary of Amtrak, or on persons traveling in intercity rail passenger transportation or on mail or express transportation provided by Amtrak or such a subsidiary, or on the carriage of such persons, mail, or express, or on the sale of any such transportation, or on the gross receipts derived therefrom”;

(3) by striking the last sentence of paragraph (1);

(4) by striking “(2) The” in paragraph (2) and inserting “(3) JURISDICTION OF UNITED STATES DISTRICT COURTS.—The”;

(5) by inserting after paragraph (1) the following:

“(2) PHASE-IN OF EXEMPTION FOR CERTAIN EXISTING TAXES AND FEES.—

“(a) YEARS BEFORE 2000.—Notwithstanding paragraph (1), Amtrak is exempt from a tax or fee referred to in paragraph (1) that Amtrak was required to pay as of September 10, 1982, during calendar years 1997 through 1999, only to the extent specified in the following table:

PHASE-IN OF EXEMPTION	
Year of assessment	Percentage of exemption
1997 .....	40
1998 .....	60
1999 .....	80
2000 and later years .....	100

“(B) TAXES ASSESSED AFTER MARCH, 1999.—Amtrak shall be exempt from any tax or fee referred to in subparagraph (A) that is assessed on or after April 1, 1999.”

(b) EFFECTIVE DATE.—the amendments made by subsection (a) do not apply to sales taxes imposed on intrastate travel as of the date of enactment of this Act.

#### SEC. 209. LIMITATION ON USE OF TAX REFUND.

(a) IN GENERAL.—Amtrak may not use any amount received under section 977 of the Taxpayer Relief Act of 1997—

(1) for any purpose other than the financing of qualified expenses (as that term is defined in section 977(e)(1) of that Act; or

(2) to offset other amounts used for any purpose other than the financing of such expenses.

(b) REPORT BY ARC.—The Amtrak Reform Council shall report quarterly to the Congress on the use of amounts received by Amtrak under section 977 of the Taxpayer Relief Act of 1997.

### TITLE III—AUTHORIZATION OF APPROPRIATIONS

#### SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Section 24104(a) is amended to read as follows:

“(a) IN GENERAL.—there are authorized to be appropriated to the Secretary of Transportation—

- “(1) \$1,138,000,000 for fiscal year 1998;
- “(2) \$1,058,000,000 for fiscal year 1999;
- “(3) \$1,023,000,000 for fiscal year 2000;
- “(4) \$989,000,000 for fiscal year 2001; and
- “(5) \$955,000,000 for fiscal year 2002,

for the benefit of Amtrak for capital expenditures under chapters 243 and 247 of this title, operating expenses, and payments described in subsection (c)(1)(A) through (C). In fiscal years following the fifth anniversary of the enactment of the Amtrak Reform and Accountability Act of 1997 no funds authorized for Amtrak shall be used for operating expenses other than those prescribed for tax liabilities under section 3221 of the Internal Revenue Code of 1986 that are more than the amount needed for benefits of individuals who retire from Amtrak and for their beneficiaries.”

### TITLE IV—MISCELLANEOUS

#### SEC. 401. STATUS AND APPLICABLE LAWS.

Section 24301 is amended—

(1) by striking “rail carrier under section 10102” in subsection (a)(1) and inserting “railroad carrier under section 20102(2) and chapters 261 and 281”; and

(2) by amending subsection (c) to read as follows:

“(c) APPLICATION OF SUBTITLE IV.—Subtitle IV of this title shall not apply to Amtrak, except for sections 11301, 11322(a), 11502, and 11706. Notwithstanding the preceding sentence, Amtrak shall continue to be considered an employer under the Railroad Retirement Act of 1974, the Railroad Unemployment Insurance Act, and the Railroad Retirement Tax Act.”

#### SEC. 402. WASTE DISPOSAL.

Section 24301(m)(1)(A) is amended by striking “1996” and inserting “2001”.

#### SEC. 403. ASSISTANCE FOR UPGRADING FACILITIES.

Section 24310 and the item relating thereto in the table of sections for chapter 243 are repealed.

#### SEC. 404. DEMONSTRATION OF NEW TECHNOLOGY.

Section 24314 and the item relating thereto in the table of sections for chapter 243 are repealed.

#### SEC. 405. PROGRAM MASTER PLAN FOR BOSTON-NEW YORK MAIN LINE.

(a) REPEAL.—Section 24903 is repealed and the table of sections for chapter 249 is amended by striking the item relating to that section.

(b) CONFORMING AMENDMENTS.—

(1) Section 24902 is amended by striking subsections (a), (c), and (d) and redesignating subsection (b) as subsection (a) and subsections (e) through (m) as subsections (b) through (j), respectively.

(2) Section 24904(a)(8) is amended by striking “the high-speed rail passenger transportation area specified in section 24902(a)(1) and (2)” and inserting “a high-speed rail passenger transportation area”.

#### SEC. 406. AMERICANS WITH DISABILITIES ACT OF 1990.

(a) APPLICATION TO AMTRAK.—

(1) ACCESS IMPROVEMENTS AT CERTAIN SHARED STATIONS.—Amtrak is responsible for its share, if any, of the costs of accessibility improvements at any station jointly used by Amtrak and a commuter authority.

(2) CERTAIN REQUIREMENTS NOT TO APPLY UNTIL 1998.—Amtrak shall not be subject to any requirement under subsection (a)(1), (a)(3), or (e)(2) of section 242 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12162) until January 1, 1998.

(b) CONFORMING AMENDMENT.—Section 24307 is amended—

- (1) by striking subsection (b); and
- (2) by redesignating subsection (c) as subsection (b).

#### SEC. 407. DEFINITIONS.

Section 24102 is amended—

- (1) by striking paragraphs (2) and (11);
- (2) by redesignating paragraphs (3) through (10) as paragraphs (2) through (9), respectively; and

(3) by inserting “, including a unit of State or local government,” after “means a person” in paragraph (7), as so redesignated.

#### SEC. 408. NORTHEAST CORRIDOR COST DISPUTE.

Section 1163 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1111) is repealed.

#### SEC. 409. INSPECTOR GENERAL ACT OF 1978 AMENDMENT.

(a) AMENDMENT.—

(1) IN GENERAL.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking “Amtrak.”

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect in the first fiscal year for which Amtrak receives no Federal subsidy.

(b) AMTRAK NOT FEDERAL ENTITY.—Amtrak shall not be considered a Federal entity for purposes of the Inspector General Act of 1978. The preceding sentence shall apply for any fiscal year for which Amtrak receives no Federal subsidy.

(c) FEDERAL SUBSIDY.—

(1) ASSESSMENT.—In any fiscal year for which Amtrak requests Federal assistance, the Inspector General of the Department of Transportation shall review Amtrak's operations and conduct an assessment similar to the assessment required by section 202(a). The Inspector General shall report the results of the review and assessment to—

- (A) the President of Amtrak;
- (B) the Secretary of Transportation;
- (C) the United States Senate Committee on Appropriations;

(D) the United States Senate Committee on Commerce, Science, and Transportation;

(E) the United States House of Representatives Committee on Appropriations;

(F) the United States House of Representatives Committee on Transportation and Infrastructure.

(2) REPORT.—The report shall be submitted, to the extent practicable, before any such committee reports legislation authorizing or appropriating funds for Amtrak for capital acquisition, development, or operating expenses.

(3) SPECIAL EFFECTIVE DATE.—This subsection takes effect 1 year after the date of enactment of this Act.

#### SEC. 410. INTERSTATE RAIL COMPACTS.

(a) CONSENT TO COMPACTS.—Congress grants consent to States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) to enter into interstate compacts to promote the provision of the service, including—

- (1) retaining an existing service or commencing a new service;
- (2) assembling rights-of-way; and
- (3) performing capital improvements, including—

(A) the construction and rehabilitation of maintenance facilities;

(B) the purchase of locomotives; and

(C) operational improvements, including communications, signals, and other systems.

(b) FINANCING.—An interstate compact established by States under subsection (a) may provide that, in order to carry out the compact, the States may—

(1) accept contributions from a unit of State or local government or a person;

(2) use any Federal or State funds made available for intercity passenger rail service (except funds made available for the National Railroad Passenger Corporation);

(3) on such terms and conditions as the States consider advisable—

(A) borrow money on a short-term basis and issue notes for the borrowing; and

(B) issue bonds; and

(4) obtain financing by other means permitted under Federal or State law.

#### SEC. 411. COMPOSITION OF AMTRAK BOARD OF DIRECTORS.

Section 24302(a) is amended—

(1) by striking “3” in paragraph (1)(C) and inserting “4”;

(2) by striking clauses (i) and (ii) of paragraph (1)(C) and inserting the following:

“(i) one individual selected as a representative of rail labor in consultation with affected labor organizations.

“(ii) one chief executive officer of a State, and one chief executive officer of a municipality, selected from among the chief executive officers of States and municipalities with an interest in rail transportation, each of whom may select an individual to act as the officer's representative at board meetings.”;

(4) striking subparagraphs (D) and (E) of paragraph (1);

(5) inserting after subparagraph (C) the following:

“(D) 3 individuals appointed by the President of the United States, as follows:

“(i) one individual selected as a representative of a commuter authority, (as defined in section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) that provides its own commuter rail passenger transportation or makes a contract with an operator, in consultation with affected commuter authorities.

“(ii) one individual with technical expertise in finance and accounting principles.

“(iii) one individual selected as a representative of the general public.”; and

(6) by striking paragraph (6) and inserting the following:

“(6) The Secretary may be represented at a meeting of the Board by his designate.”.

#### SEC. 412. EDUCATIONAL PARTICIPATION.

Amtrak shall participate in educational efforts with elementary and secondary schools to inform students on the advantages of rail travel and the need for rail safety.

#### SEC. 413. REPORT TO CONGRESS ON AMTRAK BANKRUPTCY.

Within 120 days after the date of enactment of this Act, the Comptroller General shall submit a report identifying financial and other issues associated with an Amtrak bankruptcy to the United States Senate Committee on Commerce, Science, and Transportation and to the United States House of Representatives Committee on Transportation and Infrastructure. The report shall include an analysis of the implications of such a bankruptcy on the Federal government, Amtrak's creditors, and the Railroad Retirement System.

#### SEC. 414. AMTRAK TO NOTIFY CONGRESS OF LOBBYING RELATIONSHIPS.

If, at any time, during a fiscal year in which Amtrak receives Federal assistance, Amtrak enters into a consulting contract or similar arrangement, or a contract for lobbying, with a lobbying firm, an individual who is a lobbyist, or who is affiliated with a lobbying firm, as those terms are defined in section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602), Amtrak shall notify the United States Senate Committee on Commerce, Science, and Transportation, and the United States House of Representatives Committee on Transportation and Infrastructure of—

(1) the name of the individual or firm involved;

(2) the purpose of the contract or arrangement; and

(3) the amount and nature of Amtrak's financial obligation under the contract.

This section applies only to contracts, renewals or extensions of contracts, or arrangements entered into after the date of the enactment of this Act.

#### THE RECIPROCAL TRADE AGREEMENT ACT OF 1997

##### HARKIN AMENDMENT NO. 1610

(Ordered to lie on the table.)

Mr. HARKIN submitted an amendment intended to be proposed by him to the bill, S. 1269, *supra*; as follows:

On page 4, between lines 21 and 22, insert the following:

(3) CHILD LABOR.—The principal negotiating objectives of the United States regarding child labor are to further promote adequate and effective protection against exploitative child labor by—

(A) seeking the enactment and effective enforcement by foreign countries of laws that—

(i) recognize and adequately protect against the effects of exploitative child labor; and

(ii) provide protection against unfair competition; and

(B) providing for strong enforcement of laws against exploitative child labor through accessible, expeditious, and effective civil, administrative, and criminal enforcement mechanisms.

#### THE BURLEY IRRIGATION DISTRICT CONVEYANCE ACT OF 1997

##### CRAIG AMENDMENT NO. 1611

(Ordered to lie on the table.)

Mr. CRAIG submitted an amendment intended to be proposed by him to the bill (S. 538) to authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District, and for other purposes; as follows:

Paragraph 1(c)(1) of the Committee amendment is modified to read as follows:

“(1) TRANSFER.—(A) Subject to subparagraphs (B) and (C), the Secretary shall transfer to Burley, through an agreement among Burley, the Minidoka Irrigation district, and the Secretary, in accordance with and subject to law of the State of Idaho, all natural flow, waste, seepage, return flow, and groundwater rights held in the name of the United States—

(1) for the benefit of the Minidoka Project or specifically for the Burley Irrigation District; and

(2) that are for use on lands within the Burley Irrigation District; and

(3) which are set forth in contracts between the United States and Burley or in the decree of June 20, 1913 of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Twin Falls, in the case of *Twin Falls Canal Company v. Charles N. Foster, et al.*, and commonly referred to as the “Foster decree”.

“(B) Any rights that are presently held for the benefit of lands within the Minidoka Irrigation District and the Burley Irrigation District shall be allocated in such manner so as to neither enlarge nor diminish the respective rights of either district in such water rights as described in contracts between Burley and the United States.

“(C) The transfer of water rights in accordance with this paragraph shall not impair the integrated operation of the Minidoka Project, affect any other adjudicated rights, or result in any adverse impact on any other project water user.”

#### THE SAVINGS ARE VITAL TO EVERYONE'S RETIREMENT ACT OF 1997

##### GRASSLEY AMENDMENT NO. 1612

Mr. LOTT (for Mr. GRASSLEY) proposed an amendment to the bill (H.R. 1377) to amend title I of the Employee Retirement Income Security Act of 1974 to encourage retirement income savings; as follows:

Strike all after the enacting clause and insert the following:

##### SECTION 1. SHORT TITLE.

This Act may be cited as the “Savings Are Vital to Everyone's Retirement Act of 1997”.

##### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) The impending retirement of the baby boom generation will severely strain our already overburdened entitlement system, necessitating increased reliance on pension and other personal savings.

(2) Studies have found that less than a third of Americans have even tried to calculate how much they will need to have saved by retirement, and that less than 20 percent are very confident they will have enough money to live comfortably throughout their retirement.

(3) A leading obstacle to expanding retirement savings is the simple fact that far too many Americans—particularly the young—are either unaware of, or without the knowledge and resources necessary to take advantage of, the extensive benefits offered by our retirement savings system.

(b) PURPOSE.—It is the purpose of this Act—

(1) to advance the public's knowledge and understanding of retirement savings and its critical importance to the future well-being of American workers and their families;

(2) to provide for a periodic, bipartisan national retirement savings summit in conjunction with the White House to elevate the issue of savings to national prominence; and

(3) to initiate the development of a broad-based, public education program to encourage and enhance individual commitment to a personal retirement savings strategy.

##### SEC. 3. OUTREACH BY THE DEPARTMENT OF LABOR.

(a) IN GENERAL.—Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131 et seq.) is amended by adding at the end the following new section:

“OUTREACH TO PROMOTE RETIREMENT INCOME SAVINGS

“SEC. 516. (a) IN GENERAL.—The Secretary shall maintain an ongoing program of outreach to the public designed to effectively promote retirement income savings by the public.

“(b) METHODS.—The Secretary shall carry out the requirements of subsection (a) by means which shall ensure effective communication to the public, including publication of public service announcements, public meetings, creation of educational materials, and establishment of a site on the Internet.

“(c) INFORMATION TO BE MADE AVAILABLE.—The information to be made available by the Secretary as part of the program of outreach required under subsection (a) shall include the following:

“(1) a description of the vehicles currently available to individuals and employers for creating and maintaining retirement income savings, specifically including information explaining to employers, in simple terms, the characteristics and operation of the different retirement savings vehicles, including the steps to establish each such vehicle, and

“(2) information regarding matters relevant to establishing retirement income savings, such as—

“(A) the forms of retirement income savings,

“(B) the concept of compound interest,

“(C) the importance of commencing savings early in life,

“(D) savings principles,

“(E) the importance of prudence and diversification in investing,

“(F) the importance of the timing of investments, and

“(G) the impact on retirement savings of life's uncertainties, such as living beyond one's life expectancy.

“(d) ESTABLISHMENT OF SITE ON THE INTERNET.—The Secretary shall establish a

permanent site on the Internet concerning retirement income savings. The site shall contain at least the following information:

“(1) a means for individuals to calculate their estimated retirement savings needs, based on their retirement income goal as a percentage of their preretirement income;

“(2) a description in simple terms of the common types of retirement income savings arrangements available to both individuals and employers (specifically including small employers), including information on the amount of money that can be placed into a given vehicle, the tax treatment of the money, the amount of accumulation possible through different typical investment options and interest rate projections, and a directory of resources of more descriptive information;

“(3) materials explaining to employers in simple terms, the characteristics and operation of the different retirement savings arrangements for their workers and what the basic legal requirements are under this Act and the Internal Revenue Code of 1986, including the steps to establish each such arrangement;

“(4) copies of all educational materials developed by the Department of Labor, and by other Federal agencies in consultation with such Department, to promote retirement income savings by workers and employers; and

“(5) links to other sites maintained on the Internet by governmental agencies and non-profit organizations that provide additional detail on retirement income savings arrangements and related topics on savings or investing.

“(e) COORDINATION.—The Secretary shall coordinate the outreach program under this section with similar efforts undertaken by other public and private entities.”.

(b) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended by inserting after the item relating to section 514 the following new items:

“Sec. 515. Delinquent contributions.

“Sec. 516. Outreach to promote retirement income savings.”.

#### SEC. 4. NATIONAL SUMMIT ON RETIREMENT SAVINGS.

(a) IN GENERAL.—Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, as amended by section 3 of this Act, is amended by adding at the end the following new section:

##### “NATIONAL SUMMIT ON RETIREMENT SAVINGS

“SEC. 517. (a) AUTHORITY TO CALL SUMMIT.—Not later than July 15, 1998, the President shall convene a National Summit on Retirement Income Savings at the White House, to be co-hosted by the President and the Speaker and the Minority Leader of the House of Representatives and the Majority Leader and Minority Leader of the Senate. Such a National Summit shall be convened thereafter in 2001 and 2005 on or after September 1 of each year involved. Such a National Summit shall—

“(1) advance the public's knowledge and understanding of retirement savings and its critical importance to the future well-being of American workers and their families;

“(2) facilitate the development of a broad-based, public education program to encourage and enhance individual commitment to a personal retirement savings strategy;

“(3) develop recommendations for additional research, reforms, and actions in the field of private pensions and individual retirement savings; and

“(4) disseminate the report of, and information obtained by, the National Summit and exhibit materials and works of the National Summit.

“(b) PLANNING AND DIRECTION.—The National Summit shall be planned and conducted under the direction of the Secretary,

in consultation with, and with the assistance of, the heads of such other Federal departments and agencies as the President may designate. Such assistance may include the assignment of personnel. The Secretary shall, in planning and conducting the National Summit, consult with the congressional leaders specified in subsection (e)(2). The Secretary shall also, in carrying out the Secretary's duties under this subsection, consult and coordinate with at least one organization made up of private sector businesses and associations partnered with Government entities to promote long-term financial security in retirement through savings.

“(c) PURPOSE OF NATIONAL SUMMIT.—The purpose of the National Summit shall be—

“(1) to increase the public awareness of the value of personal savings for retirement;

“(2) to advance the public's knowledge and understanding of retirement savings and its critical importance to the future well-being of American workers and their families;

“(3) to facilitate the development of a broad-based, public education program to encourage and enhance individual commitment to a personal retirement savings strategy;

“(4) to identify the problems workers have in setting aside adequate savings for retirement;

“(5) to identify the barriers which employers, especially small employers, face in assisting their workers in accumulating retirement savings;

“(6) to examine the impact and effectiveness of individual employers to promote personal savings for retirement among their workers and to promote participation in company savings options;

“(7) to examine the impact and effectiveness of government programs at the Federal, State, and local levels to educate the public about, and to encourage, retirement income savings;

“(8) to develop such specific and comprehensive recommendations for the legislative and executive branches of the Government and for private sector action as may be appropriate for promoting private pensions and individual retirement savings; and

“(9) to develop recommendations for the coordination of Federal, State, and local retirement income savings initiatives among the Federal, State, and local levels of government and for the coordination of such initiatives.

“(d) SCOPE OF NATIONAL SUMMIT.—The scope of the National Summit shall consist of issues relating to individual and employer-based retirement savings and shall not include issues relating to the old-age, survivors, and disability insurance program under title II of the Social Security Act.

“(e) NATIONAL SUMMIT PARTICIPANTS.—

“(1) IN GENERAL.—To carry out the purposes of the National Summit, the National Summit shall bring together—

“(A) professionals and other individuals working in the fields of employee benefits and retirement savings;

“(B) Members of Congress and officials in the executive branch;

“(C) representatives of State and local governments;

“(D) representatives of private sector institutions, including individual employers, concerned about promoting the issue of retirement savings and facilitating savings among American workers; and

“(E) representatives of the general public.

“(2) STATUTORILY REQUIRED PARTICIPATION.—The participants in the National Summit shall include the following individuals or their designees:

“(A) the Speaker and the Minority Leader of the House of Representatives;

“(B) the Majority Leader and the Minority Leader of the Senate;

“(C) the Chairman and ranking Member of the Committee on Education and the Workforce of the House of Representatives;

“(D) the Chairman and ranking Member of the Committee on Labor and Human Resources of the Senate;

“(E) the Chairman and ranking Member of the Special Committee on Aging of the Senate;

“(F) the Chairman and ranking Member of the Subcommittees on Labor, Health and Human Services, and Education of the Senate and House of Representatives; and

“(G) the parties referred to in subsection (b).

“(3) ADDITIONAL PARTICIPANTS.—

“(A) IN GENERAL.—There shall be not more than 200 additional participants. Of such additional participants—

“(i) one-half shall be appointed by the President, in consultation with the elected leaders of the President's party in Congress (either the Speaker of the House of Representatives or the Minority Leader of the House of Representatives, and either the Majority Leader or the Minority Leader of the Senate; and

“(ii) one-half shall be appointed by the elected leaders of Congress of the party to which the President does not belong (one-half of that allotment to be appointed by either the Speaker of the House of Representatives or the Minority Leader of the House of Representatives, and one-half of that allotment to be appointed by either the Majority Leader or the Minority Leader of the Senate).

“(B) APPOINTMENT REQUIREMENTS.—The additional participants described in subparagraph (A) shall be—

“(i) appointed not later than January 31, 1998;

“(ii) selected without regard to political affiliation or past partisan activity; and

“(iii) representative of the diversity of thought in the fields of employee benefits and retirement income savings.

“(4) PRESIDING OFFICERS.—The National Summit shall be presided over equally by representatives of the executive and legislative branches.

“(f) NATIONAL SUMMIT ADMINISTRATION.—

“(1) ADMINISTRATION.—In administering this section, the Secretary shall—

“(A) request the cooperation and assistance of such other Federal departments and agencies and other parties referred to in subsection (b) as may be appropriate in the carrying out of this section;

“(B) furnish all reasonable assistance to State agencies, area agencies, and other appropriate organizations to enable them to organize and conduct conferences in conjunction with the National Summit;

“(C) make available for public comment a proposed agenda for the National Summit that reflects to the greatest extent possible the purposes for the National Summit set out in this section;

“(D) prepare and make available background materials for the use of participants in the National Summit that the Secretary considers necessary; and

“(E) appoint and fix the pay of such additional personnel as may be necessary to carry out the provisions of this section without regard to provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

“(2) DUTIES.—The Secretary shall, in carrying out the responsibilities and functions of the Secretary under this section, and as part of the National Summit, ensure that—

“(A) the National Summit shall be conducted in a manner that ensures broad participation of Federal, State, and local agencies and private organizations, professionals, and others involved in retirement income savings and provides a strong basis for assistance to be provided under paragraph (1)(B);

“(B) the agenda prepared under paragraph (1)(C) for the National Summit is published in the Federal Register; and

“(C) the personnel appointed under paragraph (1)(E) shall be fairly balanced in terms of points of views represented and shall be appointed without regard to political affiliation or previous partisan activities.

“(3) NONAPPLICATION OF FACA.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the National Summit.

“(g) REPORT.—The Secretary shall prepare a report describing the activities of the National Summit and shall submit the report to the President, the Speaker and Minority Leader of the House of Representatives, the Majority and Minority Leaders of the Senate, and the chief executive officers of the States not later than 90 days after the date on which the National Summit is adjourned.

“(h) DEFINITION.—For purposes of this section, the term ‘State’ means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

“(i) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated for fiscal years beginning on or after October 1, 1997, such sums as are necessary to carry out this section.

“(2) AUTHORIZATION TO ACCEPT PRIVATE CONTRIBUTIONS.—In order to facilitate the National Summit as a public-private partnership, the Secretary may accept private contributions, in the form of money, supplies, or services, to defray the costs of the National Summit.

“(j) FINANCIAL OBLIGATION FOR FISCAL YEAR 1998.—The financial obligation for the Department of Labor for fiscal year 1998 shall not exceed the lesser of—

“(1) one-half of the costs of the National Summit; or

“(2) \$250,000.

The private sector organization described in subsection (b) and contracted with by the Secretary shall be obligated for the balance of the cost of the National Summit.

“(k) CONTRACTS.—The Secretary may enter into contracts to carry out the Secretary's responsibilities under this section. The Secretary shall enter into a contract on a sole-source basis to ensure the timely completion of the National Summit in fiscal year 1998.”.

(b) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act, as amended by section 3 of this Act, is amended by inserting after the item relating to section 516 the following new item:

“Sec. 517. National Summit on Retirement Savings.”.

#### NOTICE OF HEARING CANCELLATION

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. THOMAS. Mr. President, I would like to announce for the public that the oversight field hearing that has been scheduled before the Subcommittee on National Parks, Historic Preservation, and Recreation of the

Committee on Energy and Natural Resources, to take place Saturday, November 15, 1997 in Homestead, Florida, has been postponed until further notice.

For further information, please contact Jim O'Toole of the Committee staff at (202) 224-5161.

#### AUTHORITY FOR COMMITTEE TO MEET

##### SELECT COMMITTEE ON INTELLIGENCE

Mr. LOTT. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Friday, November 7, 1997, to hold a business meeting.

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

#### ADDITIONAL STATEMENTS

##### FAST-TRACK TRADE LEGISLATION

• Mr. MCCAIN. Mr. President, during the debate over the North American Free Trade Agreement, I quoted President Thomas Jefferson who wrote, in 1785, to his fellow Virginian, James Monroe: “I would say to every nation on earth, by treaty, your people shall trade freely with us, and ours with you.”

In that same spirit, the 103d Congress of the United States passed the North American Free Trade Agreement and the nations of Canada, the United States, and Mexico began to open their borders. The resulting rising tide has already begun to lift the economic well-being of all Americans.

We now begin a similar debate over the President's request for fast-track trade negotiating authority. This gives me another opportunity to emphasize my commitment to free and open trade and pledge that I will work hard to enact the President's request. I am pleased that the proposal coming from the Finance Committee has attracted such broad bipartisan support.

My colleagues need to understand how important fast track is. Fast track provides that Congress will consider trade agreements within mandatory deadlines, with limited debate and without amendment. Its power has been held by every President for over 20 years, both Republicans and Democrats.

In his book, “American Trade Politics,” Professor I.M. Destler, noted that fast track rose from Congress' natural inclination to shift responsibility for negotiating liberal trade agreements to the President while still maintaining its constitutional authority over foreign commerce.

By delegating responsibility to the executive and by helping fashion a system that protected legislators from one-sided restrictive pressures, Congress made it possible for successive presidents to maintain and expand the liberal trade order.

In other words, the fast-track mechanism is the result of years of practical

experience by our predecessors. And from it, the United States has been a leader in opening markets throughout the world. Implementation of the Uruguay round, establishment of the World Trade Organization, and unification of the markets of NAFTA countries are just a few of the success stories arising from the grant of fast-track authority to the President.

Unfortunately, far too many Americans have been misled into believing that free trade agreements are bad for the working men and women of our country. A late July NBC News/Wall Street Journal poll which simply asked if you would support fast track to negotiate more free trade agreements, a full 61 percent said “No.” But these figures are beginning to change.

For too long, those who would build walls around our borders have pointed to the isolated cases of job disruptions to argue that trade only means job loss. Nothing could be further from the truth.

Trade Representative Charlene Barshefsky testified recently how in our booming economy more than 11 million Americans now work in jobs supported by exports and that these jobs pay 13 to 16 percent above the national average wage. Exports have increased dramatically across the country with 47 of 50 States registering significant export growth over the last 4 years.

Exports from California are up 45 percent, Michigan—68 percent, Illinois—64 percent, Ohio—42 percent, Texas—40 percent, Nebraska—54 percent, North Dakota—76 percent, and Montana—52 percent. Exports from Florida, Rhode Island, Louisiana, and West Virginia have increased more than 30 percent. States from New York to Utah also have posted double digit increases.

Instead of the giant sucking sound warned by many opponents of free trade, one of the first consequences of NAFTA was the swift relocation of some auto plants from Mexico to the United States.

In my home State, increased trade has resulted in an enormous growth in exports and increased wealth for Arizona families. We exported goods totaling \$10.5 billion in 1996, up 93 percent from 1992. Total exports from Arizona to NAFTA countries alone increased by 52 percent between 1993 and 1996. Even exports to the European Union, which is not a member of NAFTA, increased 54 percent during this period.

These increases would be meaningless but for one important economic truth: exports mean jobs. Today, the unemployment rate is at one of the lowest points in the last 20 years. An article in the Wall Street Journal about job growth in the St. Louis area and around the Nation stated:

... here ... it is evident that, with a buoyant economy slashing unemployment to a quarter-century low and U.S. exports booming, Mr. Clinton will surely win by the time the issue is resolved this fall ...

The article goes on:

In the St. Louis area alone, more than 1,200 companies are now exporting, up from 600 five years ago . . .

. . . as more companies flourish by exporting, a silent majority favoring more trade is forming in much of the country. One recent poll found 78% of respondents favoring expanded trade "on a reciprocal basis."

Without fast track legislation, we have missed a number of opportunities to be involved in trade agreements throughout the world. The Southern Cone Common Market, known as MERCOSUR, is expanding to set up a regional trade bloc that will not include the United States. The Government of Chile has already concluded trade agreements with Canada and Mexico. In Asia, ASEAN is setting up a free trade area without United States' participation. The EU has begun to set up agreements in the Western Hemisphere, and is currently negotiating trade agreements with Chile and Mexico.

Despite these missed opportunities, the United States can still continue its pre-eminent leadership role on the world economic stage. We need to complete the negotiations on Chile's accession to NAFTA, to begin building the Free Trade Area for the Americas, and to pursue the long-term commitment to eliminate barriers to trade with other Asia Pacific nations in the Asia Pacific economic cooperation forum. Some Members of Congress have even proposed negotiating free trade agreements with other trading partners, such as the European Union or Sub-Saharan African countries.

The Clinton administration has noted that future multilateral negotiations may also require congressional implementation. For example, negotiations to further liberalize trade in services and agriculture and to establish new rules for subsidies are likely to begin by the year 2000. Moreover, the United States and other governments have expressed interest in pursuing multilateral negotiations on issues related to labor and environmental standards, competition policy, and rules for foreign investment. The success of these negotiations will hinge on the President's fast track authority.

Finally, I think that it is important to recognize the message being sent by the recent decline in the world's stock markets. Those who argue that we should only look inward and forgo opportunities to open markets around the world fail to recognize that we are now moving toward a single world economy. Dramatic market declines in Hong Kong are felt on Wall Street, in South America, and in Europe. It is important that we not listen to the siren song of protectionism at this moment in history. Instead, our Nation must signal its support of free trade by supporting fast-track legislation. Fast track will promote open trade and create wealth around our planet. The benefits are obvious.

The editorial pages of American newspapers have almost uniformly called for swift enactment of fast

track. These newspapers observed long ago that delicate negotiations with foreign leaders go nowhere when these negotiations must first be approved by 535 congressional Secretaries of State.

The Christian, Science Monitor states:

There should be no doubt that much of the growing U.S. and world prosperity in the past two decades—indeed in the past half century—is a result of global trade expansion . . . President Clinton should press ahead decisively now. Benefits outweigh drawbacks. History is on his side.

The Washington Post says:

Economies that are open to trade and foreign investment grow more quickly and lift their populations out of poverty more quickly than economies that are closed.

The Journal of Commerce says:

. . . the real issue is the unwieldy nature of negotiating with each member of Congress, a situation that would encourage foreign trading partners to hold back their best offers knowing Congress could second-guess the deal later, leading to delays and weaker trade policy.

Mr. Clinton should directly and honestly address the fears of average Americans and use the bully pulpit to explain how global competition ultimately improves the U.S. competitive position. Only then will Americans better understand why their smart, innovative companies and hard-working people stand to benefit globally from open markets and fast-track authority.

The Arizona Daily News-Sun correctly argues:

. . . enterprise free of the bureaucratic costs of trade "quotas" and tariffs only raise the cost of doing business for American businesses selling to foreign markets and result in higher prices to consumers. Capitalism is not a zero-sum game.

And, finally, USA Today states:

Congressional dithering over trade agreements is the kiss of death. Let the president negotiate.

I could not agree more.

The commonsense perception of the negative consequences of high tariffs was well understood by Americans who engaged in the great tariff debates of the last century. It was understood by many of our Founding Fathers, by committed free traders in the 19th century, and by supporters of free trade today who argue persistently that tariffs are unfair taxes on an already overtaxed public and an impediment to prosperity.

There are, of course, other arguments at stake that transcend partisan economic values. Under the benefits of NAFTA, Mexico has moved dramatically away from statism, protectionism, and the reflexively anti-American, anticapitalist left wing policies that have kept Mexico so firmly rooted in the Third World. Had we rejected NAFTA and denied Mexico the benefits of enlightened engagement with the world, we may very well have provoked a return to those policies which are so inimical to our own interests.

I have long argued that free trade agreements help promote democratic freedoms in countries around the world. Support for free trade, as exemplified by vote for fast-track authority,

is another way to help ensure that many, many people are able to live in a free and prospering environment.

In conclusion, I urge my colleagues not to reject this golden opportunity to solidify the global free trade regime that we have created. Instead of heeding the cries of protectionism and throwing our country down a path of eventual economic ruin, we should vote to continue prosperity from Wall Street to Main Street America.●

#### THE HAWAII HOUSING AUTHORITY

● Mr. INOUE. Mr. President, the Public Housing Management Assessment Program was established under the National Affordable Housing Act of 1990 to ensure that public housing functions as a well-managed enterprise on a uniform, nationwide basis. The PHMAP was designed to institute a system of accountability that would help the U.S. Department of Housing and Urban Development monitor and evaluate management operations of housing authorities nationwide. PHMAP scores are based on ranking in seven areas: vacancy rate and unit turnaround time, modernization, rents uncollected, work orders, inspection of units and systems, financial management, resident services, and community building.

The Hawaii Housing Authority is ranked the 29th largest authority of 4,000 housing authorities in the country. Last month, HUD announced that the HHA received a 92.5 score and high-performer status for its management program under PHMAP. This enables the State of Hawaii to continue to receive its share of Federal funding, and allows HHA maximum flexibility in using those federal funds.

I would like to congratulate Hawaii Gov. Benjamin J. Cayetano, Ms. Sharon R. Yamada, executive director of the Hawaii Housing Authority, and the extraordinary staff of the HHA for this outstanding achievement. I proudly commend the staff of HHA for their dedication, hard work, and detailed attention to serving their housing customers. ●

#### PUBLICATION OF THE SWISS BANKS' DORMANT ACCOUNT LIST

● Mr. D'AMATO. Mr. President, I rise today briefly to discuss the publication of the latest list of dormant accounts in Swiss banks.

On October 29, 1997, the Swiss Bankers Association published its second list of dormant accounts. The list contains some 3,700 names of account holders that have not been heard from since May 9, 1945, the conclusion of the Second World War. This is the second time the Swiss Bankers Association has published such a list, the first time being on July 23, 1997. On that occasion, a great number of names appeared on that list that had proven to be either Nazis or those that were unable to obtain their accounts despite repeated attempts to do so.



The latest list, contains the names of Johann Rohani and Anna Rohanny, of Amsterdam. Yesterday afternoon, I heard from the Rohany's daughter, Susan Unger, who informed my staff that these people were her parents. She went on to say that her mother had tried and been turned down in 1968 trying to claim the funds which were hers. Moreover, as late as October 1, of this year, she tried to claim the account and was turned down. Yet, when one looks at the latest list, it is inescapable that these are the same names. Apparently, the accounting firm looking for the accounts failed to check her parents' names on the then-pending lists. This is terribly unfortunate. Mrs. Unger has tried and tried to obtain funds that were legitimately hers and yet, she and her mother have been denied.

What is even more bothersome is the fact that while the accounting firm turned her down 1 month ago, and that her parents' names appear on the new list, how many others I wonder, are in the same situation. How many have been turned down, with looking for names appearing on the first list, when they might well have appeared on this new list? We would have a better idea if the second list had been published in full like the first list. This one was not, it was only available on the Internet, through a search mechanism, not a full printout of the names, making it immensely more difficult, if not impossible to find names, if you do not see all of them.

Mr. President, the Swiss banks have a long way to go before they can regain the respectability they once had. Continued indifference to cases such as this are very unfortunate. I wish for the sake of the claimants they would come to their senses and do what is right. One can only hope. •

#### CHILD CARE

• Mr. SARBANES. Mr. President, on October 23, 1997, President Clinton convened the first ever White House Conference on Child Care. This important summit examined one of the most critical issues facing American families today, the need for safe, affordable, quality child care. I rise today to commend the President for working to focus public attention on this very important matter, and to urge the Senate to move quickly to address the critical issues facing us with regard to our children's future.

Mr. President, it has long been my view that our children are our greatest national resource and must number among our country's highest priorities. Nationwide, nearly 10 million preschool children spend a part of their day in child care, and there are many more school-age children who spend portions of their afternoons under the supervision of someone other than a parent when the school day ends. These children need care that will enable them to learn and grow, while keeping them safe, healthy, and happy.

There can be no disagreement that high quality child care and early childhood development services are absolutely essential to the well-being of our children and our families. In fact, recent research findings in early brain development indicate that much of children's growth and future emotional health is determined by early learning and care. This research emphasizes the urgent need for well-trained reliable child care-givers for even the youngest of children, and underscores the importance of continued Federal support for child care programs. Whether these programs are called child care, early childhood development, or early childhood education they all must provide the nurturing and stimulation children need to develop fully, to enter school ready to learn, and to grow into capable and responsible adults.

While quality of care is the most important consideration for parents choosing a child care provider for their families, many parents must take into consideration the high cost of child care in this country. According to the 1995 Census, middle class families earning approximately \$36,000 a year spend 12 percent of their annual income in child care expenses, and families earning \$15,000 or less a year pay approximately 25 percent of their household income on care for their children. For these parents child care is an enormous financial burden.

In my own State of Maryland, many parents are struggling to hold jobs and at the same time provide quality care for their children. While the State of Maryland is a leader in day care financing, in 1994, there were approximately 4,000 children on the waiting list for child care assistance. Many of these children's parents must daily live with the fear that their child care situation is inadequate or that their carefully patched together child care arrangements will fall apart. We can—and we must—do better.

The Federal Government has a crucial responsibility to support and protect society's youngest members. As a nation we must work to empower low-income parents so that they may meet their children's needs by providing access to affordable, quality child care. As a member of the Senate, I have co-sponsored previous legislation to address these pressing issues including the Act for Better Child Care Services which led to the authorization of the Child Care and Development Block Grant, and I have continued to work with my colleagues to ensure that Federal investments in the care and development of young children yield concrete results.

The White House Child Care Conference has provided us with a strong foundation on which to build and expand our Nation's child care programs, and has already begun to yield tangible results. Proposals resulting from the White House conference include the creation of a national child care provider scholarship fund to improve

training, education, and compensation for child care providers, and a National Crime Prevention and Privacy Compact to increase the efficiency and effectiveness of background checks on child care providers. These proposals are useful first steps to bolster Federal child care programs, and to address issues of quality, accessibility, and affordability of reliable child care.

Mr. President, it is imperative to remember that children represent the future of this Nation. Unless we provide those generations to come with the knowledge and skills needed to function successfully in an increasingly complex world, we not only imperil the futures of our children—we imperil the future of our Nation. We must continue to invest in the future of our children by renewing our commitment to quality child care, and I urge my colleagues to join me in this effort. •

#### ROCOGNITION OF BEVERLY CATHCARD

• Mr. BOND. Mr. President, on Tuesday, November 18, 1997, Beverly Cathcard will be honored at the American Royal Event in Kansas City, MO, in recognition of her lifelong devotion to the equine community throughout the State of Missouri.

Beverly's Hidden Valley Stables have been the beginning of several area equestrians who have ridden for enjoyment or for the love of the sport and competition. Her horses have won such prestigious races as the Morgan Grand National Horse Show, the American Royal, UPHA Chapter Five Horse Show and many other local, regional, and national level events. She has been in charge of the children's horse show at the American Royal and has served on the State and local boards of directors for the Missouri Horse Shows Association and the Longview Horse Park Board as well as many others.

Beverly represents the kind of spirit, honor, and integrity that belong in the equestrian community. November 18 will be a great occasion for the American Royal and I join them in paying tribute to Beverly Cathcard. •

#### COACH EDDIE ROBINSON: A TRUE AMERICAN HERO

• Mr. BREAUX. Mr. President, the conclusion of the 1998 football season will mark the end of the most extraordinary and successful coaching career in college football history. Eddie Robinson of Grambling State University, in my home State of Louisiana, will retire as that school's head coach after 56 amazing years in that position. Coach Robinson enters retirement at the pinnacle of his profession, holding the record as the most successful college football coach in history with an impressive 408 victories and only 162 losses to his credit.

Fifty-six years ago, when Coach Robinson came to what was then Louisiana Negro Normal, the school's formative

football program rested entirely on his shoulders. Unlike college coaches of today, who are often awarded large contracts and lucrative television deals, Coach Robinson had to build his program from the ground up—literally. During prep basketball games, the new coach sold hamburgers so that he could afford to rent a bulldozer that could clear a field on which his team could practice and play. Once, he persuaded the members of his team to pick cotton so that a farmer's son, who happened to be the school's top running back, could join the team.

In subsequent years, Coach Robinson built Grambling football into one of the most successful and well-known football programs in the Nation. Today, Coach Robinson and his Grambling Tigers are household names across the country. Throughout the National Football League, the team that Eddie built is known as one of the best proving grounds for the NFL stars of the future. More than 300 of his players have gone on to careers in professional football.

In 1971 alone, 43 former Grambling players were in NFL training camps. Four of his players—Willie Brown, Willie Davis, Charlie Joiner, and Buck Buchanan—are members of the Pro Football Hall of Fame. And another former player, Doug Williams, became the first black quarterback to win a Super Bowl.

Mr. President, these are some of the accomplishments of Coach Robinson's extraordinary career. But they don't tell the whole story of the amazing life of this son of a former sharecropper. That is because it is Coach Robinson's example off the football field that has proved just as inspirational.

As a devoted husband and father and an exemplary citizen, Eddie Robinson symbolizes what is best about our country. As those of us who know him can attest, he is the very embodiment of the values of integrity, dignity, loyalty, humility, dedication, and excellence that most Americans still wish for their children. In a day and time when heroes are few and far between, I suggest that the young people of America look no further than Grambling State University for a true American hero named Eddie Robinson—a hero not only because of his success on the football field, but because of his winning attitude toward life and the extraordinary content of his character.

I know that I speak for every Member of this body when I congratulate Coach Robinson for his many outstanding accomplishments on and off the football field. We wish he and his family every success and happiness in this new and exciting phase of their lives. ●

#### THE "SAVER" BILL

● Mr. GRASSLEY. Mr. President, I ask that a letter from the Society for Human Resource Management in support of the SAVER bill be printed in the RECORD.

The letter follows:

SOCIETY FOR HUMAN  
RESOURCE MANAGEMENT,  
Alexandria, VA, November 6, 1997.

U.S. Senate,  
Washington, DC.

DEAR SENATOR: On behalf of the Society for Human Resource Management, SHRM, I am writing to enthusiastically endorse the Savings Are Vital for Everyone's Retirement (SAVER) Act, which recently passed the U.S. House of Representatives under suspension of the rules. This bipartisan legislation may be considered on the Senate floor very soon. SHRM is the leading voice of the human resource profession, representing the interests of more than 89,000 professional and student members from around the world.

Today most individuals are able to retire in a fashion that meets their needs. On average, workers retire earlier and live longer than in the past. However, a number of trends in the economy and workplace suggest that it will become increasingly difficult for American workers to meet their needs for adequate retirement income. The U.S. population is aging rapidly and the elderly live longer. The retirement of the baby boom generation will impose severe pressure on Social Security, Medicare and Medicaid. It is clear that a coordinated strategy is needed.

That is why this legislation is so critical. This legislation directs the Department of Labor to maintain an ongoing education and outreach program to the public to educate America about the need to save more. The SAVER Act also convenes a National Summit on Retirement Savings to be held by April 15, 1998 and every four years thereafter. The summit would bring together experts from the employee benefits and retirement arena, and give lawmakers access to the research and recommendations of experts so that America can meet the challenges ahead. This bipartisan legislation should be actively supported by all member of the Senate.

Thank you for your consideration of this key legislation. SHRM looks forward to working with the full Senate to see this legislation passed in 1997.

Sincerely,

DEANNA R. GELAK,  
Director, Governmental Affairs. ●

#### RECOGNITION OF REVEREND WALTER J. KEISKER

● Mr. BOND. Mr. President, I stand before you today to recognize a tremendous individual who has exemplified citizenship, character, and service to humanity throughout his life, Reverend Walter J. Keisker.

This special servant of God and man was bestowed an honorary degree of doctor of divinity in 1993 by Concordia Seminary in St. Louis for 70 years of faithful service. In accepting the honor Reverend Keisker stated, "There are others more deserving of the degree, but I am humbly grateful for it." Anyone ever associated with Reverend Keisker will acknowledge the humbleness of this special gentleman, but they will know the unique spirit and tenacity that brought about a rich lifetime of accomplishments. Whether it was the Boy Scouts, Ministerial Alliance, Chamber of Commerce, Historical Society, or one of his many other activities, Reverend Keisker was totally dedicated, an enduring example of serv-

ice, integrity, faithfulness, and love in the best spirit of American citizenship.

On November 12, 1997, the Lutheran Family and Children Services [LFCS] of southeast Missouri will host the Second Annual Walter J. Keisker dinner. I commend LFCS for the foresightedness in choosing Reverend Keisker to lead the LFCS mission. I can think of no better example to inspire others to assist in building family life. ●

#### TRIBUTE TO COMMANDER CARLISLE WILLIS BUZZELL

● Mr. MCCAIN. Mr. President, 100 years ago, Mark Twain wrote, "Let us endeavor so to live that when we come to die even the undertaker will be sorry." Although I cannot speak for the undertaker, I believe I accurately represent all of Carlisle Willis Buzzell's friends, family members, and fellow aviators in saying that this country, and the Navy which serves it proudly, lost an invaluable asset when Carl peacefully passed away last July. Mr. President, I rise today to humbly commemorate a man whom I am proud to have known, in a time and place far removed from the Senate floor from which I speak today.

After a 3-month stint in the Army, Carl wisely joined the U.S. Navy in 1946, first as a petty officer, then as a midshipman at that boat school on the Severn River, better known as the Naval Academy to all who have not had the privilege of climbing Herndon at the end of plebe summer and celebrating June Week before graduation. Carl proceeded on to a distinguished career as a naval aviator, with tours of duty both stateside and in the Mediterranean, Pacific, and Atlantic theaters.

I had the honor of flying with Carl when we were stationed together on the U.S.S. *Forrestal* (CVA-59), a carrier better known for the vicious fire which consumed its flight deck than for the raw heroism of the thousands on board who labored to save the vessel, and themselves, from the flames. As head of the *Forrestal's* Combat Information Center, Carl was likely better positioned to evaluate and respond to the crisis than I, who held the dubious distinction of being the lucky pilot whose A-4E was hit by a Zuni rocket on the flight deck, thereby igniting the inferno.

Carl went on to serve on the staff of the Naval War College, where he helped pioneer the latest in interactive computer technologies at the Center for War Gaming. This capped the Commander's 28-year naval career, following which he managed General Electric's turbojet engine programs and was responsible for maintaining the operational readiness of its engines in support of Navy aircraft.

As indicated by his private-sector work on turbojet engines for F/A-18 and F-14B/D fleet fighter aircraft, Carl's loyalties to the Navy were not diminished by his retirement from the service. Indeed, he reaffirmed his commitment to his aviation roots through

active membership on the boards of the Boston chapters of the Naval Academy Alumni Association, the New England Advisory Committee of Business Executives for National Security, and the Patriots Squadron of the Association of Naval Aviation.

Mr. President, as a Naval Academy graduate and former naval aviator myself, I must concede that my respect for the service and professionalism of my friend Carl may be partially accountable to the parallels between his naval career and my own, although his subsequent decision to enter the private sector perhaps demonstrated more foresight than my own choice to enter politics and make my living at public expense.

But do not take my word as evidence of Carl's exemplary service to his country. The World War II Victory Medal, the National Defense Service Medal, the United Nations Service Medal, the Navy Occupation Service Medal, the Korean Service Medal, the Korean Presidential Unit Citation, and the Vietnam Service Medal, all of which were awarded to Commander Buzzell during his naval career, stand as proof positive of his dedication to the core values that distinguish our servicemembers to the same degree today as when Carl enlisted in 1946, 1 year after victory in a most terrible war had confirmed the resilience of our ideals and the promise of the American Century.

Mr. President, Carl Buzzell lived a life whose end deeply saddens all of us who know of his loyal service to this Nation. May his legacy long stand in testament to the virtues of a life dedicated to honor, country, and family. ●

#### RECOGNITION OF GIRL SCOUT GOLD AWARD RECIPIENTS

● Mr. JOHNSON. Mr. President, I want to take this opportunity today to recognize Hilary A. Holmes of Girl Scout Troop 7756. Hilary is an outstanding young woman who has received the Girl Scout Gold Award from the Nyoda Girl Scout Council in Huron, SD. The Girl Scout Gold Award is the highest achievement award in U.S. Girl Scouting. This award exemplifies her outstanding feats in the areas of leadership, community service, career planning, and personal development.

Hilary is one of just 20,000 Gold Award recipients since the creation of the program in 1980. In order to receive this award, Hilary completed the many Gold Award requirements. She earned three interest project patches: the Career Exploration Pin, the Senior Girl Scout Leadership Award and the Senior Girl Scout Challenge. Also, she created and executed a Girl Scout Gold Award project which included service to area flood victims.

Mr. President, I feel Hilary deserves public recognition for her tremendous service to her community and her country. I offer my congratulations to her for her hard work and effort in reaching this milestone. ●

#### STRAIGHT-A STUDENTS

● Mr. ABRAHAM. Mr. President, I would like to take this opportunity to congratulate 4th grader Dallas Julianna Smolarek, 2d grader Candice Vaughn Smolarek, and kindergartener Brandon Tyler Smolarek for their outstanding academic success in the recent school year. All three students have received straight-A report cards and are on their way to success in school and all their personal endeavors.

We all agree over the importance of a good education, and I am pleased to see such fine young students maintaining a strong desire to perform to the best of their abilities. No doubt a role model for their classmates, Dallas, Candice, and Brandon have assumed academic leadership paralleled by few others. On behalf of the U.S. Senate, congratulations to them and best wishes for their future success. ●

#### RETIREMENT OF PAUL W. JOHNSON AS CHIEF OF THE NATURAL RESOURCES CONSERVATION SERVICE OF THE DEPARTMENT OF AGRICULTURE

● Mr. HARKIN. Mr. President, this week marks the end of Iowa native Paul Johnson's remarkable 4-year tenure as Chief of the Natural Resources Conservation Service at the Department of Agriculture. As a long-time farmer and conservationist, Paul brought to NRCS a bold vision of private lands as a national resource to be managed in harmony with the environment.

During the past 4 years, Paul guided his agency through a major reorganization, from the Soil Conservation Service to the Natural Resources Conservation Service, and has shaped the agency's programs and policies to reflect this new emphasis on the conservation of all natural resources. Paul's leadership has inspired a new commitment to conservation both within USDA and across the country.

Paul's influence was obvious in the development of the landmark conservation title of the 1996 Farm Bill, which included among many important provisions the new Environmental Quality Incentives Program and the Wildlife Habitat Incentives Program. The creation and implementation of these programs under Paul's direction are hallmarks of the energy, creativity, and commitment that he brought to NRCS, and of the legacy he leaves behind.

The agency's eloquent publication, "A Geography of Hope," is a visionary statement of the NRCS mission and testimony to Paul's farm roots and passion for the land. For 23 years on his farm in Decorah, IA, Paul has raised corn, hay, and Christmas trees, and had a dairy herd and sheep.

In our home State Paul is highly regarded as an architect of environmental legislation. As a representative in the Iowa General Assembly from 1984 to 1990, he authored the Iowa

Groundwater Protection Act, the Iowa Resource Enhancement and Protection Program, the Iowa Energy Efficiency Act and the Iowa Integrated Farm Management Program. For his leadership in the State he was named conservation legislator of the year by several organizations in Iowa and was named to the Iowa Conservation Hall of Fame by the Wildlife Society.

Paul holds B.S. and M.S. degrees in forestry from the University of Michigan, where he also pursued doctoral studies in forestry. He taught forestry in Ghana for two years, and has been visiting professor of environmental policy at Luther College. Paul worked for the USDA Forest Service in the Pacific Northwest and also has studied and consulted on forestry, agriculture, environment, and energy issues in Honduras, Costa Rica, Sweden, and the former Soviet Union.

Paul served on the Board of Agriculture of the National Academy of Sciences from 1988 to 1994, where he was involved in major studies in agriculture, forestry, and conservation. He also has served as an assistant commissioner for his local soil conservation district.

Paul brings both a global perspective and a local sensibility to conservation. While I am sorry to see him leave NRCS, I look forward to his return to Iowa, where he will continue to enrich our State. I would like to extend congratulations on a job well done, and wish Paul and his wife Pat the best on their return home. ●

#### TRIBUTE TO SOUTHWEST MISSOURI STATE UNIVERSITY

● Mr. BOND. Mr. President, I stand before you today to pay tribute to a truly outstanding university in my home State of Missouri, Southwest Missouri State University [SMSU]. SMSU was one of 135 schools in 42 States selected to the John Templeton Foundation Honor Roll, a designation recognizing colleges and universities that emphasize character building as an integral part of the college experience.

Being the only public institution in Missouri to earn the 1997-98 honor roll distinction, SMSU is also one of the eight State-funded schools to receive the award nationwide. Schools competing for the honor roll were judged on 5 criteria and out of 2,208 4-year accredited undergraduate institutions only the top few were chosen. One of the categories where SMSU stood out was in community service. During the 1996-97 school year the SMSU campus, including the faculty and students, volunteered more than 69,500 hours.

It is an honor for the entire State of Missouri to have a university like SMSU, whose service and character-building programs have earned it this distinguished award. I commend SMSU's President, Dr. John Keiser, for his commitment to excellence and hope for continued success in the future. ●

# CENTENNIAL CELEBRATION OF THE CHESTER-WALLINGFORD CHAPTER OF THE AMERICAN RED CROSS

• Mr. SANTORUM. Mr. President, I rise today to recognize the Chester-Wallingford chapter of the American Red Cross. The third oldest Red Cross chapter in the United States, this organization will, in 1998, celebrate 100 years of continuous service to the community.

With 400 volunteers and 4 staff members, the Chester-Wallingford Chapter carries out the Red Cross's mission of "providing relief to victims of disasters and helping people prevent, prepare for, and respond to emergencies." Following disasters, the Red Cross supplies victims with groceries, clothing, temporary housing, transportation, and medicine. Blood drives are another important initiative. Every 2 seconds, somebody needs a blood transfusion. The Chester-Wallingford chapter proudly helps satisfy this need by providing thousands of gallons of blood to area hospitals. As members of our Nation's Armed Forces serve overseas, the Red Cross facilitates communication between the soldiers and their families. Other public services provided by this organization include first aid, CPR, and swimming lessons.

The Chester-Wallingford chapter has helped soldiers and veterans of WWI, WWII, Korea, Vietnam, and Desert Storm in times of need. The Red Cross has provided financial assistance to servicemen and servicewomen for emergency travel, health needs, and in some cases, burial assistance. Likewise, dedicated workers and volunteers have helped many veterans settle benefit claims. Finally, the Chester-Wallingford chapter has provided numerous supportive services to patients in VA hospitals.

Mr. President, I commend the Chester-Wallingford chapter of the American Red Cross for its commitment to the people of southeastern Pennsylvania. I ask my colleagues to join me in extending the Senate's best wishes for continued success to the staff and volunteers as they prepare to celebrate the chapter's centennial.●

## CAPITAL AREA TRANSPORTATION AUTHORITY GALA

• Mr. ABRAHAM. Mr. President, today, I rise to commemorate the people of the Capital Area Transportation Authority [CATA] on the opening of the new CATA Transportation Center in Lansing, MI. Such an undertaking is the result many individuals in the community having dedicated a great portion of their time and talent toward seeing this idea become a reality. I, along with the citizens of Lansing and the surrounding communities, join in thanks for the work of CATA in offering such a tremendous public transportation service and for the ensuing impact on the quality of life for citizens in the surrounding areas.

I would like to take this opportunity to thank my Senate colleagues for their support of my request for earmarked funding for the CATA Transportation Center. In 1996, our request for \$3 million in funding was granted and, in the following year, another earmark for \$1.2 million also became a reality.

Mr. President, on behalf of the U.S. Senate, allow me to give a heartfelt thanks to those at CATA for their hard work and dedication toward making the great State of Michigan even greater.●

## RECOGNIZING STONE AND THOMAS AS AN OUTSTANDING BUSINESS

• Mr. ROCKEFELLER. Mr. President, I rise today in order to recognize Stone & Thomas, an outstanding business, for its continuous service to its customers and to the State of West Virginia. Stone & Thomas has been known for its commitment to customer service since 1847. That is 16 years longer than West Virginia has been a State.

This year, Stone & Thomas celebrated 150 years in business, and its longevity is a testament to the quality of service and merchandise which they are committed to.

Mr. President, since its founding in 1847 by Jacob Thomas and Elijah Stone, this remarkable business has been owned and operated by five generations of the same family. Currently, Stone & Thomas is run by W.S. Jones, the president, chief executive officer and the great-great-grandson of Elijah Stone. Mr. Jones, like the four generations before him, has continued the creed of outstanding service which Mr. Stone and Mr. Thomas pledged themselves to. Furthermore, Mr. Jones, like those before him, has continued to improve and expand upon an already exceptional business.

All told, Stone & Thomas has employed, and continues to employ, thousands of citizens of West Virginia. They are presently responsible for over 1,500 jobs in my State, as well as several hundred jobs in Ohio, Kentucky, and Virginia. And just this week, Mr. President, they celebrated the opening of another customer-friendly store in Charleston, WV, which is expected to bring work to 70 more West Virginians.

Mr. President, Stone & Thomas has accomplished so much during its 150 years in business. Because of its diligent efforts to satisfy the customer it has grown to become West Virginia's largest independent retailer, as well as one of the top 100 in the Nation.

Because of their outstanding commitment to customer service; because of their longstanding record as a fair, honest, and friendly business; and because of their superior contributions to the economies of West Virginia and three other States, I pay special tribute to Stone & Thomas.●

## TRIBUTE TO MISSOURI TASK FORCE ONE

• Mr. BOND. Mr. President, I rise to congratulate the members of Missouri Task Force One, which this year achieved Federal designation as an FEMA Urban Search and Rescue Task Force, and in October received the Memorandum of Understanding that places them in deployable status.

What a great team. They don't call Missouri the "Show Me" State for nothing. Missouri Task Force One began as 1 of more than 150 applicants. They coordinated, cajoled, planned, "recruited"—a euphemism for the arm-twisting for which they've become famous—begged, borrowed, purchased, trained, and triumphed. What was only a dream 5 years ago became a reality this year.

This team, its members and equipment underwent a rigorous evaluation including a full-blown, onsite inspection from technical experts in search and rescue. They scored the highest in the Nation, and clobbered the competition. I know this may be a sore subject with some of my colleagues in the Senate, but the numbers do not lie.

Missouri Task Force One was head and shoulders above the next-highest applicant for new teams and scored ahead of already-designated teams as well. This is one of the most exciting, dedicated groups of volunteers I have ever seen. They earned this designation in every category evaluated, from the quality of the team members to their excellent equipment.

The country won when Missouri Task Force One achieved their designation. Some of us have learned the very hard way that disasters can happen any time, anywhere. I rest easier knowing that the Midwest now has access to the Federal search and rescue teams once concentrated on the east and west coasts. I am honored to have the privilege of getting to know some of the members of Missouri Task Force One, who take the time from their "day jobs" and their families to train, take risks, pack, unpack, and train some more; for a nightmare we all hope will never happen but for which we must be prepared.●

## TROY COMMUNITY COALITION

• Mr. ABRAHAM. Mr. President, today I rise to pay tribute and express my heartfelt thanks to those who have made the Troy Community Coalition for the Prevention of Drug and Alcohol Abuse such a successful program. The hard work and dedication of the coalition's staff and volunteers was recently recognized by the Community Anti-Drug Coalitions of America "Best Coalition" designation. This award recognizes drug abuse prevention organizations which have strong programs, substantive results, and community support.

The Troy Community Coalition is a non-profit organization dedicated to

improving the quality of life for all who live or work in Troy. This goal has been successfully met through the countless ways in which they have en-

couraged individuals to lead lives free from the abuse of alcohol and drugs. Mr. President, on behalf of the U.S. Senate, I would like to thank the Troy

Community Coalition for the hard work and effort they have put into making the great State of Michigan even greater. ●

### FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

#### CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1997

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
David W. Carle:									
United States .....	Dollar .....				986.35				986.35
Norway .....	Kroner .....	4,867	647.00					4,867	647.00
Total .....			647.00		986.35				1,633.35

RICHARD G. LUGAR,  
Chairman, Committee on Agriculture, Nutrition, and Forestry, Oct. 21, 1997.

#### CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM APR. 1 TO JUNE 30, 1997

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Jeff Bingaman:									
Russia .....	Dollar .....		2,100.00						2,100.00
United States .....	Dollar .....				5,803.35				5,803.35
Madelyn Crendon:									
Russia .....	Dollar .....		2,100.00						2,100.00
United States .....	Dollar .....				5,803.35				5,803.35
Robert Simon:									
Russia .....	Dollar .....		2,100.00						2,100.00
United States .....	Dollar .....				5,803.35				5,803.35
Gary Glass:									
Russia .....	Dollar .....		2,100.00						2,100.00
United States .....	Dollar .....				5,803.35				5,803.35
Patrick Von Bargen:									
Russia .....	Dollar .....		2,100.00						2,100.00
United States .....	Dollar .....				3,647.05				3,647.05
Senator Carl Levin:									
Turkey .....	Dollar .....		125.00						125.00
Greece .....	Dollar .....		106.54						106.54
Senator Carl Levin:									
Bosnia .....	Dollar .....		200.00						200.00
Richard D. DeBobes:									
Switzerland .....	Dollar .....		218.00						218.00
United States .....	Dollar .....				17.80				17.80
Turkey .....	Dollar .....		125.00						125.00
Greece .....	Dollar .....		106.71						106.71
Bosnia .....	Dollar .....		200.00						200.00
Total .....			11,581.25		26,878.25				38,459.50

STROM THURMOND,  
Chairman, Committee on Armed Services, Oct. 30, 1997.

#### CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1997

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Martin McBroom:									
Germany .....	Dollar .....		1,534.00						1,534.00
United States .....	Dollar .....				1,123.25				1,123.25
Senator Strom Thurmond:									
China .....	Dollar .....		753.00						753.00
Hong Kong .....	Dollar .....		788.00						788.00
Robert J. Short:									
China .....	Dollar .....		753.00						753.00
Hong Kong .....	Dollar .....		788.00						788.00
Richard Quick:									
China .....	Dollar .....		753.00						753.00
Hong Kong .....	Dollar .....		788.00						788.00
Lawrence Mohr, Jr.:									
China .....	Dollar .....		753.00						753.00
Hong Kong .....	Dollar .....		788.00						788.00
John DeCrosa:									
China .....	Dollar .....		753.00						753.00
Hong Kong .....	Dollar .....		788.00						788.00
John Miller:									
China .....	Dollar .....		753.00						753.00
Hong Kong .....	Dollar .....		788.00						788.00
Melinda Koutsoumpas:									
China .....	Dollar .....		753.00						753.00
Hong Kong .....	Dollar .....		788.00						788.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1997—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
John Gastright:									
China .....	Dollar .....		753.00						753.00
Hong Kong .....	Dollar .....		788.00						788.00
Jason Rossbach:									
China .....	Dollar .....		753.00						753.00
Hong Kong .....	Dollar .....		788.00						788.00
Jennifer Shaw:									
China .....	Dollar .....		753.00						753.00
Hong Kong .....	Dollar .....		788.00						788.00
Senator John McCain:									
United States .....	Dollar .....				4,423.10				4,423.10
Turkey .....	Dollar .....		128.00						128.00
Senator John McCain:									
Georgia .....	Dollar .....		179.00						179.00
Azerbaijan .....	Dollar .....		273.00						273.00
Turkmenistan .....	Dollar .....		50.00						50.00
Uzbekistan .....	Dollar .....		315.00						315.00
Kyrgyzstan .....	Dollar .....		98.00						98.00
Kazakstan .....	Dollar .....		181.00						181.00
Mongolia .....	Dollar .....		200.00						200.00
China .....	Dollar .....		397.00						397.00
Total .....			18,765.00		5,546.35				24,311.35

STROM THURMOND,  
Chairman, Committee on Armed Services, Oct. 30, 1997.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1997

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Robert C. Cresanti:									
Hong Kong .....	Dollar .....	4,750.00	613.54					4,750.00	613.54
United States .....	Dollar .....				4,046.45				4,046.45
Patrick A. Mulloy:									
Hong Kong .....	Dollar .....	5,700.00	736.24					5,700.00	736.24
United States .....	Dollar .....				2,240.35				2,240.45
Total .....			1,349.78		6,286.90				7,636.68

ALFONSE D'AMATO,  
Chairman, Committee on Banking, Housing, and Urban Affairs,  
Oct. 21, 1997.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON THE BUDGET FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1997

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Alice Grant:									
Hong Kong .....	Dollar .....	29,429.00	3,822.00					29,429.00	3,822.00
United States .....	Dollar .....				1,128.45				1,128.45
Jon Rosenwasser:									
Hong Kong .....	Dollar .....	29,429.00	3,822.00					29,429.00	3,822.00
United States .....	Dollar .....				1,128.45				1,128.45
Total .....			7,644.00		2,256.90				9,900.90

PETE V. DOMENICI,  
Chairman, Committee on the Budget, Oct. 24, 1997.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES FOR TRAVEL FROM JULY 1 TO SEPT 30, 1997

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
David Garman:									
Germany .....	Mark .....	2,380.17	1,300.00					2,380.17	1,300.00
United States .....	Dollar .....		1,001.25						1,001.25
Total .....			2,301.25						2,301.25

FRANK H. MURKOWSKI,  
Chairman, Committee on Energy and Natural Resources, Oct. 10, 1997.



November 7, 1997

## CONGRESSIONAL RECORD—SENATE

S12045

## CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1996

Name and country	Name of currency	Per diem <sup>1</sup>		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>
Amy Dunathan:									
United States .....	Dollar .....		28.15		2,096.95				2,125.10
Singapore .....	Dollar .....	2,070.89	1,478.15	49.00	34.96			2,119.89	1,513.11
Jeremy Preiss:									
United States .....	Dollar .....		23.68		2,086.95				2,110.63
Singapore .....	Dollar .....	2,035.44	1,452.85	15.00	10.70			2,050.44	1,463.55
James Jochum:									
United States .....	Dollar .....		2.04		709.00				711.04
Singapore .....	Dollar .....	1,280.39	913.91	32.50	23.20			1,312.89	937.11
Erik Autor:									
United States .....	Dollar .....				3,429.35				3,429.35
Singapore .....	Dollar .....	1,886.04	1,346.21	40.70	29.05			1,926.74	1,375.26
Linda Menghetti:									
United States .....	Dollar .....		103.06		2,728.95				2,832.01
Singapore .....	Dollar .....	1,499.87	1,070.57	25.40	18.13			1,525.27	1,088.70
China .....	Yuan .....	12,026.32	1,450.70	140.00	16.89	50.00	6.03	12,216.32	1,473.62
Deborah Lamb:									
United States .....	Dollar .....		75.69		2,710.95				2,786.64
Singapore .....	Dollar .....	1,391.27	993.05	50.40	35.97			1,441.67	1,029.02
China .....	Yuan .....	10,793.44	1,310.98	140.00	16.89			10,933.44	1,327.87
Daniel Bob:									
United States .....	Dollar .....		103.65		2,860.85				2,964.50
Indonesia .....	Rupiah .....	1,238,600	533.19	25,000	10.76			1,263,600	543.95
Malaysia .....	Ringgit .....	625.10	247.56	10.00	3.96			635.10	251.52
Philippines .....	Peso .....	12,596.17	479.56	30.00	1.14			12,626.17	480.70
Senator Charles E. Grassley:									
Hong Kong .....	Dollar .....	2,869.67	394.00					2,869.67	394.00
Singapore .....	Dollar .....	1,147.41	819.00					1,147.41	819.00
China .....	Yuan .....	6,242.37	753.00					6,242.37	753.00
United States .....	Dollar .....				1,048.95				1,048.95
Total .....	Dollar .....		13,579.00		17,873.60		6.03		31,458.63

<sup>1</sup> Per diem constitutes lodging and meals.<sup>2</sup> If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.WILLIAM V. ROTH, JR.  
Chairman, Committee on Finance, Nov. 6, 1997.

## CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1997

Name and country	Name of currency	Per diem <sup>1</sup>		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>
Daniel Bob:									
Canada .....	Dollar .....	1,293.75	958.33	15.00	11.11			1,308.75	969.44
United States .....	Dollar .....				666.00				666.00
Senator William V. Roth, Jr.:									
Canada .....	Dollar .....	361.18	267.54	10.00	7.41			371.18	274.95
United States .....	Dollar .....				1,062.70				1,062.70
Daniel Bob:									
Japan .....	Yen .....	201,473	1,627.54					201,473	1,627.54
United States .....	Dollar .....				2,916.95				2,916.95
Senator William V. Roth, Jr.:									
Japan .....	Yen .....	78,713	635.86					78,713	635.86
United States .....	Dollar .....				47.10				47.10
Senator John D. Rockefeller:									
Taiwan .....	Dollar .....	22,842	846.00					22,842	846.00
Japan .....	Yen .....	188,945	1,643.00					188,945	1,643.00
United States .....	Dollar .....				7,139.95				7,139.95
R. Lane Bailey:									
Taiwan .....	Dollar .....	22,842	846.00					22,842	846.00
Japan .....	Yen .....	188,945	1,643.00					188,945	1,643.00
United States .....	Dollar .....				4,040.95				4,040.95
Total .....			8,467.27		15,892.17				24,359.44

<sup>1</sup> Per diem constitutes lodging and meals.<sup>2</sup> If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.WILLIAM V. ROTH, JR.  
Chairman, Committee on Finance, Nov. 6, 1997.

## CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1997

Name and country	Name of currency	Per diem <sup>1</sup>		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>
Daniel Bob:									
United States .....	Dollar .....		49.76		1,191.95				1,241.71
Hong Kong .....	Dollar .....	3,211.60	414.72	270	34.87			3,481.60	449.59
Daniel Bob:									
United States .....	Dollar .....		12.97		1,094.45				1,107.42
Korea .....	Won .....	449,095	496.79	9,000	9.96			458,095	506.75
Total .....			974.24		2,331.23				3,305.47

WILLIAM V. ROTH, JR.,  
Chairman, Committee on Finance, Nov. 6, 1997.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1997

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Joseph Biden:									
United States	Dollar				1,473.00				1,473.00
Germany	Mark		395.51						395.51
United States	Dollar				1,398.50				1,398.50
Marshall Billingslea:									
Norway	Dollar		1,458.00						1,458.00
United States	Dollar				990.25				990.25
Ellen Bork:									
Japan	Yen	140,000	1,209.00					140,000	1,209.00
South Korea	Won	1,038,090	1,156.00					1,038,090	1,156.00
China	Yuan	12,000	1,450.00					12,000	1,450.00
United States	Dollar				4,705.35				4,705.35
Peter Cleveland:									
Georgia	Dollar		133.33						133.33
Armenia	Dollar		133.33						133.33
Azerbaijan	Dollar		133.33						133.33
Turkmenistan	Dollar		133.33						133.33
Tajikistan	Dollar		133.33						133.33
Uzbekistan	Dollar		133.33						133.33
Kyrgyzstan	Dollar		133.33						133.33
Kazakhstan	Dollar		133.33						133.33
Ukraine	Dollar		133.33						133.33
United States	Dollar				3,372.25				3,372.25
Michael Haltzel:									
Bosnia	Dollar		695.00						695.00
United States	Dollar				2,811.06				2,811.06
Frank Januzzi:									
Japan	Yen	140,000	1,209.00					140,000	1,209.00
South Korea	Won	1,030,000	1,148.00					1,030,000	1,148.00
China	Yuan	12,000	1,450.00					12,000	1,450.00
United States	Dollar				5,266.15				5,266.15
Edward Levine:									
China	Yuan		953.00						953.00
United States	Dollar				4,364.00				4,364.00
Christopher Madison:									
Bosnia	Dollar		580.00						580.00
United States	Dollar				1,168.30				1,168.30
Patti Mc Nerney:									
Germany	Mark	2,084.37	1,138.44					2,084.37	1,138.44
United States	Dollar				3,560.25				3,560.25
Michael Miller:									
Ghana	Cedi	970,200	666.00					970,200	666.00
Ivory Coast	Dollar		162.00						162.00
Senegal	Dollar		984.00						984.00
Mali	Dollar		672.00				700.00		1,372.00
Uganda	Dollar		906.75						906.75
United States	Dollar				5,683.25				5,683.25
Ken Peel:									
Germany	Mark	2,854.37	1,559.00					2,854.37	1,559.00
United States	Dollar				2,649.00				2,649.00
Senator Chuck Robb:									
Georgia	Dollar		133.33						133.33
Armenia	Dollar		133.33						133.33
Azerbaijan	Dollar		133.33						133.33
Turkmenistan	Dollar		133.33						133.33
Tajikistan	Dollar		133.33						133.33
Uzbekistan	Dollar		133.33						133.33
Kyrgyzstan	Dollar		133.33						133.33
Kazakhstan	Dollar		133.33						133.33
Ukraine	Dollar		133.33						133.33
United States	Dollar				3,372.25				3,372.25
Linda Rotblatt:									
Ghana	Cedi	485	666.00					485	666.00
Ivory Coast	Dollar		424.00						424.00
Senegal	Dollar		484.00						484.00
Mali	Franc	2,688	672.00				700.00		1,372.00
United States	Dollar				5,683.25				5,683.25
Dan Shapiro:									
China	Dollar		350.00						350.00
United States	Dollar				4,309.45				4,309.45
Chris Walker:									
China	Cedi	970,200	666.00					970,200	666.00
Ivory Coast	Dollar		162.00						162.00
Senegal	Dollar		984.00						984.00
Mali	Dollar		672.00				700.00		1,372.00
Chris Walker:									
United States	Dollar				4,923.00				4,923.00
Michael Westphal:									
Ghana	Cedi	970,200	666.00					970,200	666.00
Ivory Coast	Dollar		162.00						162.00
Senegal	Dollar		984.00						984.00
Mali	Dollar		672.00				700.00		1,372.00
Uganda	Dollar		906.75						906.75
United States	Dollar				5,683.25				5,683.25
Total			28,662.39		61,412.56		2,800.00		92,874.95

JESSE HELMS,  
Chairman, Committee on Foreign Relations, Oct. 31, 1997.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON VETERANS' AFFAIRS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1997

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Kim Hamlett:									
England	Pound	1,264.8	2,010.00		650.33			1,264.8	2,660.33
Terence Lynch:									
Czech Republic	Dollar		802.00						802.00

November 7, 1997

## CONGRESSIONAL RECORD—SENATE

S12047

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER  
AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON VETERANS' AFFAIRS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1997—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
France .....	Franc .....	6,776.0	1,120.00	1,330	221.67			8,106.0	1,341.67
England .....	Pound .....	843.2	1,340.00					843.2	1,340.00
United States .....	Dollar .....				2,257.95				2,257.95
Total .....			5,272.00		3,129.95				8,401.95

ARLEN SPECTER,  
Chairman, Committee on Veterans' Affairs, Oct. 17, 1997.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER  
AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1997

Name and country	Name of currency	Per diem <sup>1</sup>		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>	Foreign currency	U.S. dollar equivalent or U.S. currency <sup>2</sup>
Don Mitchell .....			1,854.25		4,631.45				6,485.70
Alfred Cumming .....			2,816.25		4,631.45				7,447.70
Don Stone .....			1,917.00		6,617.95				8,534.95
Randy Schieber .....			2,057.00		6,617.95				8,674.95
Peter Flory .....			3,693.66		5,227.45				8,921.11
Emily Francona .....			2,408.00		5,757.45				8,165.75
George K. Johnson .....			1,232.00		4,828.65				6,060.65
Senator Pat Roberts .....			192.00						192.00
Peter Dorn .....			1,800.00		3,173.65				4,973.65
Alan McCurry .....			1,800.00		3,717.65				5,517.65
Andrew Johnson .....			642.24		3,717.65				4,359.89
Melvin Dubee .....			1,838.00		4,806.55				6,644.55
Ken Myers .....			2,715.50		3,639.55				6,355.05
Senator Richard Lugar .....			1,995.50		3,639.55				5,635.05
Taylor Lawrence .....			2,100.00		1,935.55				4,035.55
Senator Richard Shelby .....			2,100.00		1,935.55		306.72		4,342.27
Peter Dorn .....			1,302.00						1,302.00
Taylor Lawrence .....			4,490.66		4,888.88				9,379.54
Senator Richard Shelby .....			3,037.48		3,734.15				6,771.63
Kathleen Casey .....			4,490.66		5,667.88				10,158.54
Senator J. Robert Kerrey .....			816.00		5,529.75		513.10		6,858.85
Christopher Straub .....			674.00		4,698.05				5,372.05
Arthur Grant .....			964.00		4,698.05				5,662.05
Patrick Hanback .....			1,972.25		4,631.45				6,603.70
Joan Grimson .....			1,815.00		4,861.25				6,676.25
Total .....			50,723.45		103,587.81		819.82		155,131.08

<sup>1</sup> Per diem constitutes lodging and meals.<sup>2</sup> If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Richard C. Shelby,  
Chairman, Select Committee on Intelligence, Oct. 31, 1997.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER  
AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1997

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Robert Hand:									
United States .....	Dollar .....				2,326.65				2,326.65
Albania .....	Dollar .....		479.00		48.00				527.00
Switzerland .....	Dollar .....		227.00						227.00
United States .....	Dollar .....				930.45				930.45
Austria .....	Dollar .....		368.00						368.00
Croatia .....	Dollar .....		76.00						76.00
Bosnia-Herzegovina .....	Dollar .....		1,661.00						1,661.00
Croatia .....	Dollar .....		76.00						76.00
Janice Helwig:									
Austria .....	Dollar .....				585.00				585.00
Albania .....	Dollar .....		1,292.00						1,292.00
Austria .....	Dollar .....		13,447.00						13,447.00
Croatia .....	Dollar .....		76.00						76.00
Bosnia-Herzegovina .....	Dollar .....		1,511.00						1,511.00
Croatia .....	Dollar .....		76.00						76.00
Christopher Smith:									
United States .....	Dollar .....				4,273.95				4,273.95
United Kingdom .....	Dollar .....		974.45		125.70				1,100.15
Total .....			20,263.45		8,289.75				28,553.20

ALFONSE D'AMATO,  
Chairman, Commission on Security and Cooperation in Europe,  
Sept. 25, 1997.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER  
AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY AND DEMOCRATIC LEADERS FROM JUNE 27 TO JULY 2, 1997

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Frank Murkowski:									
Hong Kong .....	Dollar .....	21,582.53	2,787.00					21,582.53	2,787.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY AND DEMOCRATIC LEADERS FROM JUNE 27 TO JULY 2, 1997—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Charles Robb:									
Hong Kong .....	Dollar .....	22,777.25	2,939.00	.....	.....	.....	.....	22,777.25	2,939.00
Senator Dianne Feinstein:									
Hong Kong .....	Dollar .....	22,777.25	2,939.00	.....	.....	.....	.....	22,777.25	2,939.00
Senator Craig Thomas:									
Hong Kong .....	Dollar .....	22,777.25	2,939.00	.....	.....	.....	.....	22,777.25	2,939.00
Deanna Tanner Okun:									
Hong Kong .....	Dollar .....	20,948.25	2,703.00	.....	.....	.....	.....	20,948.25	2,703.00
Peter Cleveland:									
Hong Kong .....	Dollar .....	20,948.25	2,703.00	.....	.....	.....	.....	20,948.25	2,703.00
Dan Brindle:									
Hong Kong .....	Dollar .....	20,948.25	2,703.00	.....	.....	.....	.....	20,948.25	2,703.00
Julia Hart:									
Hong Kong .....	Dollar .....	20,948.25	2,703.00	.....	.....	.....	.....	20,948.25	2,703.00
Delegation expenses: <sup>1</sup>									
Hong Kong .....	.....	.....	.....	.....	.....	17,590.05	.....	.....	17,590.05
Total .....	.....	.....	22,416.00	.....	.....	17,590.05	.....	.....	40,006.05

<sup>1</sup> Expenses include direct payments and reimbursements to the Department of State and the Department of Defense under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95-384, and Senate Resolution 179, agreed to May 25, 1977.

TRENT LOTT, Majority Leader,  
TOM DASCHLE, Democratic Leader,  
Oct. 29, 1997.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b) FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER FROM APR. 1 TO JUNE 30, 1997

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Dot Svendsen:									
France .....	Franc .....	5,190.70	952.99	.....	.....	.....	.....	5,190.70	952.99
Total .....	.....	.....	952.99	.....	.....	.....	.....	.....	952.99

TRENT LOTT,  
Majority Leader, Oct. 2, 1997.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER FROM JUNE 28 TO JULY 5, 1997

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Trent Lott:									
Scotland .....	Pound .....	1,229.12	736.00	.....	.....	.....	.....	1,229.12	736.00
England .....	Pound .....	601.20	360.00	.....	.....	.....	.....	601.20	360.00
Belgium .....	Franc .....	7,488	208.00	.....	.....	.....	.....	7,488	208.00
Hungary .....	Forint .....	91,647	497.00	.....	.....	.....	.....	91,647	497.00
Senator Ernest F. Hollings:									
Scotland .....	Pound .....	1,229.12	736.00	.....	.....	.....	.....	1,229.12	736.00
England .....	Pound .....	601.20	360.00	.....	.....	.....	.....	601.20	360.00
Belgium .....	Franc .....	10,177	283.00	.....	.....	.....	.....	10,177	283.00
Hungary .....	Forint .....	80,100	445.00	.....	.....	.....	.....	80,100	445.00
Senator Dan Coats:									
Scotland .....	Pound .....	1,229.12	736.00	.....	.....	.....	.....	1,229.12	736.00
England .....	Pound .....	601.20	360.00	.....	.....	.....	.....	601.20	360.00
Senator Joseph I. Lieberman:									
Scotland .....	Pound .....	1,229.12	736.00	.....	.....	.....	.....	1,229.12	736.00
England .....	Pound .....	601.20	360.00	.....	.....	.....	.....	601.20	360.00
Belgium .....	Franc .....	8,388	233.00	.....	.....	.....	.....	8,388	233.00
Hungary .....	Forint .....	124,380	691.00	.....	.....	.....	.....	124,380	691.00
United States .....	Dollar .....	.....	.....	.....	1,895.95	.....	.....	.....	1,895.95
Senator Mike DeWine:									
Scotland .....	Pound .....	1,229.12	736.00	.....	.....	.....	.....	1,229.12	736.00
England .....	Pound .....	601.20	360.00	.....	.....	.....	.....	601.20	360.00
Belgium .....	Franc .....	6624	184.00	.....	.....	.....	.....	6624	184.00
Hungary .....	Forint .....	81,540	453.13	.....	.....	.....	.....	81,540	453.13
Senator Bill Frist:									
Scotland .....	Pound .....	544.48	332.00	.....	.....	.....	.....	544.48	332.00
England .....	Pound .....	541.20	330.00	.....	.....	.....	.....	541.20	330.00
Belgium .....	Franc .....	9,540	265.00	.....	.....	.....	.....	9,540	265.00
Hungary .....	Forint .....	84,360	456.00	.....	.....	.....	.....	84,360	456.00
United States .....	Dollar .....	.....	.....	.....	2,493.00	.....	.....	.....	2,493.00
Senator Chuck Hagel:									
Scotland .....	Pound .....	534.64	326.00	.....	.....	.....	.....	534.64	326.00
England .....	Pound .....	601.20	360.00	.....	.....	.....	.....	601.20	360.00
Belgium .....	Franc .....	9,000	250.00	.....	.....	.....	.....	9,000	250.00
Hungary .....	Forint .....	91,647	497.00	.....	.....	.....	.....	91,647	497.00
United States .....	Dollar .....	.....	.....	.....	2,911.00	.....	.....	.....	2,911.00
Gary Sisco:									
Scotland .....	Pound .....	1,229.12	736.00	.....	.....	.....	.....	1,229.00	736.00
England .....	Pound .....	601.20	360.00	.....	.....	.....	.....	601.20	360.00
Belgium .....	Franc .....	8,316	231.00	.....	.....	.....	.....	8,316	231.00
Hungary .....	Forint .....	91,647	497.00	.....	.....	.....	.....	91,647	497.00
Lloyd J. Ogilvie:									
Scotland .....	Pound .....	1,229.12	736.00	.....	.....	.....	.....	1,229.12	736.00
England .....	Pound .....	601.20	360.00	.....	.....	.....	.....	601.20	360.00
Belgium .....	Franc .....	7,164	199.00	.....	.....	.....	.....	7,164	199.00
Hungary .....	Forint .....	91,647	497.00	.....	.....	.....	.....	91,647	497.00
Steve Benza:									
Scotland .....	Pound .....	1,229.12	736.00	.....	.....	.....	.....	1,229.12	736.00
England .....	Pound .....	601.20	360.00	.....	.....	.....	.....	601.20	360.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER FROM JUNE 28 TO JULY 5, 1997—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Belgium .....	Franc .....	8,388	233.00	.....	.....	.....	.....	8,388	233.00
Hungary .....	Forint .....	78,660	437.00	.....	.....	.....	.....	78,660	437.00
Susan Irby:									
Scotland .....	Pound .....	1,195.72	716.00	.....	.....	.....	.....	1,195.72	716.00
England .....	Pound .....	601.20	360.00	.....	.....	.....	.....	601.20	360.00
Belgium .....	Franc .....	8,748	243.00	.....	.....	.....	.....	8,748	243.00
Hungary .....	Forint .....	77,760	432.00	.....	.....	.....	.....	77,760	432.00
Sam B. King III:									
Scotland .....	Pound .....	1,212.42	726.00	.....	.....	.....	.....	1,212.42	726.00
England .....	Pound .....	576.15	345.00	.....	.....	.....	.....	576.15	345.00
Belgium .....	Franc .....	8,748	243.00	.....	.....	.....	.....	8,748	243.00
Hungary .....	Forint .....	86,580	481.00	.....	.....	.....	.....	86,580	481.00
Randy Scheunemann:									
Scotland .....	Pound .....	1,229.12	736.00	.....	.....	.....	.....	1,229.12	736.00
England .....	Pound .....	601.20	360.00	.....	.....	.....	.....	601.20	360.00
Belgium .....	Franc .....	8,748	243.00	.....	.....	.....	.....	8,748	243.00
Hungary .....	Forint .....	76,860	427.00	.....	.....	.....	.....	76,860	427.00
Sally Walsh:									
Scotland .....	Pound .....	1,229.12	736.00	.....	.....	.....	.....	1,229.12	736.00
England .....	Pound .....	5,678	340.00	.....	.....	.....	.....	5,678	340.00
Belgium .....	Franc .....	8,388	233.00	.....	.....	.....	.....	8,388	233.00
Hungary .....	Forint .....	80,460	447.00	.....	.....	.....	.....	80,460	447.00
Eric Womble:									
Scotland .....	Pound .....	1,229.12	736.00	.....	.....	.....	.....	1,229.12	736.00
England .....	Pound .....	601.20	360.00	.....	.....	.....	.....	601.20	360.00
Belgium .....	Franc .....	10,177	283.00	.....	.....	.....	.....	10,177	283.00
Hungary .....	Forint .....	77,580	431.00	.....	.....	.....	.....	77,580	431.00
Delegation expenses: <sup>1</sup>									
Scotland .....	.....	.....	.....	.....	.....	12,015.52	.....	.....	12,015.52
England .....	.....	.....	.....	.....	.....	12,517.46	.....	.....	12,517.46
Belgium .....	.....	.....	.....	.....	.....	4,936.95	.....	.....	4,936.95
Hungary .....	.....	.....	.....	.....	.....	7,358.31	.....	.....	7,358.31
Bosnia-Herzegovina .....	.....	.....	.....	.....	.....	3,144.62	.....	.....	3,144.62
Total .....	.....	25,550.13	.....	7,299.95	.....	39,972.86	.....	.....	72,822.94

<sup>1</sup> Delegation expenses include direct payments and reimbursements to the Department of State and the Department of Defense under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95-384, and Senate Resolution 179, agreed to May 25, 1977.

TRENT LOTT,  
Majority Leader, Oct. 15, 1997.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER FROM JULY 1 TO SEPT. 30, 1997

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Robert C. Smith:									
Russia .....	Dollar .....	.....	909.00	.....	.....	.....	.....	.....	909.00
Poland .....	Dollar .....	.....	88.00	.....	.....	.....	.....	.....	88.00
Czech Republic .....	Dollar .....	.....	464.00	.....	.....	.....	.....	.....	464.00
Dino L. Carluccio:									
Russia .....	Dollar .....	.....	927.00	.....	.....	.....	.....	.....	927.00
Poland .....	Dollar .....	.....	183.50	.....	.....	.....	.....	.....	183.50
Czech Republic .....	Dollar .....	.....	464.00	.....	.....	.....	.....	.....	464.00
Senator Tim Hutchinson:									
Poland .....	Zloty .....	1,476.48	455.00	.....	.....	.....	.....	1,476.48	455.00
Randy Scheunemann:									
Turkey .....	Dollar .....	.....	812.00	.....	.....	.....	.....	.....	812.00
Georgia .....	Dollar .....	.....	338.00	.....	.....	.....	.....	.....	338.00
Azerbaijan .....	Dollar .....	.....	324.00	.....	.....	.....	.....	.....	324.00
Turkmenistan .....	Dollar .....	.....	241.00	.....	.....	.....	.....	.....	241.00
Uzbekistan .....	Dollar .....	.....	612.00	.....	.....	.....	.....	.....	612.00
Kyrgyzstan .....	Dollar .....	.....	212.00	.....	.....	.....	.....	.....	212.00
Kazakhstan .....	Dollar .....	.....	255.00	.....	.....	.....	.....	.....	255.00
Mongolia .....	Dollar .....	.....	303.00	.....	.....	.....	.....	.....	303.00
China .....	Dollar .....	.....	424.00	.....	.....	.....	.....	.....	424.00
United States .....	Dollar .....	.....	.....	.....	2,629.95	.....	.....	.....	2,629.95
Total .....	.....	.....	7,011.50	.....	2,629.95	.....	.....	.....	9,641.45

TRENT LOTT,  
Majority Leader, Oct. 15, 1997.

### MARINE CORPS—LAW ENFORCEMENT FOUNDATION

• Mr. LEAHY. Mr. President, I rise to pay tribute to a small organization whose existence shows that a few determined individuals can make a difference. I am referring to the Marine Corps—Law Enforcement Foundation, which was formed in February 1995 by five former Marines who decided over lunch one day to help the children of Marines and Federal law enforcement employees.

Less than 3 years after forming, this organization has given away nearly \$1.5

million to more than 150 children. The group focuses on the educational and special needs of children who have no where else to turn. They have paid for a hearing aid for a young son of a Marine whose insurance did not cover it. They provided a wheelchair to a ninth grader injured playing football. They gave \$250,000 to children whose parents were Federal employees killed or injured in the 1995 Oklahoma City bombing.

Mr. President, I know several of the founding members of this foundation personally, and I want to say that I

was not surprised to hear about the success of their collaboration. As Edmund Burke once said, "Great men are the guideposts and landmarks in the state." We can all learn something from them.

I ask that an article from the New-ark Star Ledger about the foundation be printed in the RECORD.

The article follows:

FOUNDATION FORMED BY 5 EX-MARINES  
OFFERS HELP, AND HOPE, AMID PAIN

(By Pat Milton)

NEW YORK.—Two years ago, the sky crashed down on Marine fighter pilot Peter Harmon.

His wife, Shay, was driving with their 5-month-old son when another driver, allegedly drunk and speeding in Pompano Beach, Fla., hit them head on. The car burst into a fireball.

Shay managed to push the child out a window before she died. The infant, George, burned over 33 percent of his body, was given only a 5 percent chance to live. But he pulled through, a scarred survivor.

Peter Harmon, who had been on a Marine Reserves training mission at the time of the accident, almost immediately received a \$10,000 check from a group he'd never heard of: the Marine Corps-Law Enforcement Foundation.

"They are awesome," says Harmon, who believes the money gave his son "a big head start."

The foundation was formed in February 1995 by five former marines who decided over lunch one day to help pay for the education and special needs of children of Marines and federal law enforcement employees.

So far, the group has given away nearly \$1.5 million to more than 150 children.

"Just because you take your uniform off, doesn't mean you end service to your country," said one of the five founders, Richard Torykian, a Vietnam veteran and senior vice president at the international investment firm Lazard Freres in New York.

He said the foundation depends entirely on private and corporate donations.

It provides at least \$10,000 for schooling children up to 19 years old who have a parent killed in the line of duty. The parent must have worked for the FBI; Drug Enforcement Administration; Secret Service; Customs; Marshals Service; Alcohol, Tobacco and Firearms; or Immigration and Naturalization Service.

SCHOLARSHIPS PROVIDED

The group also gives scholarships to Marine Corps children who lose a parent or are in financial need. And it helps cover medical needs.

This week, a \$10,000 check was sent to the widow of Marine Capt. Robert Straw a day after she gave birth to their second child, Seth Robert. Straw was killed two months ago in a helicopter crash outside Dallas.

"My husband and I had high expectations for our children's education," Mindi Straw said by telephone from her home in Jacksonville, N.C. "This money is going to make our wishes come true."

The foundation also sent her \$10,000 shortly after the crash for the couple's other child, Molli, 3.

It recently paid for a hearing aid for the son of an active duty Marine whose insurance did not cover it, and provided an \$800 wheelchair to a ninth grader injured playing football.

"How are you going to get to college when you can't even get down the hallway of your high school?" said Peter Haas, a retired stockbroker who is president of the foundation, based in Mountain Lakes, N.J.

The other three founders are James K. Kallstrom, head of the New York FBI; attorney Patrick McGahn, Jr.; and Steve Wallace, who owns an investment firm in Los Angeles.

The foundation has more than 900 members, who help identify worthy cases and sometimes hold fund-raisers.

The largest donation, \$250,000, was given to children whose parents were federal employees killed or injured in the 1995 Oklahoma

City bombing. A big chunk of that contribution, \$72,000, was donated by schoolchildren from the Blue Springs District in Kansas City, Mo., who held dozens of fund-raisers. Haas, surprised by the size of the donation, carried the mostly \$1 and \$5 bills back to New York in laundry bags and shopping bags.

He was stopped at the Kansas City airport by security guards who he thought must be suspicious of his swelling bags of cash. In fact, they wanted to give him \$500 they had collected.

Harmon, now a Federal Express pilot, lives in New Hampshire and is attending the trial in Florida this month of the man charged with manslaughter in his wife's death.

He said little George, who he calls "G-man," has a painful life of operations and skin graftings ahead, but still liberally dispenses hugs and kisses.

"To someone who sees him the first time, he may not look so good on the outside, but he is smiling on the inside," Harmon said. "He's tough, he's a fighter, just like a Marine." ●

TRIBUTE TO THE NATION'S  
LONGSHORE WORKERS

● Mr. KENNEDY. Mr. President, the recent dispute between the Federal Maritime Commission and Japanese cargo vessel owners over the operation of Japan's docks has given Congress and the country a new lesson in the important role of United States longshore workers. Day in and day out, away from the limelight, they work long hours under back-breaking conditions. In so many ways, these hard-working men and women symbolize the American work ethic. A recent article in the Wall Street Journal compared the productivity of American longshore workers favorably with that of their Japanese counterparts. The article noted that "American dockworkers will unload 24 hours a day, taking 30% less time for about half the price." The recent trade dispute has helped these workers obtain the recognition they deserve for their invaluable work in keeping commerce moving at our nation's ports.

According to recent figures, 1.7 tons of cargo a year are handled by longshore workers in the United States, with a value of nearly \$900 billion.

As the Senate debates important questions of international trade and fair competition, I welcome this opportunity to pay tribute to these skillful, tireless, and courageous workers who do so much to support the Nation's economy and our trade with other countries. U.S. longshore workers across the Nation deserve America's gratitude—they have certainly earned it. ●

REFINANCING BOND FINANCED  
SECTION 8 HOUSING PROPERTIES

● Mr. MACK. Mr. President, I rise to address a matter regarding the refinancing of section 8 assisted properties whose bonds are financed with a financial adjustment factor [FAF]. In order to save section 8 housing assistance

payment funds, the Congress through the enactment of the McKinney Homeless Assistance Act encouraged owners of FAF properties to refund their bonds with lower interest rates. The recaptured section 8 savings were equally shared between the bond issuing housing agency and HUD and the housing agencies were required to use their share of the savings for affordable housing purposes. In the recently enacted VA, HUD appropriations legislation, a provision was included to encourage owners to refinance their properties by providing the owners a 15-percent share of the savings.

It has come to my attention that there may be some question as to whether the fiscal year 1998 VA, HUD appropriations act would allow an owner or an issuer to refinance a FAF property which was previously refinanced. We reviewed this matter while developing the amendments to this version of S. 562. However, upon review of the appropriations language, it appears unnecessary to include statutory language to clarify this matter. I would like to ask Senator BOND, the chairman of the VA, HUD Appropriations Subcommittee, if he could confirm my interpretation of this issue.

Mr. BOND. I thank the Senator for raising this issue. It is the intent of the appropriations legislation to allow a second refinancing to save section 8 funds. I am hopeful that owners working in cooperation with the bond issuers will voluntarily refinance their FAF properties, where existing laws and bond documents permit. Owners and bond issuers will hopefully take advantage of the historically low interest rates and refinance their properties.

Mr. MACK. I thank my colleague for his assistance in this matter. ●

RECOGNIZING THE 50TH WEDDING  
ANNIVERSARY OF JULIAN AND  
LILLIAN WALLACE

● Mr. REID. Mr. President, I rise today to pay tribute to two Nevadans whose lives serve as an inspiration not only to all Nevadans but to this Nation and to this distinguished body. Fifteen years ago, Julian and Lillian Wallace founded an advocacy group in Las Vegas called Seniors United. Their mission was to tap into the unmined and undiscovered potential of Nevada's small but growing senior population and ensure that Nevada retirees were informed and had a voice in the political process on all levels of government. Each month for the past 15 years they have put together a informative newsletter and a monthly briefing for Nevada seniors. They stood as some of my strongest allies in the fight to stop the unfair source tax which allowed States to go after the pension incomes of former residents. As Nevada has grown and changed and the number of seniors and retirees has increased, Seniors United has become one of the most formidable groups in the State. Lillian



and Julian's success with Seniors United comes from a simple idea—empowerment. They believe that an informed democracy is a powerful democracy. They never hesitate to hold their elected officials feet to the fire and demonstrate on a daily basis that an active and involved citizenry is definitely not a function of age. Perhaps their greatest assets are those attributes which have helped them stay married for 50 years: compassion, patience, love, and loyalty. On January 17, 1998, Lillian and Julian Wallace will celebrate their 50th wedding anniversary. I ask all my colleagues to join with me today to recognize these two Nevadans for their dedication and devotion not only to their marriage but also to making this country better for all citizens.●

#### SUPPORT OF FAST-TRACK REAUTHORIZATION

● Mr. LUGAR. Mr. President, I would like to voice my support for the pending fast-track reauthorization legislation. As chairman of the Senate Committee on Agriculture, Nutrition and Forestry, I would like to begin by stressing the importance of fast track to U.S. agriculture. In 1996, agricultural exports reached a record \$60 billion, but import barriers, export subsidies, and state trading enterprises continue to distort world commodity markets. These distortions put America's farmers and agribusiness operators at a disadvantage. We must reduce these trade barriers and allow our industry to freely supply the world's markets.

I ask that a letter in support of fast track from all living Secretaries of Agriculture, dating from President Kennedy's administration, be printed in the RECORD.

Last year, my State of Indiana exported goods totaling \$12.1 billion and these exports directly supported 66,000 Hoosier jobs. Current estimates indicate Indiana will achieve a record \$13 billion in exports this year. Indiana's exports grew by an extraordinary 75 percent between 1992 and 1996. Since 1993, exports by Indianapolis firms increased 53 percent, South Bend's exports are up by 175 percent and Muncie's export growth leapt 114 percent. Terre Haute firms saw their exports rise 277 percent, the second highest rate of increase in the Nation. Indiana was the eighth largest agricultural exporter in 1996 with over \$2 billion in exports. Because export related jobs pay on average more than nonexport related jobs, it is easy to conclude that exporting is a vital component to Indiana's robust economy.

The United States must continue to be the leader in knocking down tariff and nontariff trade barriers. This bill is critical to advancing trade liberalization and opening markets for all sectors. Approving fast track is the first step in achieving these goals.

Mr. President, I ask that a letter from President Clinton regarding a

proposed congressional oversight group be inserted in the RECORD. I agree with the President that more can be done regarding strengthening the current congressional advisory group. Specifically, for each new trade negotiation the administration would consult with and update a specific congressional oversight group for that particular round of negotiations. The group would provide advice to the U.S. Trade Representative and be charged with general oversight. Second, the U.S. Trade Representative would work with congressional leaders, within 60 days of enactment, to develop guidelines for interaction between Congress and the administration on trade negotiations. The guidelines would address such issues as the timing of written and oral briefings regarding U.S. objectives, the status of the negotiations, the role of the group during actual negotiations, and access to information obtained during negotiations. The United States must be well prepared for the next round of World Trade Organization talks on agriculture in 1999 and the establishment of a congressional oversight group would be a positive beginning for this process.

Since 1974, Congress has granted every President fast-track negotiating authority. America's economic future increasingly lies with our ability to sell our goods and services around the globe. Without fast track, the United States will be sidelined in future trade negotiations. Since the creation of the General Agreement on Tariffs and Trade [GATT] in 1947, the United States has been the leader in knocking down trade barriers and opening up markets. As we prepare to celebrate the 50th anniversary of the GATT, the United States can either be engaged and play an active role in further trade liberalization or allow our competitors to stake claim to a larger portion of world markets.

The letters follow:

NOVEMBER 3, 1997.

Hon. RICHARD LUGAR,

*Chairman, Committee on Agriculture, Nutrition and Forestry, U.S. Senate, Washington, DC*

Hon. TOM HARKIN,

*Ranking member, Committee on Agriculture, Nutrition and Forestry, U.S. Senate, Washington, DC*

Hon. BOB SMITH,

*Chairman, Committee on Agriculture, U.S. House of Representatives, Washington, DC*

Hon. CHARLES STENHOLM,

*Ranking member, Committee on Agriculture, U.S. House of Representatives, Washington, DC*

DEAR GENTLEMEN: The U.S. food and agricultural system is one of the nation's greatest success stories. American agriculture competitively produces, handles, processes, services, trades and transports food and fiber that the world wants to buy. Agricultural trade has contributed significantly to U.S. farm income, created jobs and strengthened American economic and political interests. For those reasons, agricultural trade has been a top priority for every administration in recent memory.

Having served as the Secretaries of Agriculture to Presidents of both political par-

ties, we have witnessed how U.S. agriculture has benefited from trade liberalization made possible by previous fast-track authorities. With the implementation of NAFTA and GATT, U.S. agricultural exports surged another \$20 billion in value, hitting an all-time high of \$60.3 billion in 1996. U.S. agriculture also has enjoyed a consistent trade surplus, which last year climbed to \$27 billion.

Our food and agricultural system now is poised to make additional export gains from upcoming trade negotiations. Many developing countries are experiencing economic growth which means rising incomes for their citizens. Food demand is expanding as people upgrade their diets. These consumers will need to rely to a greater degree than ever on world markets, but there is no guarantee that agricultural products grown in the United States may reach them. To assure that, we need to make additional progress lowering trade barriers, eliminating unfair trading practices and constraining domestic subsidies that distort trade.

Fast track is the key to unlocking those opportunities. It is the avenue for our negotiators to level the playing field for U.S. farmers and processors to compete. The authorities it conveys can and should be used to help resolve outstanding trade disputes and strengthen the rules of international commerce. Moreover, it should be used as it was in the past—to exercise U.S. leadership in trade.

American agriculture needs to be at the table for the 199 agriculture talks in the World Trade Organization to continue the progress made in the Uruguay Round. In addition, we need to be active in upcoming bilateral negotiations with countries like Chile and for the regional Free Trade Agreement of the Americas and the Asia Pacific Economic Cooperation talks.

Very simply, fast track is critical to American agriculture being able to compete and prosper in the years ahead. That is why more than 60 agricultural organizations have committed themselves to work for fast track, and why we as former Secretaries of Agriculture support them in their effort.

We urge you to do what you can to assure prompt passage of this legislation.

Sincerely,

Orville Freeman, Secretary of Agriculture, Kennedy and Johnson Administrations; Earl L. Butz, Secretary of Agriculture, Nixon and Ford Administrations; John R. Block, Secretary of Agriculture, Reagan Administration; Clayton Yeutter, Secretary of Agriculture, Bush Administration; Clifford Hardin, Secretary of Agriculture, Nixon Administration; Bob Bergland, Secretary of Agriculture, Carter Administration; Richard E. Lyng, Secretary of Agriculture, Reagan Administration; Mike Espy, Clinton Administration.

THE WHITE HOUSE,

Washington, November 5, 1997

Hon. RICHARD G. LUGAR,

*Chairman, Committee on Agriculture, Nutrition and Forestry, U.S. Senate, Washington, DC*

DEAR MR. CHAIRMAN: Thank you for taking the time to share your ideas with me about advancing fast track legislation. Your perspectives were, as always, welcome and useful.

As you know, I am committed to ensuring close Congressional involvement both in the formulation and implementation of our trade agreements. Appropriately, the Senate and House fast track bills both provide for extensive Congressional participation.

I was intrigued by the idea of establishing an oversight mechanism for trade negotiations similar to the NATO Observers Group.

I have since looked into this idea and want to draw your attention to a structure that has been in place for a while that is quite similar to the NATO group. In 1974, Congress established the Congressional Advisers for Trade Policy and Negotiations, a trade policy and negotiations oversight body that remains in place today. This is a bipartisan group of official Congressional advisers, designated by the Leadership, that is accredited to our trade delegations and kept informed on matters affecting trade policy, including ongoing negotiations. I am including with this letter a summary of how the procedure works.

I am fully committed to ensuring that the Congressional trade advisor system works effectively to ensure that Congress is both fully informed and consulted as we develop and implement U.S. trade policy. I am convinced that the Administration benefits significantly when Congress plays an active and continuing role in formulating our trade policies and objectives. For that reason, the Administration bill and both the Senate and House bills, which I support, include specific language designed to enhance the effectiveness of the Congressional trade adviser system.

While the bills pending in the House and Senate seek to reinvigorate the Congressional Advisers mechanism, I believe that more can be done. Therefore, I would propose the inclusion of an additional title in the fast track bill entitled "Congressional Oversight Groups" that would:

a. Establish for each trade negotiation that the Administration notifies to the Congress under fast track, a specific "Congressional Oversight Group" for that negotiation. The group would be selected by the leadership from among the existing congressional trade advisers, and would be tasked with oversight of, and providing advice to the Trade Representative regarding, the negotiation.

b. Instruct the Trade Representative to work with the Senate and House leadership to develop, within 60 days of enactment, guidelines for interaction between the Administration and Congressional Oversight Groups. The guidelines would be structured to ensure a useful and timely flow of information between the Administration and the Congressional Oversight Group, including at an early stage between the Oversight Group and the Trade Representative to discuss the Administration's objectives and the Group's views.

I hope that you will give serious consideration to this proposal. I would welcome any thoughts that you and other Members may have.

Sincerely,

BILL CLINTON.●

**CHRISTINA A. SNYDER, JUDICIAL  
NOMINEE FOR THE U.S. DIS-  
TRICT COURT IN THE CENTRAL  
DISTRICT OF CALIFORNIA**

Mrs. BOXER. Mr. President, the U.S. Senate showed its overwhelming support today for Christina Snyder, one of the most qualified legal minds to fill a seat on the Federal bench of the Central District of California. My unwavering confidence in Ms. Snyder arises from respect for her background, education and career. I am very pleased she has been confirmed.

Ms. Snyder is a native of the Los Angeles area, having grown up in the Montebello community in East Los Angeles. She studied in the public elemen-

tary schools of Montebello and Orange County, and was valedictorian of her high school class. She later studied at the University of California at Los Angeles, before transferring to Pomona College where she earned her undergraduate degree. She earned her law degree at Stanford University.

Mr. President, I am sure you are aware Ms. Snyder's legal background is highly respected throughout the State of California. Ms. Snyder has distinguished herself in the legal community of Los Angeles through more than 20 years of law practice. Ms. Snyder began her career working at the Los Angeles law firm of Wyman, Bautzer, Kuchel and Silbert, where she eventually was made a partner. She later went on to become a law partner at two other Los Angeles law firms. Her nomination and election to the highly regarded American Law Institute in 1993 is further evidence of the respect she commands within the legal profession.

Moreover, Ms. Snyder has demonstrated a strong commitment to community service as one of the founding members of Public Counsel, a public interest law firm of the Los Angeles County and Beverly Hills Bar Associations. She also served as the California State Bar designee on the Board of Directors of the Western Center for Law and Poverty.

Again, I am pleased to speak in favor of Ms. Snyder and feel she is a valuable addition to the Federal bench.

**FUNDS FOR ROAD EXPANSION TO  
TRANSPORT HAZARDOUS WASTE**

● Mrs. HUTCHISON. Mr. President, I ask that the text of a concurrent resolution passed by the Texas Legislature, be printed in the RECORD.

The text of the concurrent resolution follows:

**HOUSE CONCURRENT RESOLUTION NO. 202**

Whereas, Compliance with international disarmament treaties to curtail the proliferation of nuclear arms and defuse weapons of mass destruction has created new challenges for the United States related to the dismantling and cleanup of nuclear missiles; and

Whereas, The development, production, and disassembling of nuclear weapons produce transuranic waste, a highly radioactive conglomeration of contaminated laboratory gloves, tools, dried sludge, and other substances from testing and production facilities; and

Whereas, To create a safe and environmentally responsible method for permanently disposing of transuranic waste, the United States Department of Energy (DOE) has designed the Waste Isolation Pilot Plant (WIPP) in southern New Mexico that will set the standard for deep geologic disposal of defense-related radioactive waste; and

Whereas, The transuranic waste to be deposited at the WIPP facility will be shipped by truck from all across the country, traveling through many states, including Texas, which is a major thoroughfare for radio active materials coming from South Carolina, Tennessee, Illinois, and Ohio; and

Whereas, While a majority of the proposed route through Texas is on Interstate 20, a segment runs along U.S. Highway 285; this

portion of the route, which begins in Pecos, Texas, and continues into New Mexico, is a treacherous and narrow two-lane road; and

Whereas, The State of New Mexico, in a prudent move to protect the public safety of its citizens, has dedicated part of the impact funds received from the DOE for housing the WIPP to widen its section of U.S. 285; this highway is a dangerous and inadequate road that has already been the scene of one accident involving an empty WIPP transport truck; and

Whereas, There are currently no federal funds allocated for the State of Texas to take the same necessary safety precautions by widening the section of U.S. 285 running through our State; the health and safety of United States citizens residing in the Lone Star State is no less important than that of our neighbors to the northwest; now, therefore, be it

*Resolved*, That the 75th Legislature of the State of Texas hereby respectfully request the Congress of the United States to allocate funds for road expansion in Texas along the designated route for transporting hazardous waste to the WIPP project; and, be it further

*Resolved*, That the Texas secretary of state forward official copies of this resolution to the President of the United States, to the Speaker of the House of Representatives and the President of the Senate of the United States Congress, and to all members of the Texas delegation to the Congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.●

**INDEPENDENCE DAY OF LEBANON  
CELEBRATION**

● Mr. ABRAHAM. Mr. President, I rise today in commemoration of the Lebanese Independence Day Celebration hosted by the Consul General of Lebanon and Mrs. Hassan Muslimani. The nation of Lebanon achieved its independence in 1943. A democratic nation, it is a leader in its region. Lebanon was a founding member of the League of Arab States which has done much to further the goals and interests of the region. Globally, Lebanon has also played a great part in the United Nations, a founding member, and also in the drafting of the Universal Declaration of Human Rights. The nation of Lebanon has faced many challenges, but continues to preserve regardless of foreign and regional obstacles.

Lebanese Americans play an important role in the United States as well. I am always proud of this community's efforts to foster relationships of goodwill. These efforts will go far in enhancing and promoting the Lebanese American community's image and understanding. Recently, the United States' travel ban to Lebanon was lifted, allowing the people of our nations to travel freely. I look forward to future strengthening in ties between the United States and Lebanon.

Again, I would like to wish the greatest of success to the Consul General on his reception, and that it may bring closer our two cultures. Likewise, I am honored to recognize his strong efforts to raise awareness of the Lebanon Independence Day, November 22.●

## THE RECOVERY NETWORK

• Mrs. FEINSTEIN. Mr. President, a California company has embarked on an effort that I believe demonstrates how entrepreneurship and public service can go hand in hand.

The Recovery Network is a new nationwide cable television program dedicated to helping people recover from the devastating disease of addiction. This Santa Monica-based network is the first of its kind and the only broadcast network in the world devoted entirely to substance abuse recovery and prevention.

It is estimated that more than 130 million Americans suffer from or are affected by alcoholism, drug abuse, eating disorders, depression, gambling and other addictions. The Recovery Network offers a lifeline of help to millions of those in need offering group recovery sessions, information on 12-step recovery programs, a 24-hour 800-number help line, discussion shows designed for children of alcoholics and parents with drug abuse problems, and information shows on the pharmacological effects of alcohol and other addictive substances. Recovery Network serves not only those in need of help, but also the friends, families, teachers, and professionals seeking guidance and tools to effect change.

Another important part of the Recovery Network is the localized programming effort. "Neighborhood Recovery" enables local community groups to offer their services through cable programming. Organizations like Californians for Drug-Free Youth, and the Miami Coalition for a Safe and Drug-Free Community can reach out to people in their specific area offering information on local meetings and other resources.

I believe this type of public service programming is exactly what Congress envisioned when it passed the Cable Communications Act in 1984, " \* \* \* to provide the widest possible diversity of information sources and service to the public" and " \* \* \* assure that cable systems are responsive to the needs and interest of the local community."

Community cable became a permanent fixture on the American landscape in 1948. Its purpose was to service remote communities with a master antenna providing a clear television broadcast signal. Three years later, 70 cable systems services 14,000 homes nationally. Since then, cable television has become a vital full-service link to citizens in every city and town in the United States, serving more than 67 million households nationwide.

People suffering from alcohol and drug addiction have found the Recovery Network there to help when they were most in need:

One young couple from Ohio who was traveling and struggling to maintain their sobriety early in recovery happened upon the Recovery Network on their hotel television. They said " \* \* \* we turned you on unknowingly, and it was like an AA meeting right in our

hotel room. It really helped us refocus on what is important, and that is AA and staying sober."

An Indiana viewer wrote "I just want to say thank you for the programs and the light at the end of the tunnel that they showed me."

A Michigan man wrote "Thank you for making such a big difference in my life."

A California woman wrote "When I can't make a meeting, I know you're there for me."

Recovery Network has become a leader in delivering effective programming which provides solutions to these problems in the privacy of the home and in offering positive lifestyle choices as an alternative.

The Recovery Network is supported by every major drug abuse prevention and recovery organization in the Nation, including the Community Anti-Drug Coalitions of America, the National Drug Prevention League, National Association of State Alcohol and Drug Abuse Directors and the National Parents Resource Institute for Drug Education.

Mr. President, I am proud that the Recovery Network is a product of the State of California and I wish them much success in their endeavor. •

#### TRIBUTE TO DONN TIBBETTS, UNION LEADER STATE HOUSE BUREAU CHIEF, ON HIS RETIREMENT

• Mr. SMITH of New Hampshire. New Hampshire's media corps will suffer a great loss in January 1998 when Donn Tibbetts steps down after 25 years as The Union Leader newspaper's Concord, New Hampshire Bureau Chief. Donn is a New Hampshire institution, and will be missed by all of us who call him our friend.

Donn's career in journalism has spanned nearly 50 years—first as a broadcaster and then, since April 3, 1972, as a reporter and columnist for the Loeb newspapers. He has covered the often-colorful politics of the Granite State, writing the well-known "Under the State House Dome" column. As Dean of the State House press corps, he has been a leader in chronicling presidential primaries, state elections, nine governors, and the State Legislature—the largest in the nation. He has traveled to national conventions for the Democrat and Republican parties, interviewed presidents, and even sat down to talk with me on many occasions! My interviews with Donn always left us sharing a laugh—and the resulting stories were always fair, thorough, and forthright, as is always Donn's style.

Donn's knowledge and expertise about New Hampshire politics is second to none. He is the author of "The Closest U.S. Senate Race in History," a book about the hotly contested, historic election for New Hampshire's U.S. Senate seat in 1974 between John Durkin and Louis Wyman—an election

that was won by one vote, with a subsequent second election being held the following year.

Donn's accomplishments—from sports disk jockey to television host to political columnist—have brought him many accolades from distinguished individuals across the country. The late William Loeb, frank publisher of the Union Leader, said Donn is "a man of great integrity." Former New Hampshire Governor John Sununu said of Donn: "Nobody is fairer and nobody is more of a credit to their profession than Donn. . ."

Donn is originally from Manchester, and then went on to attend Lasalle Military Academy in Long Island, and the University of New Hampshire. He served 28 years in the military and the reserves with the same honor and distinction he has brought to his career as a journalist. He has been a community and civic leader, as well as a dedicated husband, father and grandfather.

Retirement is a time of reflection, and I know that Donn will spend his retirement years enjoying the memories of his rich and fulfilling career. I have been told that he is leaving for Corpus Christi, Texas the day after he retires, to spend time traveling with his wife, Janie, and visiting his seven grandchildren and twin great-granddaughters.

Donn, I wish you all the best for a wonderful retirement. You are a man of character, commitment and dignity. We will all miss you. •

#### IMF AND US FINANCIAL ASSISTANCE TO INDONESIA

• Mr. FEINGOLD. Mr. President, I rise today to express my concern about the current financial crisis in Indonesia and the decision of the United States and the international financial community to provide bailout assistance.

As you know, Mr. President, the International Monetary Fund announced on October 31 that it was putting together a \$23 billion aid package for Jakarta. This money will allow Indonesia to defend its currency, which has depreciated severely in the last few months. The IMF, the World Bank, the Asian Development Bank, and the Indonesian government will together provide this \$23 billion in financing.

In addition to the IMF package, several countries, including the United States, are offering "second-line" loan guarantees that Indonesia can use if needed. The Administration has guaranteed a \$3 billion loan to Indonesia as part of the Treasury Department's exchange stabilization fund. This fund is the same one used to loan \$20 billion to Mexico during the peso crisis of 1994 and 1995.

Mr. President, I understand that the Administration hopes the \$23 billion IMF financing will be enough for Indonesia to overcome the present crisis and that Jakarta will not need to draw on the \$3 billion "second-line" loan from the United States. Nevertheless,

American taxpayer money is being put on the line both through the direct loan guarantee and indirectly through the US contributions to the IMF, the World Bank, and the Asian Development Bank.

While there is clearly a need to help avoid a financial collapse in Indonesia that could spill over into other areas of Asia and even to the United States, the US taxpayer has a right to know what kind of government they are helping to support.

Mr. President, many of Indonesia's present economic problems are the result of rampant corruption and nepotism in the country. Indonesia is ruled by a single man, President Suharto, and his relatives and friends traditionally enjoy many business perks. Using their connections, this group has engaged in highly risky and speculative business deals that have exacerbated the present financial crisis. The Financial Times reports that of the 16 insolvent banks that Indonesia has been forced to close since last week, three are owned by Suharto's children, relatives, or close business associates. The link between the financial crisis and Indonesia's present political system, where power rests in the hands of Suharto's inner circle, is inescapable.

The IMF has placed tough economic conditions on the \$23 billion. To qualify for this funding, Indonesia must enact serious financial reforms, dismantle monopolies, and liberalize its trading regime. The IMF has also asked for greater transparency in Indonesia's business and financial markets. But I believe that the IMF and the United States should use the opportunity of this bailout to make all assistance conditional on Indonesia undertaking specific and verifiable measures to ensure that a newly structured system in Indonesia will be free from corruption and graft.

In addition, I strongly feel that Indonesia's need for financial support gives the world community leverage to ask for long-needed political reforms. So long as Indonesia is run by a corrupt elite, its economy will never reach its full potential. The present authoritarian system has bred political instability that will ultimately limit Indonesia's economic potential. I read with alarm about the many riots and hundreds of deaths that occurred in Indonesia during the May elections. This is the result of a system that works largely for the benefit of President Suharto and his family.

Finally, I am concerned about the role of the military in Indonesia, which has sustained a brutal occupation of East Timor for more than 20 years. Press reports indicate that Indonesia maintains more than 20,000 armed troops in East Timor. Just because President Suharto's government has boosted the economy in recent years does not mean it has the right to murder and torture Indonesians and East Timorese. Economic success does not excuse you from answering to your own citizens.

Political tension in Indonesia will only subside after President Suharto initiates real democratic change and, for example, allows all parties to compete equally in the political process. Indonesian authorities try to argue that greater democracy will lead to instability which in turn will impede economic development. But, Mr. President, clearly the problem in Indonesia is not too much democracy, but too little.

Mr. President, I urge the administration to use the influence it has in the IMF and the other international financial institutions to insure that this \$23 billion package contains demands for real anti-corruption and political reform measures. At the very least, such conditions must be placed on the \$3 billion direct loan the US has offered.

These issues—of transparency, of human rights, and of good governance—are too important for the United States to ignore as we bail Indonesia out of this mess.●

#### DELAY OF DR. DAVID SATCHER'S CONFIRMATION AS SURGEON GENERAL AND ASSISTANT SECRETARY FOR HEALTH

● Mr. KENNEDY. Mr. President, I want to express my concern at the delay in the vote on the nomination of David Satcher to be Surgeon General and Assistant Secretary for Health. I understand that some Senators have placed holds on the nomination.

Dr. Satcher is an excellent choice for these positions. He is a respected family doctor, respected scholar, and respected public health leader. For the past 4 years, he has ably led the Centers for Disease Control and Prevention, the agency responsible for protecting the Nation's health and preventing disease, injury, and premature death.

In 1992, under Dr. Satcher's leadership, CDC developed and implemented a very successful childhood immunization initiative. Before the initiative, only a little more than half the Nation's children—55 percent—were immunized. Today, the figure is 78 percent, and vaccine-preventable childhood diseases are now at record lows.

Dr. Satcher has also led CDC efforts to deal more effectively with infectious diseases and food-borne illnesses. We rely heavily on CDC to provide the rapid response needed to combat outbreaks of disease and protect public safety. Under Dr. Satcher, CDC is implementing a new strategy against infectious diseases and a new early warning system to deal with food-borne illnesses.

Prior to his appointment to CDC, Dr. Satcher was president of Meharry Medical College in Nashville, the Nation's largest private historically black institution for educating health care professionals and biomedical researchers. He previously served as professor and chairman of the Department of Community Medicine and Family Practice

at the Morehouse School of Medicine in Atlanta. He also has been a faculty member at the UCLA School of Medicine and the King/Drew Medical Center in Los Angeles, and interim dean of the Drew Postgraduate Medical School.

Dr. Satcher's range of skills and experience and his strong commitment to improving public health make him extremely well qualified to be the country's principal official on health care and health policy issues—America's Doctor. He's an excellent choice to be Surgeon General and Assistant Secretary for Health.

Dr. Satcher's nomination has received broad bipartisan support. He's been endorsed by a large number of health provider groups, including the American Medical Association, the American Nurses Association, numerous academic health centers, and public health organizations.

Despite these endorsements, a few detractors have emerged and I want to take a few moments to address their concerns.

Some colleagues have questioned Dr. Satcher's views on abortion. This was not an issue at his confirmation hearing, but some Senators are using the controversial and unconstitutional "Partial-Birth Abortion Ban Act" to attack his credibility.

Dr. Satcher believes—as do most Americans—that abortions should be safe, legal, and rare. His position reflects 25 years of medical experience and is consistent with Supreme Court decisions.

In fact, Dr. Satcher supports a ban on late-term abortions. But he shares President Clinton's view that "if there are risks for severe health consequences for the mother, then the decision [to have an abortion] should not be made by the government, but by the woman in conjunction with her family and physician."

Dr. Satcher's position on this issue is shared by the American College of Obstetricians and Gynecologists, the American Medical Women's Association, the American Nurses Association, and the American Public Health Association.

Some in the Republican leadership have raised this issue in an attempt to defeat an outstanding nominee. Instead of resolving the late-term abortion issue months ago, they would rather play politics with Dr. Satcher's nomination and the lives and health of American women.

The nation faces significant public health challenges. Our national infant mortality rate is at a record low, but it is still higher than that of many countries. Despite recent declines in the teenage birth rate, the U.S. rate is still the highest in the industrial world.

Similarly, in the case of childhood immunization, the rate nationwide may be the highest ever, but in many communities, less than half of 2-year-olds are adequately immunized.

The country needs a medical leader whom people can trust to advise them

on their health care. For over two years, the Office of Surgeon General has been vacant. It is irresponsible to put partisanship ahead of public health and safety.

Dr. Satcher is an excellent choice to be the Nation's Doctor. I look forward to working closely with him, and I urge the Senate to move expeditiously to approve this nomination, so that we can deal more effectively with the country's important health challenges. I am confident that Dr. Satcher will serve America well. He deserves to be confirmed now, before this session of Congress ends.●

#### DRUG DIRECTOR USE OF BIDEN DRUG BUDGET CERTIFICATION AUTHORITY

● Mr. BIDEN. Mr. President, I rise to offer some remarks on Drug Director Barry McCaffrey's decision to decertify the Defense Department's proposed antidrug budget for fiscal 1999.

At the outset, let me state that I support General McCaffrey's decision to request that the Defense Department increase its budget request by \$140 million for the antidrug initiatives the General identifies: \$24 million to boost antidrug task forces on the border to help implement the United States-Mexico Declaration signed by Presidents Clinton and Zedillo in May, 1997; \$75 million for enforcement and interdiction to reduce the flow of cocaine out of the Andean Region; \$30 million for boost National Guard drug efforts on the southern border; and \$12 million to target drug trafficking criminal activity in the Caribbean.

Even beyond the specifics of this issue, I am greatly heartened by the fact that General McCaffrey has chosen to exercise this important budget-setting authority. I must admit that I have been frustrated that, until General McCaffrey acted, no drug director had ever used this authority—not William Bennett, not Robert Martinez, and not Lee Brown.

Let me also be up-front with my colleagues, one of the reasons I so strongly favor this decision is because I wrote this authority into law. For more than a decade, I debated with the Reagan administration and my colleagues to establish the Office of National Drug Control Policy. One of the reasons my legislation was so bitterly opposed for so long was because I put some real teeth into this legislation. And, of all the teeth, it is this budget authority which is the sharpest of all.

Let me also explain to my colleagues that this so-called Biden Drug Budget Authority not only gives the Drug Director the authority to decertify the drug budget requests of the drug agencies, but it is crystal clear what must happen next. Just read the law: If the Drug Director exercises this authority, "the head of the Department or Agency shall comply with such a request."

It does not get much clearer than that.

To make one more point—now before the Senate we have legislation to reauthorize the Drug Director's office. Yesterday, the Judiciary Committee reported the bipartisan Hatch-Biden reauthorization bill. A bill cosponsored by Senators THURMOND, COVERDELL, DEWINE and FEINSTEIN.

It is my hope that not only will the full Senate pass this legislation before we adjourn, but also that the leadership of the House reject the unproductive and partisan approach it adopted a few weeks ago and come onboard the bipartisan Hatch-Biden bill.

Nothing puts the need for a Drug Director in starker focus than General McCaffrey's action on the Defense Department drug budget. My colleagues should need no other example—though there are many others—to recognize the importance of having a Drug Director.

I urge my colleagues to support the General's decision on the Defense Department budget, and I urge my colleagues to take the concrete step it is within our power to do—pass the law to keep the Drug Office in place.

#### NEIGHBORHOOD REINVESTMENT CORPORATION

● Mr. KERRY. Mr. President, decent, and affordable housing in healthy neighborhoods for all Americans remains a national goal and a serious challenge. One federal initiative that is an exemplar of good housing policy and a wise investment is the Neighborhood Reinvestment Corporation. Chartered by Congress in 1978 as a public, non-profit corporation, the Neighborhood Reinvestment Corporation's purpose is to increase affordable housing and home ownership opportunities while revitalizing low and moderate income neighborhoods that are in decline. That purpose is carried out in partnership with 174 neighborhood based, non-profit organizations in 44 states, the District of Columbia, and Puerto Rico. These organizations bring together neighborhood residents, local governments, and the business community to garner diverse resources to carry out neighborhood resident-generated housing and community development plans.

At least one measure of the effectiveness of the Neighborhood Reinvestment Corporation and its network of local partners is the kind of return gained on the investment. The federal appropriation to the Neighborhood Reinvestment Corporation for fiscal year 1998 was \$60,000,000 which leveraged another \$500,000,000 in resources for housing and community development.

The Neighborhood Reinvestment Corporation is one of three components of an innovative model of federal-local and public-private partnerships. NeighborWorks® is the network of local non-profit organizations that carry out the development work in neighborhoods. The Neighborhood Reinvestment Corporation provides grants and technical assistance to the

NeighborWorks® member organizations, and conducts extensive training for neighborhood residents and local organization staff. The third component is Neighborhood Housing Services of America, a national non-profit secondary market that provides financial services to the NeighborWorks® network.

Neighborhood reinvestment requires holistic thinking and action in multiple directions, but basic to neighborhood stability is housing. Preserving the aging housing stock in urban neighborhoods and maintaining housing affordability are key objectives of the Neighborhood Reinvestment Corporation and the NeighborWorks® network. Helping low and moderate income homeowners obtain financing and qualified contractors to rehabilitate their houses is a staple activity of NeighborWorks® member organizations. Rehabilitating existing homes on behalf of low and moderate income first-time home buyers adds new stakeholders to neighborhoods. Increasing the supply of affordable rental housing helps to further meet the housing needs of neighborhood residents.

Many of the NeighborWorks® member organizations are mutual housing associations, innovative experiments in an alternative form of home ownership that is proving to be very successful. Mutual housing is permanent housing that assures long term affordability and tenure for low and moderate income people in a housing system over which the residents have considerable control. Mutual housing development and units are owned by mutual housing associations. Residents do not directly buy or sell their units, but are represented on the association board of directors. As members of the association and based on their occupancy agreements, the residents in mutual housing are considered in most states to have a personal property ownership interest in the property. Affordability, protection from displacement, democratic participation in the management of the housing, and a resident stake in the sustained health of the neighborhood are all attributes of mutual housing living. Exploring diverse forms of housing, such as mutual housing associations, can help point the way to improving housing affordability for low income people.

A key feature of the success of the Neighborhood Reinvestment Corporation and NeighborWorks® partnership is the training developed and conducted by the Neighborhood Reinvestment Training Institute. Residents, local organization board members, and local organization staff participate in extensive training in leadership development, engagement of residents in neighborhood organizations, conflict resolution, coalition building, organization management, resource development, and much more. This high quality training is replicated in many parts of the country and the lessons learned put to work in local communities.

We are seeing results in communities across the country. In my state of Massachusetts, the Twin Cities Community Development Corporation serves the cities of Fitchburg and Leominster. Terri Murray, the Twin Cities CDC Executive Director, says that "top down" neighborhood revitalization does not succeed and the training is invaluable to building strong resident led organizations. The turnaround they are experiencing in declining neighborhoods like the Cleghorn section of Fitchburg is attributed to a combination of the dedication of neighborhood residents, the marshaling of increased municipal services, and the leveraging of private and public grants and loans including federal HOME funds. Becoming a member of NeighborWorks® and thus a beneficiary of Neighborhood Reinvestment Corporation resources has served to strengthen the capacity of the Twin Cities Community Development Corporation, supporting its housing rehabilitation, home ownership, and small business/micro-enterprise development programs.

The Neighborhood Reinvestment Corporation enjoys bipartisan support in the Senate. Along with its partners, the NeighborWorks® network, and Neighborhood Housing Services of America, the Neighborhood Reinvestment Corporation is to be commended for its fine work.●

#### TRIBUTE TO BERNIE WHITEBEAR, WASHINGTON STATE CITIZEN OF THE DECADE

● Mrs. MURRAY. Mr. President, on October 31, 1997 Washington state Governor Gary Locke declared the month of October "Bernie Whitebear Month" and proclaimed Bernie Whitebear as a "Citizen of the Decade". I would like to join the Governor, and the whole state of Washington in paying tribute to Bernie Whitebear for his outstanding contributions to the Seattle metropolitan community, the urban Native American community, the state of Washington, and in fact the entire Pacific Northwest.

For 30 years, Bernie Whitebear has been a voice and representative of the needs and concerns of the urban Indian community in Seattle and surrounding areas. His commitment to the preservation and edification of Native American culture within a diverse urban environment has never wavered. He established the Minority Executive Director's Coalition of King County, participates in the Northwest Asian American Theater's annual community Show-Off, and through his United Indians of All Tribes Foundation, acts as the Executive Director of the Daybreak Star Cultural and Education Center in Discovery Park, a center he established.

In recent years, Bernie has been tireless in his pursuit of his next vision: the People's Lodge. The People's Lodge is the next phase of development for the United Indians of All Tribes Foun-

dation (United Indians) Indian Cultural Center (ICC) which includes the Daybreak Star Center. The United Indians is a well-established organization thanks to Bernie with over 20 years of service in Western Washington. The ICC mission, and Bernie's focus in life, is to improve the social, economic, and cultural well-being of Native Americans living in the metropolitan Seattle area. Bernie and United Indians run a variety of educational, community service, and cultural arts programs serving 4,000 clients and attracting 30,000 visitors a year. The People's Lodge will improve and expand United Indian's desire to preserve and enhance Indian heritage and educate people about Indian cultural diversity. The People's Lodge will include a permanent Hall of Ancestors exhibition, a multiple-use Potlatch House, and an exhibition gallery, the John Kauffman, Jr. Theater, a resource center, and the Sacred Circle of the American Indian Art.

The programs and activities envisioned by Bernie in the People's Lodge will be a great benefit to the greater Seattle community and the citizen's of Western Washington. The People's Lodge will create new jobs, serve as a new venue for sales and performances by artists of all kinds, and help preserve and advance the cultural heritage of Native Americans in this region. It has been my pleasure to work with Bernie in seeking federal support of this project. Bernie has been working diligently to secure an Economic Development Administration grant for the People's Lodge. I urge the EDA to give the grant proposal of United Indians for the People's Lodge their utmost consideration.

Bernie Whitebear is a true leader for Native Americans in Seattle and a genuine asset to our community in the greater Seattle area. I personally appreciate his efforts. It is always a pleasure to see Bernie's warm face and bright smile come into my office. Bernie truly is a Citizen of the Decade.●

#### HONORING NEW MEXICO MEDAL OF HONOR RECIPIENTS

● Mr. BINGAMAN. Mr. President, Veteran's Day is an appropriate occasion to honor those who have served our Nation so nobly. I'd like to take this occasion to offer special recognition to New Mexico's most distinguished veterans, our living Medal of Honor winners. Col. Robert Scott, who celebrates his 84th birthday this month, is a longtime resident of Santa Fe, NM, who received the Congressional Medal of Honor for his heroic deeds during World War II. Cpl. Hiroshi Miyamura, from Gallup, NM, was honored for his bravery as an infantryman during the Korean war. Second Lt. Raymond Murphy, a resident of Albuquerque, served heroically with the U.S. Marine Corps during that conflict. Sgt. Louis Richard Rocco, also from Albuquerque, celebrating his 59th birthday this

month, received the Medal for his courageous deeds as a medic during the Vietnam war. New Mexico and the Nation are proud of these fine men and deeply grateful for their contributions to the freedom enjoyed by all Americans.

Since the birth of our Nation in 1776, 40 million American men and women have bravely sacrificed and served in defense of the freedoms that we enjoy, perhaps even sometimes take for granted. But our freedom isn't free, it was bought and paid for with the sacrifices of more than 1 million of those heroic servicemen and women who gave their lives for God and country. It was our first President who cautioned a young nation that, "If we desire peace, it must be known that we are at all times prepared for war."

Time and again in our 220-year history, our Nation's sons and daughters have been called upon to demonstrate that preparedness. Perhaps in no other war, however, was their resolve more tested than when our Nation struggled within itself during the Civil War. Early in that conflict, Iowa Senator James W. Grimes realized that soldiers needed not only leadership, they needed role models—heroes to look up to and emulate. To accomplish this, he introduced to this body, legislation authorizing a Medal of Honor for sailors and marines who distinguished themselves by their gallantry in action, in order to "promote the efficiency of the navy." Six months after President Lincoln authorized the Navy's Medal of Honor on December 21, 1861, he signed similar legislation introduced by Massachusetts Senator Henry Wilson to establish a Medal of Honor for members of the U.S. Army.

Since it was established by the Senate and authorized by President Lincoln 136 years ago, the Medal of Honor has been awarded to only 3,408 veterans of military service. The "roll call" of heroes includes an 11-year-old Civil War naval cabin boy, an escaped slave, the sons of two Presidents, conscientious objectors, privates and generals, chaplains and medics, and members of the U.S. Senate. These heroes have come from every State in the Union, from all nationalities and ethnic backgrounds, and from all social and economic strata. Three other Medal of Honor winners hail from New Mexico—about whom we are equally proud; Richard Rocco, Raymond Murphy, and Hiroshi Miyamura. Each of these men, and all winners of this coveted award have one thing in common, an action of such remarkable heroism "above and beyond the call of duty at the risk of their own life", that their comrades in arms have called them "heroes."

World War I gave us 119 Medal of Honor heroes, men like Eddie Rickenbacker and Sgt. Alvin York. But when the armistice was signed concluding the "war to end all wars" at the 11th hour of the 11th day of the 11th month in 1918, all America prayed that there would be no need to extend the honor of Medal of Honor recipient to future



generations, a distinction that could be achieved only as a result of U.S. involvement in a war.

Sadly, this would not be the case. Since that first "Veterans Day", subsequent tyranny and human rights violations around the world have continued to test the commitment of our Nation's men and women in uniform. In the horror and devastation of the battles to defend freedom and human dignity since World War I, more than 30 million Americans have risked everything. All who served were heroes in their own right, and to each of them we owe our thanks, our thoughts and our prayers this Veterans Day. Of this multitude of patriots, only 811 received the Medal of Honor. So incredible were their acts of courage that only 316 of them survived to wear this highest honor.

It is often said that the youth of our Nation today need real heroes, men and women of patriotism and integrity, examples of sacrifice and service; that they can look up to and emulate. We who are of generations past can lament the loss of great Americans such as Sgt. York, Jimmie Doolittle, Audie Murphy, and other heroes of our childhood. But I am happy to report that today there are still many heroes and heroines in our land, men and women who embody the principles and character that have created and preserved the United States. Among those role models are the millions of veterans that we honor today, and among those veterans of military service are 163 surviving Medal of Honor heroes. Today, as we honor all our Nation's veterans, I would like to pay special homage to our New Mexican Medal of Honor winners.

On November 30, 1913, Robert Sheldon Scott was born here in the Nation's capital. His family later moved to California where Bob Scott attended school before moving again to my own State of New Mexico. Bob Scott answered his Nation's call to duty to serve during World War II.

On June 30, 1943, Gen. Douglas MacArthur and Adm. William Halsey launched "Operation Cartwheel", a bold two-pronged offensive to gain control of Rabul in the Pacific. On the day, Admiral Halsey landed the 43rd Infantry Division on the New Georgia in the Solomon Islands for the purpose of capturing the Japanese-held Munda airstrip. Underestimating the jungles of the island and the tenacity of its Japanese defenders, Halsey expected the campaign to last only 2 weeks. By mid-July the Admiral was forced to land two more divisions on the island, and the attack on the airstrip resumed with new fervor on July 25. More than 1,000 Americans would give up their lives in the effort.

By July 27, the 43d Infantry's 172d Regiment bogged down in front of a salient facing the Munda airstrip. Battle-weary and demoralized from 27 days of bitter fighting, the well-entrenched enemy seemed to have again halted the

advance. Two days later, a squad from the 172d's 1st Battalion again assaulted the hill. Young Army Lt. Robert Scott led his men halfway up the hill to a position within 75 yards of the enemy, when the Japanese counterattack stopped them. Enemy soldiers rose from their fortifications firing their rifles and throwing grenades. Their fierce attack threw the exhausted Americans off the hill. Except for Lieutenant Scott.

Ducking behind the blasted remains of a tree stump, the brave lieutenant had an unobstructed view of the enemy bunkers. Despite being twice wounded and once having his rifle shot from his hand, for the next half hour, Lieutenant Scott stood alone on the hill to repulse the enemy. Throwing some 30 grenades, his one-man stand ended the enemy assault and caused them to withdraw. His Medal of Honor citation concludes with the notation that "our troops, inspired to renewed effort by Lieutenant Scott's intrepid stand and incomparable courage, swept across the plateau to capture the hill, and from this strategic position, four days later, captured Munda airstrip."

Of his award, Mr. Scott recently wrote, "I was awarded the Medal of Honor in World War II for deeds one day as a Second Lieutenant infantry platoon leader, deeds that I initiated at least in part from the conviction that I ought to have enough guts to do what I was authorized to order a sergeant or private soldier to try to do."

Today, Bob Scott still lives in the town of his youth, Santa Fe, NM. He is one of four of my State's living Medal of Honor heroes. The ninth oldest of our Nation's living Medal of Honor recipients, on the 30th day of this month, he will celebrate his 84th birthday. Our Governor, the Honorable Gary Johnson, has declared that day to be "Colonel Robert Scott Day" throughout our State.

Other Medal of Honor recipients from New Mexico contributed similar deeds of valor. Corporal Miyamura of Gallup was with Company H holding a defensive position near Taejon-ni, Korea in April 1951. When the enemy began to overrun his position, Corporal Miyamura left his sheltered position and engaged the enemy in hand-to-hand combat, then returned to his position to tend to the wounded. Under attack again, Corporal Miyamura manned two machine-guns to provide covering fire while his squad withdrew. He killed more than 50 enemy soldiers before his ammunition was depleted and he was severely wounded.

Second Lt. Raymond Murphy served as a platoon commander of Company A, 1st Battalion, 5th Marines, 1st Marine Division in action against the enemy west of Panmunjom, Korea. Wounded by artillery fire, Lieutenant Murphy refused medical aid while leading his men up a well-defended hill through a withering barrage of enemy fire. Murphy rescued many of his fallen comrades and returned each time to lead

the assault and provide cover for his troops. While all the wounded evacuated and the assaulting units began to disengage, he remained behind with a carbine to cover the movement of friendly forces off the hill. After reaching the base of the hill, he organized a search party and again ascended the slope for a final check on missing Marines, locating and carrying the bodies of a machine-gun crew down the hill. Wounded a second time, he again refused medical assistance until he was certain that all of his men had been safely evacuated.

Sgt. Louis Richard Rocco of Albuquerque served in Vietnam as a medic northeast of Katum. While evacuating wounded comrades, Sergeant Rocco directed fire against the enemy to enable a helicopter to land and assist in the operation. In the battle, the helicopter was disabled by enemy fire and crashed. Sergeant Rocco continued to direct covering fire while personally extracting survivors from the helicopter and carrying them to safety through dense foliage and enemy fire.

It is said, "Poor is the nation that has no heroes or heroines, but beggard is the nation that has and forgets them." On this day, our Nation has set aside to remember our veterans, as I stand before the same body that established the Medal of Honor, I offer this special salute to Col. Robert S. Scott, Cpl. Hiroshi H. Miyamura, 2d Lt. Raymond G. Murphy, and Sgt. Louis Richard Rocco—great citizens of the State of New Mexico and the Nation.●

#### ASIAN ELEPHANT CONSERVATION ACT

● Mr. GRAHAM. Mr. President, on Wednesday, November 5, the Asian Elephant Conservation Act passed the Senate Environment and Public Works Committee with unanimous support. I am hopeful that this important bill, introduced by Senator JEFFORDS, will ensure that the children of the world will not miss out on these extraordinary mammals.

The Asian Elephant Conservation Act is constructed along the lines of the successful African Elephant Conservation Act. I have been heartened to learn that the African Elephant Act is producing positive results. I am hopeful that the Asian Elephant Conservation Act will likewise support research, conservation, anti-poaching education, and protection of the animals. I feel strongly, however, that no funds allocated by these Acts are spent to promote efforts to resume the ivory trade or to encourage trophy hunting.

According to a 1996 nationwide poll, 84 percent of Americans support efforts to protect elephants, yet I have learned that some of the funds from the African Elephant Conservation Act have gone toward the promotion of elephant trophy hunting. There is ongoing debate about the success and appropriateness of US taxpayer dollars being used to support such activities, and I look

forward to learning more about this troublesome issue in the coming months.

For the time being, however, I wish to ask my colleagues for quick support and passage of the Asian Elephant Conservation Act. I am honored to be a co-sponsor of the bill, and look forward to finding more ways to protect and conserve endangered species, both in the United States and abroad.●

#### APPOINTMENTS BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, pursuant to Public Law 105-56, and on behalf of the majority leader, announces the appointment of the following individuals as members of the Panel to Review Long-Range Air Power: Samuel A. Adcock, of Virginia, and Merrill A. McPeak, of Oregon.

#### JOINT REFERRAL OF NOMINATION

Mr. LOTT. Mr. President, as in executive session, I ask unanimous consent that the nomination of Donald J. Barry, of Wisconsin, to be Assistant Secretary for Fish and Wildlife, sent to the Senate by the President on November 7, 1997, be referred jointly to the Committees on Energy and Natural Resources and Environment and Public Works.

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

#### UNANIMOUS-CONSENT AGREE- MENT—House Joint Resolution 101

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate receives House Joint Resolution 101 making continuing appropriations through Sunday, the joint resolution be agreed to and the motion to reconsider be laid upon the table, all without further action or debate.

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

#### REMOVAL OF INJUNCTION OF SE- CRETACY—TREATY DOCUMENT NO. 105-32

Mr. LOTT. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on November 7, 1997, by the President of the United States: South Pacific Regional Environment Programme Agreement (Treaty Document No. 105-32). I further ask unanimous consent that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

*To the Senate of the United States:*

I transmit herewith, for the advice and consent of the Senate to ratification, the Agreement Establishing the South Pacific Regional Environment Programme, done at Apia on June 16, 1993 ("the Agreement"). The report of the Department of State with respect to the Agreement is attached for the information of the Senate.

The South Pacific Regional Environment Programme (SPREP) has existed for almost 15 years to promote cooperation in the South Pacific region, to protect and improve the South Pacific environment and to ensure sustainable development in that region. Prior to the Agreement, SPREP had the status of an informal institution housed within the South Pacific Commission. When this institutional arrangement began to prove inefficient, the United States and the nations of the region negotiated the Agreement to allow SPREP to become an intergovernmental organization in its own right and enhance its ability to promote cooperation among its members.

The Agreement was concluded in June 1993 and entered into force in August 1995. Nearly every nation—except the United States—that has participated in SPREP and in the negotiation of the Agreement is now party to the Agreement. As a result, SPREP now enjoys a formal institutional status that allows it to deal more effectively with the pressing environmental concerns of the region. The United States and its territories can only participate in its activities as official observers.

The Agreement improves the ability of SPREP to serve the interests of American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam. Its ratification is supported by our territories and will demonstrate continued United States commitment to, and concern for, the South Pacific region.

Under its terms, the Agreement entered into force on August 31, 1995. To date, Australia, Cook Islands, Federated States of Micronesia, Fiji, France, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Papua New Guinea, Solomon Islands, Tonga, and Western Samoa have become parties to the Agreement.

I recommend that the Senate give early and favorable consideration to the Agreement and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, November 7, 1997.

#### MEASURE READ THE FIRST TIME—S. 1414

Mr. LOTT. Mr. President, I understand that S. 1414, which was introduced earlier today by Senator McCain, is at the desk. I now ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1414) to reform and restructure the processes by which tobacco products are

manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

Mr. LOTT. Mr. President, I now ask for its second reading and object to my own request on behalf of the other side of the aisle.

The PRESIDING OFFICER. The bill will be read for the second time on the next legislative day.

#### AMENDING TITLE I OF THE EM- PLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Mr. LOTT. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of H.R. 1377, and further that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill.

The legislative clerk read as follows:

A bill (H.R. 1377) to amend title I of the Employee Retirement Income Security Act of 1974 to encourage retirement income savings.

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

#### AMENDMENT NO. 1612

(Purpose: To amend the Employee Retirement Income Security Act of 1974 to promote retirement income savings through the establishment of an outreach program in the Department of Labor and periodic National Summits on Retirement Savings)

Mr. LOTT. Mr. President, Senator GRASSLEY has a substitute amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], FOR MR. GRASSLEY, proposes an amendment numbered 1612.

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

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

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

Mr. GRASSLEY. Mr. President, almost 7 months ago, my colleague and I, Senator JOHN BREAU, introduced S. 757, legislation identical to H.R. 1377. This legislation—the Savings Are Vital to Everyone's Retirement Act or SAVER—is now ready for passage in the Senate and ultimately signature of the President. While it took a little longer than I had hoped—it is still a timely and vital piece of legislation.

When I introduced the bill back in May, I cited some statistics on the dismal level of savings by individuals in this country. I said that only about one-third of American workers had calculated how much they will need to save by retirement in order to maintain their standard of living. I said that workers in the 40's to the early 50's had seen their savings levels drop by 6 percent from 1988 to 1994.

Well, these kinds of numbers are very consistent with new data recently released by the Employee Benefit Research Institute in its annual Retirement Confidence Survey. Slightly more than one-third of the people surveyed in 1997 have even tried to determine how much they need to save by retirement. Only 27 percent of Americans had an idea of what they would need to accumulate in order to retire and maintain their standard of living.

And people are very afraid. A recent poll by USA Today indicated that 49 percent of people are afraid of not having enough money for retirement.

Clearly, people need help in learning how to achieve a secure retirement. The SAVER bill which is now before the Senate, will do that. The SAVER Act will direct the Department of Labor to maintain an ongoing public education campaign about the need to save for retirement. This campaign will include a broad scope of initiatives including public service announcements, covering public meetings, and crating and disseminating educational materials.

Education has proven to be a powerful motivator for people to pay attention to their retirement savings. According to the Retirement Confidence Survey, of those employees who were provided educational programs and materials about the company pension plan, 45 percent said that it led them to begin contributing to the plan. Furthermore, 49 percent said that the educational programs and materials led them to reallocate their money among investment options offered.

The Department of Labor already has a good start on a public education initiative; this legislation will ensure that public education will continue beyond the current administration because this is a problem that will not go away.

The second important piece of this legislation is the creation of a national event—a national summit on retirement savings at the White House. This summit will be a truly bipartisan event—hosted by both the executive and congressional branch. The summit will bring together more than 200 experts in the field of pensions and retirement savings, elected officials, and representatives from the private sector and the public—all with the goal of raising the profile of the importance of saving and identifying barriers to saving and pension formation.

The first national summit will be held in the summer of 1998—just a short time from now. We will be able to get the summit organized due in large part to the groundwork already laid by a very effective group—the American Savings Education Council or ASEC. ASEC is unique in its origins and its mission. Its membership is made up of public and private sector employers financial, educational, and service organizations; and government agencies.

The organization is committed to helping individuals understand what

they need to do to prepare for retirement and to encourage savings for the future. ASEC has already made appearances in towns around the country to talk about retirement planning and has distributed a logical choice for a private partner to work with the public sector lead—the Department of Labor—to get the national summit on track for 1998.

I would like to commend Congressmen HARRIS FAWELL and DONALD PAYNE for introducing this legislation in the House. The support they generated was an important part of the successful consideration of this bill. I also want to acknowledge the cosponsors in the Senate—Senator KERRY, Senator KYL, Senator HAGEL, Senator TIM HUTCHINSON, Senator ROBB, Senator COLLINS, and Senator COCHRAN.

Today's workers need to be prepared for retirement—private savings can help minimize the risk that they will spend down their employers' 401(k) or count on more pension benefits than they will actually receive from their employer. Or, help prepare for the costs of medical care through long-term care insurance—that is an expense that worries many of today's retirees and their children. As we prepare for debate over the future of public retirement programs we must not overlook the role that private savings and an employer-based pension will play. The Government should play role in encouraging individuals to acquire knowledge that will help them achieve a secure standard of living when they are no longer able to work—SAVER is a critical first step in helping people achieve their hopes for retirement.

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

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

The amendment (No. 1612) was agreed to.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, as amended, that the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (H.R. 1377), as amended, was read a third time and passed.

#### CLONE PAGER AUTHORIZATION ACT OF 1997

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 166, S. 170.

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 170) to provide for a process to authorize the use of clone pagers, and for other purposes.

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

Mr. LEAHY. Mr. President, I am pleased to sponsor S. 170, the clone pager authorization Act, and urge its speedy passage. This bill would enable law enforcement officers to gain quicker and easier access to an important investigatory tool, called a clone pager, which has proven invaluable in gathering evidence against gang members, drug traffickers and organized crime members.

I was pleased to have helped improve this bill from the version introduced in the last congress. We included it in the juvenile crime bill, S. 15, that I sponsored along with other Democratic Members on the first day of this session and which the Democratic leader designated among our top legislative priorities.

While pagers are, of course, used legitimately by millions of people, these devices are relied upon by gangsters and drug dealers to carry on their illicit business from roving offices that enable time to commit crimes no matter where they are at any time of day or night. Indeed, pagers are so popular among drug traffickers, these devices are considered a regular tool of the drug trade.

A clone pager is programmed identically to the pager used by a suspected criminal so that it displays the same numbers transmitted to, and displayed on, the suspect's pager. A law enforcement officer using the clone pager is thereby able to receive the identical pager message at the same time as the targeted criminal.

How does this help law enforcement? When a drug dealer moves about town conducting his illicit business, he can keep in constant touch with his criminal associates, including his drug suppliers and customers, by carrying a pager. Contacting the dealer wherever he may be is a simple matter of calling his pager. The drug dealer can then pull up to the nearest public telephone to return the call at the number displayed on his pager. A clone pager, which simultaneously displays the same call-back numbers received by the targeted drug dealer, alerts law enforcement officers to the telephone numbers used by the dealer's suppliers and associates, and through those numbers, their locations.

To determine the telephone numbers of associates called by, or calling to, a criminal suspect's land-line or cellular telephone, law enforcement officers use a pen register or trap and trace device. Yet, when criminals opt to conduct their business using pagers—often times to thwart police surveillance—law enforcement officers must obtain authority under the wiretap law to use a clone pager. Even though clone pagers reveal essentially the same information about the telephone numbers of associates calling the suspect as do pen register and trap and trace devices, the procedures for wiretap authorization are significantly more complicated and more time-consuming than those to obtain authority for

use of pen register and trap and trace devices. The additional procedural hurdles necessary to use clone pagers benefit only the criminal.

This bill would permit law enforcement to use a clone pager based on the same form of court authorization necessary to use a pen register or trap and trace device. In fact, certain of the requirements for wiretap authorization simply make no sense when the investigatory tool being authorized is a clone numeric pager.

Thus, courts confronted with defense motions to suppress evidence derived from clone pagers for failure to comply with wiretap procedures have concluded that certain statutory requirements for wiretaps do not apply. For example, since clone numeric pagers do not reveal the content of any conversation or even whether any conversation actually occurred, courts have found that it is impossible to minimize clone numeric pager interceptions as is required for interceptions of wire, oral or electronic communications. See, e.g., *U.S. v. Bautista*, 1992 U.S. App. LEXIS 16829, 7 (4th Cir. 1992); *U.S. v. tutino*, 883 F.2d 1125, 1141 (2d Cir. 1989), cert. denied, 493 U.S. 1081 (1990) ("minimization requirements cannot reasonably be applied to clone beepers"); *U.S. v. Gambino*, 1995 U.S. Dist. LEXIS 10689, 7 (S.D.N.Y. 1995).

Furthermore, since the numbers captured from clone numeric pagers are usually manually, rather than electronically or mechanically, recorded by law enforcement officers, courts have concluded that the recordation and sealing requirements of the wiretap law have limited utility and refused to suppress for failure to comply with these requirements. *U.S. v. Suarez*, 906 F.2d 977, 984 (4th Cir. 1990) *U.S. v. Paredes-Moya*, 722 F. Supp. 1402, 1408 (N.D. Tex. 1989).

Instead of providing fodder for defense motions, the time is long overdue for Congress to apply common sense and require law enforcement to follow more appropriate procedures—no more and no less—to obtain authorization to use clone numeric pagers.

this bill would conform the requirements to obtain legal authorization for use of a clone pager to those for use of a pen register or trap and trace device. As one court recognized, "[u]nlike telephone wiretaps, duplicate paging devices reveal only numbers, not the content of conversation. In this way they are similar to pen registers." *U.S. v. Tutino*, supra, 883 F.2d at 1141. Specifically, the bill would authorize a Federal court to issue an order authorizing the use of a clone numeric display pager to receive the communications intended for another such pager, upon certification of an attorney for the government or law enforcement officer that the information likely to be obtained is relevant to an ongoing criminal investigation.

This new authority would be limited to clone numeric display pagers, not more sophisticated pagers that trans-

mit and receive written or oral textual messages. The only communications obtained from, and displayed on, clone numeric display pagers are numbers dialed into a telephone for transmission to the suspect's pager—just like the information obtained from a pen register or trap and trace device.

These numbers usually are callback telephone numbers, but may also include other incidental or coded numbers. Such incidental or coded numbers are also captured by pen register or trap and trace devices. The capturing of incidental or coded numbers by pen registers prompted Congress to require in the 1994 Communications Assistance for Law Enforcement Act [CALEA] that technology "reasonably available" be used to restrict the recording or decoding of numbers to the "dialing or signaling information utilized in call processing." 18 U.S.C. §3121(c).

Tone-only paging devices are already completely exempt from the wiretap law, as amended in 1986 by the Electronic Communications Privacy Act [ECPA]. The ECPA extended the protections of Title III of the Omnibus Crime Control and Safe Streets Act of 1968 ("Title III") to unauthorized interceptions of "electronic communications." My main purpose in sponsoring ECPA was, as the Senate Report indicates, "to update and clarify Federal privacy protections and standards in light of dramatic changes in new computer and telecommunications technologies." S. Rep. No. 541, 99th Cong., 2d Sess. 1, reprinted in 1986 U.S. Code Cong. & Admin. News 3555, 3555. Alpha-numeric display pagers, which visually display both numbers and letters, and sophisticated tone and voice pagers should, in my view, continue to be subject to the wiretap authorization procedures. The nature of the communication captured by numeric display pagers, however, is so akin to the information obtained by pen register and trap and trace devices, that the procedures and standards for their authorized use by law enforcement should be equalized.

As criminals use technological advances for their own ill purposes, Congress must continue, as we did with ECPA and CALEA, to give law enforcement the reasonable authority it needs to keep up, while protecting legitimate privacy interests. This bill does so, and I support its passage.

Passage of this bill will not mean the end of our work in this area, however. The judicial role in approving the use of pen register and trap and trace devices is severely limited and, in fact, relegates judges to merely a ministerial role. *U.S. v. Fregoso*, 60 F.3d 1314, 1320 (8th Cir. 1995); *U.S. v. Hallmark*, 911 F.2d 399, 402 (10th Cir. 1990); In re Order Authorizing Installation of Pen Reg., 846 F. Supp. 1555, 1558-59 (M.D. Fla. 1994). The court's limited role is to confirm, first, the identity of the applicant and investigating law enforcement agency, and second, certification from the applicant that the information

sought is relevant to an ongoing investigation. See 18 U.S.C. §§3121-3127.

Significantly, the judge is not authorized to review, let alone question, the basis for the relevancy determination. If the appropriate certification appears, the judge must authorize the pen register or trap and trace device. This is an anomalous limitation on the judicial role. While relevance to an ongoing criminal investigation remains an appropriate basis for use of a pen register or trap and trace device, Congress should reexamine the limitation on judicial authority to review this determination. This remains unfinished business.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to this bill appear at the appropriate place in the RECORD.

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

The bill (S. 170) was read a third time and passed, as follows:

S. 170

*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 "Clone Pager Authorization Act of 1996".

#### SEC. 2. WIRE AND ELECTRONIC COMMUNICATIONS.

(a) DEFINITIONS.—Section 2510(12) of title 18, United States Code, is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C), by adding "or" at the end; and

(3) by adding at the end the following:

"(D) any communication made through a clone pager (as that term is defined in section 3127)."

(b) PROHIBITION.—Section 2511(2)(h) of title 18, United States Code, is amended by striking clause (i) and inserting the following:

"(i) to use a pen register, a trap and trace device, or a clone pager (as those terms are defined for the purposes of chapter 206 (relating to pen registers, trap and trace devices, and clone pagers)); or".

#### SEC. 3. AMENDMENT OF CHAPTER 206.

Chapter 206 of title 18, United States Code, is amended—

(1) in the chapter heading, by striking "AND TRAP AND TRACE DEVICES" and inserting ", TRAP AND TRACE DEVICES, AND CLONE PAGERS";

(2) in the chapter analysis—

(A) by striking "and trap and trace device" each place that term appears and inserting ", trap and trace device, and clone pager";

(B) by striking "and trap and trace devices" and inserting ", trap and trace devices, and clone pagers"; and

(C) by striking "or a trap and trace device" each place that term appears and inserting ", a trap and trace device, or a clone pager";

(3) in section 3121—

(A) in the section heading, by striking "and trap and trace device" and inserting ", trap and trace device, and clone pager"; and

(B) by striking "or a trap and trace device" each place that term appears and inserting ", a trap and trace device, or a clone pager";

(4) in section 3122—

(A) in the section heading by striking "or a trap and trace device" and inserting ", a trap and trace device, or a clone pager";

(B) by striking "or a trap and trace device" each place that term appears and inserting "a trap and trace device, or a clone pager";

(5) in section 3123—

(A) in the section heading, by striking "**or a trap and trace device**" and inserting "**a trap and trace device, or a clone pager**";

(B) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—Upon an application made under section 3122, the court shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device within the jurisdiction of the court, or of a clone pager for which the service provider is subject to the jurisdiction of the court, if the court finds that the attorney for the Government or the State law enforcement or investigative officer has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation."

(C) in subsection (b)(1)—

(i) in subparagraph (A), by inserting before the semicolon the following: "or, in the case of a clone pager, the identity, if known, of the person who is the subscriber of the paging device, the communications to which will be intercepted by the clone pager";

(ii) in subparagraph (C), by inserting before the semicolon the following: "or, in the case of a clone pager, the number of the paging device, communications to which will be intercepted by the clone pager"; and

(iii) in paragraph (2), by striking "or trap and trace device" and inserting "a trap and trace device, or clone pager";

(D) in subsection (c), by striking "or a trap and trace device" and inserting "a trap and trace device, or a clone pager"; and

(E) in subsection (d)—

(i) in the subsection heading, by striking "OR A TRAP AND TRACE DEVICE" and inserting "TRAP AND TRACE DEVICE, OR CLONE PAGER"; and

(ii) in paragraph (2), by inserting "or the paging device, the communications to which will be intercepted by the clone pager," after "attached,";

(6) in section 3124—

(A) in the section heading, by striking "**or a trap and trace device**" and inserting "**a trap and trace device, or a clone pager**";

(B) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(C) by inserting after subsection (b) the following:

"(c) CLONE PAGER.—Upon the request of an attorney for the Government or an officer of a law enforcement agency authorized to acquire and use a clone pager under this chapter, a Federal court may order, in accordance with section 3123(b)(2), a provider of a paging service or other person, to furnish to such investigative or law enforcement officer, all information, facilities, and technical assistance necessary to accomplish the operation and use of the clone pager unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the programming and use is to take place."

(7) in section 3125—

(A) in the section heading, by striking "**and trap and trace device**" and inserting "**trap and trace device, and clone pager**";

(B) in subsection (a)—

(i) by striking "or a trap and trace device" and inserting "a trap and trace device, or a clone pager"; and

(ii) by striking the quotation marks at the end; and

(C) by striking "or trap and trace device" each place that term appears and inserting "a trap and trace device, or clone pager";

(8) in section 3126—

(A) in the section heading, by striking "**and trap and trace devices**" and inserting "**trap and trace devices, and clone pagers**"; and

(B) by inserting "or clone pagers" after "devices"; and

(9) in section 3127—

(A) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (4) the following:

"(5) the term 'clone pager' means a numeric display device that receives communications intended for another numeric display paging device;"

#### FORT BERTHOLD INDIAN RESERVATION ACT OF 1997

Mr. LOTT. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar 258, S. 1079.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1079) to permit the leasing of mineral rights, in any case in which the Indian owners of an allotment that is located within the boundaries of the Fort Berthold Indian Reservation and held in trust by the United States have executed leases to more than 50 percent of the mineral estate of that allotment.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

#### SECTION 1. LEASES OF ALLOTTED LANDS OF THE FORT BERTHOLD INDIAN RESERVATION.

(a) IN GENERAL.—

(1) DEFINITIONS.—In this section:

(A) INDIAN LAND.—The term "Indian land" means an undivided interest in a single parcel of land that—

(i) is located within the Fort Berthold Indian Reservation in North Dakota; and

(ii) is held in trust or restricted status by the United States.

(B) INDIVIDUALLY OWNED INDIAN LAND.—The term "individually owned Indian land" means Indian land that is owned by 1 or more individuals.

(C) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) EFFECT OF APPROVAL BY SECRETARY OF THE INTERIOR.—

(A) IN GENERAL.—The Secretary may approve any mineral lease or agreement that affects individually owned Indian land, if—

(i) the owners of a majority of the undivided interest in the Indian land that is the subject of the mineral lease or agreement (including any interest covered by a lease or agreement executed by the Secretary under paragraph (3)) consent to the lease or agreement; and

(ii) the Secretary determines that approving the lease or agreement is in the best interest of the Indian owners of the Indian land.

(B) EFFECT OF APPROVAL.—Upon the approval by the Secretary under subparagraph (A), the lease or agreement shall be binding, to the same extent as if all of the Indian owners of the In-

dian land involved had consented to the lease or agreement, upon—

(i) all owners of the undivided interest in the Indian land subject to the lease or agreement (including any interest owned by an Indian tribe); and

(ii) all other parties to the lease or agreement.

(C) DISTRIBUTION OF PROCEEDS.—The proceeds derived from a lease or agreement that is approved by the Secretary under subparagraph (A) shall be distributed to all owners of the Indian land that is subject to the lease or agreement in accordance with the interest owned by each such owner.

(3) EXECUTION OF LEASE OR AGREEMENT BY SECRETARY.—The Secretary may execute a mineral lease or agreement that affects individually owned Indian land on behalf of an Indian owner if—

(A) that owner is deceased and the heirs to, or devisees of, the interest of the deceased owner have not been determined; or

(B) the heirs or devisees referred to in subparagraph (A) have been determined, but 1 or more of the heirs or devisees cannot be located.

(4) PUBLIC AUCTION OR ADVERTISED SALE NOT REQUIRED.—It shall not be a requirement for the approval or execution of a lease or agreement under this subsection that the lease or agreement be offered for sale through a public auction or advertised sale.

(b) RULE OF CONSTRUCTION.—This Act supercedes the Act of March 3, 1909 (35 Stat. 783, chapter 263; 25 U.S.C. 396) only to the extent provided in subsection (a).

Mr. LOTT. I ask unanimous consent the committee substitute be agreed to; the bill, as amended, be read three times, passed and the motion to reconsider be laid upon the table; and the amendment to the title be agreed to; that any statements relating thereto be printed in the RECORD at the appropriate place as if read.

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

The committee amendment was agreed to.

The bill (S. 1079), as amended, was passed.

The title was amended so as to read:

A bill to permit the mineral leasing of Indian land located within the Fort Berthold Indian Reservation in any case in which there is consent from a majority interest in the parcel of land under consideration for lease.

#### JOHN F. KENNEDY CENTER PARKING IMPROVEMENT ACT OF 1997

Mr. LOTT. I ask unanimous consent the Senate now proceed to the consideration of Calendar 89, H.R. 1747.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1747) to amend the John F. Kennedy Center Act to authorize the design and construction of additions to the parking garage and certain site improvements, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

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

Mr. LOTT. I want to express my appreciation to Senator DOMENICI for his cooperation in making the adoption of this legislation, which has been pending for quite some time, possible tonight.

I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at this point in the RECORD.

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

The bill (H.R. 1747) was deemed read the third time and passed.

# HISPANIC CULTURAL CENTER ACT OF 1997

Mr. LOTT. I ask unanimous consent the Senate now proceed to the consideration of S. 1417 introduced earlier today by Senator DOMENICI.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1417) to provide for the design, construction, furnishing and equipping of a center for performing arts within the complex known as the New Mexico Hispanic Cultural Center.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

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

Mr. DOMENICI. Mr. President, Hispanics of the Southwest and New Mexico will be celebrating an important milestone next year. 1998 is the 400th anniversary of permanent Hispanic presence in New Mexico. In 1598, Juan de Oñate arrived in New Mexico and founded the second city of the United States, San Gabriel de los Españoles. This was the first permanent Spanish settlement in New Mexico. From New Mexico, Juan de Oñate traveled across the desert to California where he founded San Francisco in 1605.

On the occasion of the 400th anniversary of Spanish presence, New Mexico will be beginning a new era of Spanish pride and cooperation with other cultures. In New Mexico, we are very proud of our cultural relations between the Indian, Spanish, and Anglo people. It is now time to pay special tribute to the Spanish people of New Mexico, the Southwest, and the United States.

In preparing for the 400th anniversary celebrations, the State of New Mexico has invested over \$17.7 million toward the establishment of phase I of the New Mexico Hispanic Cultural Center. In addition, the city of Albuquerque has donated 10.9 acres and a historic 22,000-square-foot building. Twelve acres of "bosque" land near the Rio Grande have also been donated by the Middle Rio Grande Conservancy District. Private contributions are also helping to meet the Hispanic Cultural Center goals.

I am asking my colleagues to authorize funding to match these New Mexico contributions. This authorization is to build the critical Hispanic Performing Arts Center at an estimated cost of \$17.8 million. I believe the people of New Mexico have done an excellent job in committing their own resources for an art gallery, museum, restaurant, ballroom, amphitheater, research cen-

ter, literary arts center, and other supportive components.

To showcase the Hispanic culture for all Americans, the Hispanic Performing Arts Center is a vital component. Phase II plans include a 700-seat theater, a stage house, a 300-seat film/video center, a 150-seat black box theater, an art studio building, a culinary art building, and a research and literary arts building. The estimated cost of all phase II components is \$26 million. By agreeing to authorize the Hispanic Performing Arts Center, Congress will make a significant contribution toward the phase II plan.

Not counting the land contributions, phase I and phase II design, construction, equipping, and furnishing is estimated to cost slightly more than \$40 million. Major infrastructure components are included in both phases. These include an aqueduct, acequia, and pond from the Barelás Drain; parking; a plaza and courtyard, and landscaping.

Phase I is now near the bidding stage. The Hispanic Performing Arts and Film Arts—the three theaters—are estimated to cost \$17.8 million, with necessary equipment—construction: \$15.9 million; fixed equipment: \$1.9 million. The remaining components of phase II are estimated to cost \$8 million.

This multifaceted Hispanic Cultural Center is designed to showcase, share, archive, preserve, and enhance the rich Hispanic culture for local, regional, and national audiences. It is designed to be a tourist attraction as well as a great source of local pride.

The Hispanic Cultural Center will be the southernmost facility on a cultural corridor that includes the Rio Grande Nature Center, the Albuquerque Aquarium, Botanical Gardens, and the Rio Grande Zoo. Historic Old Town Albuquerque is at the center of this cultural corridor.

Antoine Predock of Albuquerque and Pedro Marquez of Santa Fe were the original design architects. Mr. Predock is an internationally recognized architect and his design will enhance the attractiveness of the center. To promote the Spanish and Southwestern themes, they have emphasized the inclusion of New Mexico architectural features such as adobe construction—like the existing historic building used as the administrative center—courtyards, portals, cottonwoods for shading, and the irrigation ditches known in New Mexico as "acequias". The site is at the corner of Fourth Street and Bridge Boulevard in Southwest Albuquerque.

Once built, the Hispanic Cultural Center will employ over 100 people. Tourism dollars are expected to increase in this part of Albuquerque, and new ancillary businesses are anticipated to complement and enhance the attractions in the historic Barelás Neighborhood of Albuquerque.

The many forms of art, culture, research, performing arts, culinary arts,

literature, and other activities are expected to add important cultural connections to the roots of the local and state Hispanic people. Completion of the Hispanic Performing Arts Center will be the major facility needed to showcase live and filmed Spanish cultural events. A whole new industry of preserving, showcasing, and enhancing pride in Spanish cultural roots is a vital anticipated benefit of this New Mexico-based Hispanic institution.

Visitors are expected from California, New York, Florida, Texas, Wisconsin, Minnesota, and other States with large Hispanic populations. The New Mexico Hispanic Cultural Center and its active Hispanic Performing Arts Center are expected to become nationally known treasures of living Hispanic culture in America.

I believe that authorizing Federal funding for the Hispanic Performing Arts Center will be a significant step toward this budding national treasure in its critical formative stages. I urge my colleagues to support the funding for the Hispanic Performing Arts Center in Albuquerque, NM, in honor of the 400th anniversary of Spanish culture, and in hopes of seeing the preservation and enhancement of this culture flourish into its 500th year.

Mr. LOTT. I ask unanimous consent the bill be deemed read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at this point in the RECORD.

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

The bill (S. 1417) was read the third time and passed, as follows:

S. 1417

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1.

(a) SHORT TITLE.—This act may be cited as the Hispanic Cultural Center Act of 1997.

## SEC. 2. CONSTRUCTION OF A CENTER FOR PERFORMING ARTS.

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

(1) The United States has an enriched legacy of Hispanic influence in politics, government, economic development, and cultural expression.

(2) The Hispanic culture in what is now the United States can be traced to 1528 when a Spanish expedition from Cuba to Florida was shipwrecked on the Texas coast.

(3) The Hispanic culture in New Mexico can be traced to 1539 when a Spanish Franciscan Friar, Marcos de Niza, and his guide, Estevanico, traveled into present day New Mexico in search of the fabled city of Cibola and made contact with the people of Zuni.

(4) The Hispanic influence in New Mexico is particularly dominant and a part of daily living for all the citizens of New Mexico, who are a diverse composite of racial, ethnic, and cultural peoples. Don Juan de Oñate and the first New Mexican families established the first capital in the United States, San Juan de los Caballeros, in July of 1598.

(5) Based on the 1990 census, there are approximately 650,000 Hispanics in New Mexico, the majority having roots reaching back ten or more generations.

(6) There are an additional 200,000 Hispanics living outside of New Mexico with roots in New Mexico.



(7) The New Mexico Hispanic Cultural Center is a living tribute to the Hispanic experience and will provide all citizens of New Mexico, the Southwestern United States, the entire United States, and around the world, an opportunity to learn about, partake in, and enjoy the unique Hispanic culture, and the New Mexico Hispanic Cultural Center will assure that this 400-year old culture is preserved.

(8) The New Mexico Hispanic Cultural Center will teach, showcase, and share all facets of Hispanic culture, including literature, performing arts, visual arts, culinary arts, and language arts.

(9) The New Mexico Hispanic Cultural Center will promote a better cross-cultural understanding of the Hispanic culture and the contributions of individuals to the society in which we all live.

(10) In 1993, the legislature and Governor of New Mexico created the Hispanic Cultural Division as a division within the Office of Cultural Affairs. One of the principal responsibilities of the Hispanic Cultural Division is to oversee the planning, construction, and operation of the New Mexico Hispanic Cultural Center.

(11) The mission of the New Mexico Hispanic Cultural Center is to create a greater appreciation and understanding of Hispanic culture.

(12) The New Mexico Hispanic Cultural Center will serve as a local, regional, national, and international site for the study and advancement of Hispanic culture, expressing both the rich history and the forward-looking aspirations of Hispanics throughout the world.

(13) The New Mexico Hispanic Cultural Center will be a Hispanic arts and humanities showcase to display the works of national and international artists, and to provide a venue for educators, scholars, artists, children, elders, and the general public.

(14) The New Mexico Hispanic Cultural Center will provide a venue for presenting the historic and contemporary representations and achievements of the Hispanic culture.

(15) The New Mexico Hispanic Cultural Center will sponsor arts and humanities programs, including programs related to visual arts of all forms (including drama, dance, and traditional and contemporary music), research, literary arts, genealogy, oral history, publications, and special events such as, fiestas, culinary arts demonstrations, film video productions, storytelling presentations and education programs.

(16) Phase I of the New Mexico Hispanic Cultural Center complex is scheduled to be completed by August of 1998 and is planned to consist of an art gallery with exhibition space and a museum, administrative offices, a restaurant, a ballroom, a gift shop, an amphitheater, a research and literary arts center, and other components.

(17) Phase II of the New Mexico Hispanic Cultural Center complex is planned to include a performing arts center (containing a 700-seat theater, a stage house, and a 300-seat film/video theater), a 150-seat black box theater, an art studio building, a culinary arts building, and a research and literary arts building.

(18) It is appropriate for the Federal Government to share in the cost of constructing the New Mexico Hispanic Cultural Center because Congress recognizes that the New Mexico Hispanic Cultural Center has the potential to be a premier facility for performing arts and a national repository for Hispanic arts and culture.

(b) DEFINITIONS.—In this section:

(1) CENTER.—The term ‘Center’ means the Center for Performing Arts, within the complex known as the New Mexico Hispanic Cul-

tural Center, which Center for the Performing Arts is a central facility in Phase II of the New Mexico Hispanic Cultural Center complex.

(2) HISPANIC CULTURAL DIVISION.—The term ‘Hispanic Cultural Division’ means the Hispanic Cultural Division of the Office of Cultural Affairs of the State of New Mexico.

(3) SECRETARY.—The term ‘Secretary’ means the Secretary of the Interior.

(c) CONSTRUCTION OF CENTER.—The Secretary shall award a grant to New Mexico to pay for the Federal share of the costs of the design, construction, furnishing, and equipping of the Center for Performing Arts that will be located at a site to be determined by the Hispanic Cultural Division, within the complex known as the New Mexico Hispanic Cultural Center.

(d) GRANT REQUIREMENTS.—

(1) IN GENERAL.—In order to receive a grant awarded under subsection (c), New Mexico, acting through the Director of the Hispanic Cultural Division—

(A) shall submit to the Secretary, within 30 days of the date of enactment of this section, a copy of the New Mexico Hispanic Cultural Center Program document dated January 1996; and

(B) shall exercise due diligence to expeditiously execute, in a period not to exceed 90 days after the date of enactment of this section, the memorandum of understanding under paragraph (2) recognizing that time is of the essence for the construction of the Center because 1998 marks the 400th anniversary of the first permanent Spanish settlement in New Mexico.

(2) MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding described in paragraph (1) shall provide—

(A) the date of completion of the construction of the Center;

(B) that Antoine Predock, an internationally recognized architect, shall be the supervising architect for the construction of the Center; or any other architect subsequently named by the state.

(C) that the Director of the Hispanic Cultural Division shall award the contract for architectural engineering and design services in accordance with the New Mexico Procurement Code; and

(D) that the contract for the construction of the Center—

(i) shall be awarded pursuant to a competitive bidding process; and

(ii) shall be awarded not later than 3 months after the solicitation for bids for the construction of the Center.

(3) FEDERAL SHARE.—The Federal share of the costs described in subsection (c) shall be 50 percent.

(4) NON-FEDERAL SHARE.—The non-Federal share of the costs described in subsection (c) shall be in cash or in kind fairly evaluated, including plant, equipment, or services. The non-Federal share shall include any contribution received by New Mexico for the design, construction, furnishing, or equipping of Phase I or Phase II of the New Mexico Hispanic Cultural Center complex prior to the date of enactment of this section. The non-Federal share of the costs described in subsection (c) shall include the following:

(A) \$16,410,000 that was appropriated by the New Mexico legislature since January 1, 1993, for the planning, property acquisition, design, construction, furnishing, and equipping of the New Mexico Hispanic Cultural Center complex.

(B) \$116,000 that was appropriated by the New Mexico legislature for fiscal year 1995 for the startup and operating expenses of the New Mexico Hispanic Cultural Center.

(C) \$226,000 that was appropriated by the New Mexico legislature for fiscal year 1996

for the startup and operating expenses of the New Mexico Hispanic Cultural Center.

(D) \$442,000 that was appropriated by the New Mexico legislature for fiscal year 1997 for the startup and operating expenses of the New Mexico Hispanic Cultural Center.

(E) \$551,000 that was appropriated by the New Mexico legislature for fiscal year 1998 for the startup and operating expenses of the New Mexico Hispanic Cultural Center.

(F) A 10.9-acre lot with a historic 22,000 square foot building donated by the Mayor and City Council of Albuquerque, New Mexico, to New Mexico for the New Mexico Hispanic Cultural Center.

(G) 12 acres of ‘Bosque’ land adjacent to the New Mexico Hispanic Cultural Center complex for use by the New Mexico Hispanic Cultural Center.

(H) The \$30,000 donation by the Sandia National Laboratories and Lockheed Martin Corporation to support the New Mexico Hispanic Cultural Center and the program activities of the New Mexico Hispanic Cultural Center.

(e) USE OF FUNDS FOR DESIGN, CONSTRUCTION, FURNISHING, AND EQUIPMENT.—The funds received under a grant awarded under subsection (c) shall be used only for the design, construction, management, inspection, furnishing, and equipment of the Center.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section a total of \$17,800,000 for fiscal year 1998 and succeeding fiscal years. Funds appropriated pursuant to the authority of the preceding sentence shall remain available until expended.

#### AUTHORIZING TESTIMONY, PRODUCTION OF DOCUMENTS AND REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. LOTT. I ask unanimous consent the Senate proceed to the immediate consideration of Senate Resolution 147 submitted earlier today by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 147) to authorize testimony, production of documents, and representation in *First American Corp., et al. v. Sheikh Zayed Bin Sultan Al-Nahyan, et al.*

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

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

Mr. LOTT. Mr. President, the civil case of *First American Corporation, et al. versus Sheikh Zayed Bin Sultan Al-Nahyan, et al.*, pending in the District Court for the District of Columbia, presents claims arising out of the former business relationships between *First American Bank* and the *Bank of Credit and Commerce, International*, known as BCCI.

BCCI's business dealings were the subject of extensive hearings by the Subcommittee on Terrorism, Narcotics, and International Operations, of the Committee on Foreign Relations, between 1988 and 1992. Senator JOHN KERRY, who chaired that subcommittee, and former Senator Hank Brown, who was the ranking member, prepared a lengthy report documenting their findings.

The Foreign Relations Committee has received a request for a former counsel to the subcommittee, Jack Blum, to testify in this civil action about responses that the Subcommittee received to its requests for information in the course of its investigation. The Committee believes that it is appropriate to authorize the testimony requested on this subject. This resolution would accordingly authorize Mr. Blum to testify about this subject, but the resolution authorizes no other testimony by any Member or employee.

The committee has also received a request for committee records in connection with this case. In keeping with prior Senate practice, this resolution will not authorize the wholesale production of committee records, but authorizes the chairman and ranking member of the Foreign Relations Committee to produce, on a case-by-case basis, copies of selective committee records from this subcommittee investigation, where a strong basis for the request has been shown and the Senate's privileges permit.

Finally, the resolution authorizes the Senate legal counsel to provide representation in connection with the requests for testimony and documents in this proceeding.

Mr. LOTT. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

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

The resolution (S. Res. 147) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 147

Whereas, in the case of *First American Corp., et al. v. Sheikh Zayed Bin Sultan Al-Nahyan, et al.*, C.A. No. 93-1309 (JHG/PJA), pending in the United States District Court for the District of Columbia, the plaintiff has requested testimony from Jack Blum, a former employee on the staff of the Committee on Foreign Relations, and the production of documents of the Committee on Foreign Relations;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members, employees, committees, and subcommittees, of the Senate with respect to any subpoena, order, or request for testimony or documents relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

*Resolved*, That Jack Blum is authorized to testify in the case of *First American Corp., et al. v. Sheikh Zayed Bin Sultan Al-Nahyan, et al.*, except concerning matters for which a privilege should be asserted, and the chairman and ranking minority member of the Committee on Foreign Relations, acting jointly, are authorized to produce records of the Committee relating to the investigation of the Subcommittee on Terrorism, Narcotics, and International Operations into the Bank of Credit and Commerce, International.

SEC. 2. That the Senate Legal Counsel is authorized to represent Jack Blum, the Committee on Foreign Relations, and any present or former Member or employee of the Senate, in connection with *First American Corp., et al. v. Sheikh Zayed Bin Sultan Al-Nahyan, et al.*

#### REGARDING PROLIFERATION OF MISSILE TECHNOLOGY FROM RUSSIA TO IRAN

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 250, Senate Concurrent Resolution 48.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 48) expressing the sense of Congress regarding proliferation of missile technology from Russia to Iran.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the Record.

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

The concurrent resolution (S. Con. Res. 48) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

#### S. CON. RES. 48

Whereas there is substantial evidence missile technology and technical advice have been provided from Russia to Iran, in violation of the Missile Technology Control Regime;

Whereas these violations include providing assistance to Iran in developing ballistic missiles, including the transfer of wind tunnel and rocket engine testing equipment;

Whereas these technologies give Iran the capability to deploy a missile of sufficient range to threaten United States military installations in the Middle East and Persian Gulf, as well as the territory of Israel, and our North Atlantic Treaty Organization ally Turkey; and

Whereas President Clinton has raised with Russian President Boris Yeltsin United States concerns about these activities and the Russian response has to date been inadequate: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That it is the sense of the Congress that—

(1) the President should demand that the Government of Russia take concrete actions to stop governmental and nongovernmental entities in the Russian Federation from providing missile technology and technical advice to Iran, in violation of the Missile Technology Control Regime;

(2) if the Russian response is inadequate, the United States should impose sanctions on the responsible Russian entities in accordance with Executive Order 12938 on the Proliferation of Weapons of Mass Destruction, and reassess cooperative activities with Russia;

(3) the threshold under current law allowing for the waiver of the prohibition on the release of foreign assistance to Russia should be raised; and

(4) our European allies should be encouraged to take steps in accordance with their own laws to stop such proliferation.

Mr. KLY. Mr. President, I rise today to thank my colleagues for their support of Senate Concurrent Resolution 48, which was adopted by unanimous consent.

This resolution is important because over the past few months a series of increasingly troubling reports have been published indicating Russian organizations are continuing to provide missile assistance to Iran. According to these reports, Russia has supplied blueprints and components for the 2,000 kilometer range SS-4 ballistic missile, as well as a wide variety of equipment and material useful in the design and manufacture of ballistic missiles, including special metals, a wind tunnel, and missile design software.

These press accounts are corroborated by an unclassified CIA report to Congress released in June titled, "The Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions," which states that, "Russia supplied a variety of ballistic missile-related goods to foreign countries [in late 1996], especially Iran."

These reports clearly make the point that the assistance provided by Russian organizations is the critical factor which has accelerated the pace of Iran's ballistic missile program and may enable Tehran to complete development of a missile, called the Shahab-3, that will have sufficient range to strike United States forces in the region and Israel in as little as 12 to 18 months. In addition, Iran is also receiving Russian assistance with the development of a second missile, called the Shahab-4, that would have enough range to reach Central Europe and could be deployed in as little as 3 years.

The resolution adopted today expresses the sense of the Congress that the President should demand that the Russian Government take concrete actions to stop governmental and nongovernmental organizations from assisting Iran's missile program. If Russia fails to respond to United States concerns, the resolution calls on the President to impose sanctions on the responsible Russian entities.

This legislation does not require new sanctions, but rather calls on the administration to enforce the substantial

amount of existing sanctions law. The fact that the resolution was adopted by unanimous consent in the Senate and passed by an overwhelming vote of 414 to 8 in the House of Representatives sends a clear signal to Russia and the administration that this dangerous trade must stop now.

I am very pleased that from its inception, this resolution has enjoyed bipartisan support; 39 Senators, from both sides of the aisle, cosponsored the measure and I want to thank them for their support and also thank Representative JANE HARMAN who was the principal sponsor of the resolution in the House of Representatives and worked tirelessly on its behalf. It has been a pleasure working with Representative HARMAN over the past few months and I look forward to continuing to work closely with her to address the national security challenges facing our Nation.

Mr. LOTT. 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.

The PRESIDING OFFICER. Without objection, the quorum call is rescinded.

#### RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDING OFFICER. Without objection, the Senate stands in recess subject to the call of the Chair.

Thereupon, at 7:43 p.m., the Senate recessed subject to the call of the Chair.

The Senate reassembled at 8:23 p.m., when called to order by the Presiding Officer (Mr. ROBERTS).

Mr. CHAFEE addressed the Chair.

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

#### SURFACE TRANSPORTATION EXTENSION ACT OF 1997

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. 1454, introduced earlier today by Senator BOND, and others.

The PRESIDING OFFICER. The clerk will read the bill.

The assistant legislative clerk read as follows:

A bill (S. 1454) to provide a 6-month extension of highway, highway safety, and transit programs pending enactment of a law reauthorizing the Intermodal Surface Transportation Efficiency Act of 1991.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

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

Mr. CHAFEE. Mr. President, I want to say how much I appreciate the wonderful work on this legislation by Senator BOND, Senator WARNER, Senator BAUCUS, and others. I am pleased to joint them in cosponsoring the Surface Transportation Extension Act of 1997.

Seven weeks ago, the Committee on Environment and Public Works unanimously reported out S. 1173, better known as ISTEA II. I am proud of the committee's efforts to come to an agreement on a very difficult piece of legislation. We filed the report at the end of September, and we were prepared to complete action on the bill before the end of the calendar year. Regrettably, a number of unrelated events having nothing to do with ISTEA have prevented us from completing work this year on a 6-year reauthorization bill.

As the prospects have dimmed for the enactment of a 6-year bill this year, it is clear that we cannot go home before taking care of a number of concerns. This past Tuesday, November 4, the Committee on Environment and Public Works Subcommittee on Transportation and Infrastructure held a hearing on which many of these concerns were brought to light. First of all, if Congress does nothing, a number of States will be hard-pressed to survive through the spring on their existing unobligated balances. Second, States are restricted in using their unobligated balances across Federal-aid highway, transit, and safety categories. Third, a number of Federal transportation safety programs, as well as the Federal transit program, have no funds to carry over into this fiscal year. Finally, without any relief, the Federal Highway Administration will be forced to shut down in January, which could result in 3,600 employees being furloughed.

Despite the gloomy reports of what could happen if Congress fails to act, there is a solution. Senators BOND, WARNER, BAUCUS, and I have a measure that addresses the needs of the States, the safety programs, the Federal-aid highway program, and transit. First of all, the bill before us will keep the nation's transportation system up and running until we enact the long-term reauthorization bill. It gives States the flexibility they need to continue transportation planning and construction activities. Each State is guaranteed at least 50 percent of the previous year's spending limitation to spend on any transportation project or program. To keep the States on equal footing, however, no state may spend more than 75 percent of its 1997 spending limitation.

Second, the bill provides states with flexibility to spend their unobligated balances on any highway, safety, or transit program category. To prevent important environmental programs such as the Congestion Mitigation and Air Quality Improvement Program [CMAQ] from being unfairly disadvantaged, however, the Secretary of Transportation would restore the transferred funds back to these programs when the new reauthorization bill is enacted.

Third, the bill provides funding for key ISTEA safety and transit programs. The Motor Carrier Safety Assistance Program, the State and Community Safety Grant Program, the Na-

tional Driver Register, Operation Lifesaver, and the Alcohol-impaired Driving Countermeasures Program, will continue to run. Also, the Federal transit discretionary and formula programs will receive the funds they need. Fourth, the bill provides funds for the Federal Highway Administration to continue operating and assisting the States with their transportation programs.

Before closing, let me comment on what the bill before us does not do. Unlike the 6-month extension bill that was approved by the House earlier this month, this bill does not provide States with contract authority for 1 year's worth of highway construction. Our bill gives the States until May 1 of next year to obligate the funds provided in this bill. The trouble with including funds that will not run out until next November is that there will be no pressure to enact permanent ISTEA legislation until that time, right before the 1998 elections. Pushing the decision off until next fall runs the risk of our being without a bill 1 year from now. Moreover, this measure avoids the contentious fight we would have over apportionment formulas and funding categories if we were to take up the House bill.

The bill before us is by no means perfect, but it is the optimal approach to the situation. Our hopes for an ideal outcome were dashed when we were unable to complete work on a 6-year reauthorization bill. This measure keeps the State and Federal transportation programs running, it ensures that no highway contractors are put out of work, and it continues funding for vital safety and transit programs. Most important, it will keep the momentum going to enact a 6-year bill early next year. And it does all of this without a battle over the formulas.

Again, I want to commend Senator BOND for his determination in moving this measure forward. I also want to thank Senators WARNER and BAUCUS for their excellent work. I urge all of my colleagues to join us in supporting this important measure.

Mr. ABRAHAM. Mr. President, I appreciate the hard work done by the Environment and Public Works Committee, and the compromise it represents. However, I believe the proposal sent over by the House in H.R. 2516 represented a superior short-term reauthorization proposal. Hopefully, many of these funding elements may find their way into the final ISTEA reauthorization proposal.

Mr. President, I would simply like to gain assurance from the chairman of the Environment and Public Works Committee that passage of his short-term proposal in no way obligates the Senate or its Members to support of any specific funding level or formula, and that it is simply a stop-gap measure until we can proceed to a final long-term authorization bill.

Mr. CHAFEE. Mr. President, I can definitely assure the Senator from

Michigan that passage of this short-term bill in no way implies acceptance of any long-term funding level or formula.

Mr. ABRAHAM. Mr. President, I thank the chairman for his assurances, and look forward to working with him in crafting the follow-on legislation to ISTEA that will sufficiently rectify the onerous position in which donor States, like Michigan, find themselves.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the bill be considered read the third time, and passed, that the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

Mr. LEVIN. Mr. President, reserving the right to object.

I ask unanimous consent that the unanimous-consent request that is pending be amended in order that an amendment of mine, amendment No. 1376, be in order.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, with all due respect to my good friend from Michigan, I must object.

The PRESIDING OFFICER. Objection is heard.

Mr. LEVIN. Reserving the right to object, I have a further inquiry of my good friend from Montana. Would it be fair to say that the adoption of this short term bill would in no way prejudice efforts later on in the next session of Congress to have consideration of amendments, such as No. 1376, and other formulas which are more equitable to many of our States that have not, in our view, been treated equitably.

Mr. BAUCUS. I say to my friend that this measure about to be passed is formula neutral. It in no way would prejudice the amendment to be offered at a later date by the Senator from Michigan, or other amendments offered by other Senators who wish to accomplish objectives for their States as well.

Mr. WARNER. Mr. President, I think the Senator has made it very clear that he was referring to ISTEA I in 1991, was he not?

Mr. LEVIN. I am not referring to the ISTEA I bill.

Mr. BAUCUS. The Senator is referring to next year.

Mr. LEVIN. I thank the Chair.

Mr. CHAFEE. Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill (S. 1454) was considered read the third time, and passed, as follows:

S. 1464

*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 "Surface Transportation Extension Act of 1997".

#### SEC. 2. ADVANCE AUTHORIZATIONS.

(a) IN GENERAL.—The Secretary of Transportation (referred to in this Act as the

"Secretary") shall apportion funds made available under the amendment made by subsection (d)—

(1) to any State for which the State's unobligated balance, as of October 1, 1997, of Federal-aid highway apportionments subject to any limitation on obligations is less than 50 percent of the State's total fiscal year 1997 obligation authority for funds apportioned for the Federal-aid highway program; and

(2) in an amount sufficient to increase the State's unobligated balance, as of October 1, 1997, of apportionments described in paragraph (1) to an amount equal to 50 percent of the State's total fiscal year 1997 obligation authority for funds apportioned for the Federal-aid highway program.

(b) ELIGIBLE USE OF APPORTIONMENTS.—A State may obligate funds apportioned under subsection (a) for any project eligible for assistance under section 133, 149, 402, or 410 of title 23, United States Code, or chapter 311 of title 49, United States Code.

(c) REPAYMENT FROM SURFACE TRANSPORTATION PROGRAM APPORTIONMENT.—The Secretary shall reduce the amount that would, but for this section, be apportioned to a State under section 104(b)(3) of title 23, United States Code, for fiscal year 1998 under a law reauthorizing the Federal-aid highway program enacted after the date of enactment of this Act by the amount of any authorization of contract authority provided to a State under subsection (a).

(d) AUTHORIZATION OF CONTRACT AUTHORITY.—Section 1003 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1918) is amended by adding at the end the following:

"(d) ADVANCE AUTHORIZATIONS.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 2 of the Surface Transportation Extension Act of 1997 \$506,273,000 for the period of January 1, 1998, through January 8, 1998.

"(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) AUTHORIZATION.—Notwithstanding section 157(e) of title 23, United States Code, there shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 157 of title 23, United States Code, not to exceed \$14,000,000 for the period of January 1, 1998, through January 8, 1998.

"(2) ALLOCATION.—The Secretary shall allocate the amounts authorized under paragraph (1) to each State in the ratio that—

"(A) the amount allocated to the State for fiscal year 1997 under section 157 of that title; bears to

"(B) the amounts allocated to all States for fiscal year 1997 under section 157 of that title.

"(f) CONTRACT AUTHORITY.—Funds authorized under subsections (d) and (e) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code."

(e) LIMITATION ON OBLIGATIONS.—

(1) ALLOCATION OF OBLIGATION AUTHORITY DURING CERTAIN PERIOD.—

(A) IN GENERAL.—Subject to subparagraph (B), after the date of enactment of this Act, the Secretary shall allocate to each State an amount of obligation authority that is—

(i) equal to the greater of—

(I) the State's unobligated balance of Federal-aid highway apportionments subject to any limitation on obligations; or

(II) 50 percent of the State's total fiscal year 1997 obligation authority for funds apportioned for the Federal-aid highway program; but

(ii) not greater than 75 percent of the State's total fiscal year 1997 obligation authority for funds apportioned for the Federal-aid highway program.

(B) LIMITATION ON AMOUNT.—The total of all allocations under subparagraph (A) shall not exceed \$9,786,275,000.

(C) TIME PERIOD FOR OBLIGATIONS OF FUNDS.—

(i) IN GENERAL.—Except as provided in clause (ii), a State shall not obligate any funds for any Federal-aid highway program project after May 1, 1998, until such time as a multiyear law reauthorizing the Federal-aid highway program has been enacted or July 1, 1998 whichever is earlier.

(ii) REOBLIGATION.—Clause (i) shall not preclude the reobligation of deobligated funds.

(iii) DISTRIBUTION OF REMAINING OBLIGATION AUTHORITY.—Upon enactment of a law described in clause (i), the Secretary shall distribute to each State any remaining amounts of obligation authority for Federal-aid highways and highway safety construction programs by allocation in accordance with section 310(a) of the Department of Transportation and Related Agencies Appropriations Act, 1998 (Public Law 105-66; 111 Stat. 1425).

(iv) No contract authority made available to the States prior to July 1, 1998, shall be obligated after such date until such time as a multiyear law reauthorizing the Federal-aid highway program has been enacted.

(f) TREATMENT OF OBLIGATIONS.—Any obligation incurred under this Act, or an amendment made by this Act, shall be considered to be an obligation for Federal-aid highways and highway safety construction programs for fiscal year 1998 for the purposes of the matter under the heading "(LIMITATION ON OBLIGATIONS)" under the heading "FEDERAL-AID HIGHWAYS" in title I of the Department of Transportation and Related Agencies Appropriations Act, 1998 (Public Law 105-66; 111 Stat. 1425).

(g) FUNDING BASELINE.—Notwithstanding section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 907) and the effect of funding provided under this Act or an amendment made by this Act, the baseline prepared by the Congressional Budget Office and the Office of Management and Budget for fiscal years 1998 through 2003 for mandatory contract authority and mandatory outlays for Federal-aid highways and highway safety construction programs shall be the baseline included in the concurrent resolution on the budget for fiscal year 1998.

#### SEC. 3. TRANSFERS OF UNOBLIGATED APPORTIONMENTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, for fiscal year 1998, a State may transfer any funds apportioned to the State for any program under section 104 (including amounts apportioned under section 104(b)(3) or set aside or suballocated under section 133(d)), 144, or 402 of title 23, United States Code, granted to the State for any program under section 410 of that title, or allocated to the State for any program under chapter 311 of title 49, United States Code, that are subject to any limitation on obligations, and that are not obligated, to any other of those programs.

(b) TREATMENT OF TRANSFERRED FUNDS.—Any funds transferred to another program under subsection (a) shall be subject to the provisions of the program to which the funds are transferred, except that funds transferred to the surface transportation program under section 133 of title 23, United States Code, other than paragraphs (1) and (2) of section 133(d) of that title, shall not be subject to section 133(d) of that title.

(c) RESTORATION OF APPORTIONMENTS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of a law reauthorizing the Federal-aid highway program enacted after the date of enactment of this Act, the Secretary shall restore any funds

that a State transferred under subsection (a) for any project not eligible for the funds but for this section to the program category from which the funds were transferred.

(2) PROGRAM CATEGORY RECONCILIATION.—The Secretary may establish procedures under which funds transferred under subsection (a) from a program category for which funds are no longer authorized may be restored to the Federal-aid highway program.

(d) GUIDANCE.—The Secretary may issue guidance for use in carrying out this section.

#### SEC. 4. ADMINISTRATIVE EXPENSES.

(a) EXPENSES OF FEDERAL HIGHWAY ADMINISTRATION.—

(1) AUTHORITY TO BORROW.—

(A) FROM UNOBLIGATED FUNDS AVAILABLE FOR DISCRETIONARY ALLOCATIONS.—If unobligated balances of funds deducted by the Secretary under section 104(a) of title 23, United States Code, for administrative and research expenses of the Federal-aid highway program are insufficient to pay those expenses for fiscal year 1998, the Secretary may borrow not to exceed \$60,000,000 for those expenses from unobligated funds available to the Secretary for discretionary allocations.

(B) REQUIREMENT TO REIMBURSE.—Funds borrowed under subparagraph (A) shall be reimbursed from amounts made available to the Secretary under section 104(a) of title 23, United States Code, as soon as practicable after the date of enactment of a law reauthorizing the Federal-aid highway program enacted after the date of enactment of this Act.

(2) AUTHORIZATION OF CONTRACT AUTHORITY.—

(A) IN GENERAL.—In addition to funds made available under paragraph (1), there shall be available from the Highway Trust Fund (other than the Mass Transit Account) for administrative and research expenses of the Federal-aid highway program \$151,000,000 for fiscal year 1998.

(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(3) USE OF CERTAIN ADMINISTRATIVE FUNDS.—Section 104(i)(1) of title 23, United States Code, is amended by inserting “, and for the period of October 1, 1997, through March 31, 1998,” after “1997”.

(b) BUREAU OF TRANSPORTATION STATISTICS.—Section 6006 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2172) is amended—

(1) by inserting “(a) IN GENERAL.—” before “Chapter I”; and

(2) in the first sentence of subsection (b)—  
(A) by striking “1996, and” and inserting “1996.”; and

(B) by inserting before the period at the end the following: “, and \$12,500,000 for the period of October 1, 1997, through March 31, 1998”.

#### SEC. 5. OTHER FEDERAL-AID HIGHWAY PROGRAMS.

(a) FEDERAL LANDS HIGHWAYS.—Section 1003(a)(6) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1919) is amended—

(1) in subparagraph (A)—

(A) by striking “1992 and” and inserting “1992.”; and

(B) by inserting before the period at the end the following: “, and \$95,500,000 for the period of October 1, 1997, through March 31, 1998”;

(2) in subparagraph (B)—

(A) by striking “1995, and” and inserting “1995.”; and

(B) by inserting before the period at the end the following: “and \$86,000,000 for the pe-

riod of October 1, 1997, through March 31, 1998”; and

(3) in subparagraph (C)—

(A) by striking “1995, and” and inserting “1995.”; and

(B) by inserting before the period at the end the following: “, and \$42,000,000 for the period of October 1, 1997, through March 31, 1998”.

(b) NATIONAL RECREATIONAL TRAILS PROGRAM.—Section 1003 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1918) (as amended by section 2(d)) is amended by adding at the end the following:

“(e) NATIONAL RECREATIONAL TRAILS PROGRAM.—Section 104(h) of title 23, United States Code, is amended by inserting ‘and \$7,500,000 for the period of October 1, 1997, through March 31, 1998’ after ‘1997.’.”

(c) CERTAIN ALLOCATED PROGRAMS.—

(1) HIGHWAY USE TAX EVASION.—Section 1040(f)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 1992) is amended in the first sentence by inserting before the period at the end the following: “and \$2,500,000 for the period of October 1, 1997, through March 31, 1998”.

(2) SCENIC BYWAYS PROGRAM.—Section 1047(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 1998) is amended in the first sentence—

(A) by striking “1994, and” and inserting “1994.”; and

(B) by inserting before the period at the end the following: “, and \$7,000,000 for the period of October 1, 1997, through March 31, 1998”.

(d) INTELLIGENT TRANSPORTATION SYSTEMS.—Section 6058(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2194) is amended—

(1) by striking “1992 and” and inserting “1992.”; and

(2) by inserting before the period at the end the following: “, and \$56,500,000 for the period of October 1, 1997, through March 31, 1998”.

(e) SURFACE TRANSPORTATION RESEARCH.—

(1) OPERATION LIFESAVER.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out the operation lifesaver program under section 104(d)(1) of title 23, United States Code, \$150,000 for the period of October 1, 1997, through March 31, 1998.

(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(2) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out the Dwight David Eisenhower Transportation Fellowship Program under section 307(a)(1)(C)(ii) of title 23, United States Code, \$1,000,000 for the period of October 1, 1997, through March 31, 1998.

(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(3) NATIONAL HIGHWAY INSTITUTE.—Section 321(f) of title 23, United States Code, is amended by adding at the end the following: “There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$2,500,000 for the period of October 1, 1997, through March 31, 1998.”.

(4) EDUCATION AND TRAINING PROGRAM.—Section 326(c) of title 23, United States Code,

is amended by adding at the end the following: “There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$3,000,000 for the period of October 1, 1997, through March 31, 1998.”.

#### SEC. 6. EXTENSION OF HIGHWAY SAFETY PROGRAMS.

(a) NHTSA HIGHWAY SAFETY PROGRAMS.—Section 2005(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2079) is amended—

(1) by striking “1996, and” and inserting “1996.”; and

(2) by inserting before the period at the end the following: “, and \$83,000,000 for the period of October 1, 1997, through March 31, 1998”; and

(b) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.—Section 410 of title 23, United States Code, is amended—

(1) in subsection (c)—

(A) by striking “5” and inserting “6”; and

(B) in paragraph (3), by striking “and fifth” and inserting “fifth, and sixth”;

(2) in subsection (d)(2)(B), by striking “two” and inserting “3”; and

(3) in the first sentence of subsection (j)—  
(A) by striking “1997, and” and inserting “1997.”; and

(B) by inserting before the period at the end the following: “, and \$12,500,000 for the period of October 1, 1997, through March 31, 1998”.

(c) NATIONAL DRIVER REGISTER.—Section 30308(a) of title 49, United States Code, is amended—

(1) by striking “1994, and” and inserting “1994.”; and

(2) by inserting after “1997,” the following: “and \$1,855,000 for the period of October 1, 1997, through March 31, 1998.”.

#### SEC. 7. EXTENSION OF MOTOR CARRIER SAFETY PROGRAM.

Section 31104(a) of title 49, United States Code, is amended—

(1) in paragraphs (1) through (5), by striking “not more” each place it appears and inserting “Not more”; and

(2) by adding at the end the following:

“(6) Not more than \$45,000,000 for the period of October 1, 1997, through March 31, 1998.”.

#### SEC. 8. EXTENSION OF FEDERAL TRANSIT PROGRAMS.

Title III of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2087-2140) is amended by adding at the end the following:

“SEC. 3049. EXTENSION OF FEDERAL TRANSIT PROGRAMS FOR THE PERIOD OF OCTOBER 1, 1997, THROUGH MARCH 31, 1998.

“(a) ALLOCATING AMOUNTS.—Section 5309(m)(1) of title 49, United States Code, is amended by inserting ‘, and for the period of October 1, 1997, through March 31, 1998’ after ‘1997’.

“(b) APPORTIONMENT OF APPROPRIATIONS FOR FIXED GUIDEWAY MODERNIZATION.—Section 5337 of title 49, United States Code, is amended—

“(1) in subsection (a), by inserting ‘and for the period of October 1, 1997, through March 31, 1998,’ after ‘1997.’; and

“(2) by adding at the end the following:

“(e) SPECIAL RULE FOR OCTOBER 1, 1997, THROUGH MARCH 31, 1998.—The Secretary shall determine the amount that each urbanized area is to be apportioned for fixed guideway modernization under this section on a pro rata basis to reflect the partial fiscal year 1998 funding made available by section 5338(b)(1)(F).”.

“(c) AUTHORIZATIONS.—Section 5338 of title 49, United States Code, is amended—

“(1) in subsection (a)—

“(A) in paragraph (1), by adding at the end the following:

“(F) \$1,349,395,000 for the period of October 1, 1997, through March 31, 1998.”; and

“(B) in paragraph (2), by adding at the end the following:

“(F) \$369,000,000 for the period of October 1, 1997, through March 31, 1998.”;

“(2) in subsection (b)(1), by adding at the end the following:

“(F) \$1,110,605,000 for the period of October 1, 1997, through March 31, 1998.”;

“(3) in subsection (c), by inserting ‘and not more than \$1,500,000 for the period of October 1, 1997, through March 31, 1998.’ after ‘1997.’;

“(4) in subsection (e), by inserting ‘and not more than \$3,000,000 is available from the Fund (except the Account) for the Secretary for the period of October 1, 1997, through March 31, 1998.’ after ‘1997.’;

“(5) in subsection (h)(3), by inserting ‘and \$3,000,000 is available for section 5317 for the period of October 1, 1997, through March 31, 1998.’ after ‘1997.’;

“(6) in subsection (j)(5)—

“(A) in subparagraph (B), by striking ‘and’ at the end;

“(B) in subparagraph (C), by striking the period at the end and inserting ‘; and’; and

“(C) by adding at the end the following:

“(D) the lesser of \$1,500,000 or an amount that the Secretary determines is necessary is available to carry out section 5318 for the period of October 1, 1997, through March 31, 1998.”;

“(7) in subsection (k), by striking ‘or (e)’ and inserting ‘(e), or (m)’; and

“(8) by adding at the end the following:

“(m) SECTION 5316 FOR THE PERIOD OF OCTOBER 1, 1997, THROUGH MARCH 31, 1998.—Not more than the following amounts may be appropriated to the Secretary from the Fund (except the Account) for the period of October 1, 1997, through March 31, 1998:

“(1) \$125,000 to carry out section 5316(a).

“(2) \$1,500,000 to carry out section 5316(b).

“(3) \$500,000 to carry out section 5316(c).

“(4) \$500,000 to carry out section 5316(d).

“(5) \$500,000 to carry out section 5316(e).”.

Mr. WARNER. Mr. President, I certainly want to commend our distinguished chairman and distinguished ranking member. The senior Senator from Montana is also ranking on the subcommittee. We express a particular appreciation to the Senator from Missouri, Senator BOND. He seemed to have had an understanding of how we could best and most equitably adopt this short-term provision. I wish to commend him for his special efforts.

I wish to also commend the staff, Mr. President. We have had extraordinary staff participation on this. I have a small piece of paper here signed by the principal Senators expressing our appreciation.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I very much hope that the other body takes up and passes this measure because it has been our judgment that it is about the only approach that is going to allow States to continue the continuity in their highway programs until next year when we pass the full 6-year program.

This measure that we have just adopted here in the Senate is formula neutral. It is designed in a way to

make sure that all of the different States who are in different situations are treated reasonably fairly. Nothing is perfect. But this is a very good effort to deal with various differences among the States. It also will provide enough funds for the Congress next year to take up the full 6-year bill in a reasonable period of time.

So I very much hope that the other body takes it up and passes this bill because it is in the States’ best interests to continue that continuity of funding.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I would also like to express our appreciation to Senator BYRD who was very actively working with us this evening. And I want to associate myself with the remarks of the distinguished Senator from Montana.

Many States have a very short period within which they can do this vital work. The Governors appeared at the hearing of our committee just a few days ago, and expressed a similar interest. It is imperative that we keep this highway program moving ahead until such time as the Congress can pass what I hope will be a 6-year bill.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I express my sincere appreciation to Chairman CHAFEE, Chairman WARNER, and the ranking member, Senator BAUCUS.

When it became clear that we were not going to pass a 6-year reauthorization of the ISTEA, or Intermodal Surface Transportation Efficiency Act, it was obvious to everybody that something had to be done to make sure that we didn’t run out of safety programs; that we didn’t shut the doors on the operations of the Department of Transportation; that we didn’t leave the States without the authority to contract.

Finally, when I suggested that we merely extend the obligations based on a half of last year’s obligation authority up to 75 percent, it was designed, as Senator BAUCUS so ably said, to be totally formula neutral. We are not going to engage in a formula battle. We have some very strong differences of opinion over formulas, and over allocations among States. That will be played out at great length on this floor I hope very early in 1998. But I have never seen anything unify this body more than the agreement by all of the Senators with whom I have spoken—and I have spoken to almost all of them—that we must do something to keep the doors open; to keep construction going; to keep safety and to keep transit programs. And the only way we can do it is to do something that is formula neutral.

This merely extends the obligational authority, and it has overwhelming support. We hope it will have support in the House so that we can send it to the President and make sure that we

don’t shut down operations in the very near future.

I wish to expressly thank staff which has worked night and day—some with almost no sleep: Dan Corbett, Jimmie Powell, Ann Loomis, Kathy Ruffalo, Tom Sliter, and the staff of the Banking Committee, Commerce Committee, and the Environment and Public Works Committee; and on my own personal staff, Tracy Henke who did the initial work of putting this all together.

I hope they can all get some sleep and some rest, and that we can put this measure to bed.

Mr. President, this does not open up any fights. It merely leaves in place vitally needed safety transit, Department of Transportation operations, and the ability to contract while we revisit in early 1998 the very important and very controversial formulas for allocating highway money.

I thank all Senators whose cooperation was necessary for us to bring the measure to the floor, and pass it this evening. But the agreement of all Senators shows what a high priority and what a tremendous importance we place on assuring that our citizens have adequate transit, that we have the highways, the bridges, and the roads that we need for convenience, for our economy, and, most of all, for the safety of our traveling public.

I thank the Chair.

Mr. CHAFEE addressed the Chair.

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

Mr. CHAFEE. Mr. President, this is a very, very contentious issue. Fortunately, in our Environment and Public Works Committee we were able to report out this basic legislation 18 to 0. Then we have to do this so-called stop-gap legislation, because we weren’t able to consider the big bill due to a variety of factors. This bill now is a result of bipartisan cooperation. As we mentioned, Senator BAUCUS has been deeply involved in this, and of course, Senator WARNER, Senator BOND, myself, and others.

I join in the salute to the staff. They have been really terrific. I would like particularly to offer the names of those who worked so hard: Jimmie Powell, Tom Sliter, Kathy Ruffalo, Dan Corbett, Ann Loomis, Peter Rogoff, with Senator BYRD, and Tracy Henke with Senator BOND. Every single one of those staffers was absolutely terrific.

Mr. WARNER. And add Ellen Stein to that.

Mr. CHAFEE. I certainly will.

Mr. President, let me end with a wish. We are going to come back to this, as the majority leader said, the first thing when we return in January. It is going to take every bit of good will and patience and high level of character and perseverance for us to be able to pass a bill that will have the acceptance that legislation had in our committee.

So, in closing, I thank everyone, and urge them to carry on with this same type of effort when we convene on this issue in the last part of January.



Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, there are two points that I want to make.

We are passing this rather significant piece of legislation because we are doing it in a bipartisan basis. I must remind all of my colleagues that when we get into partisan fights often nothing happens. We make political points but don't pass legislation.

This has been very, very cohesive and bipartisan on both sides of the aisle.

It has been an honor for me—a privilege for me—to participate with Senator WARNER, Senator CHAFEE, Senator BOND, and Senator BYRD in putting this together.

My second point is to reaffirm just how lucky we are to have such a dedicated staff who are so able and so talented. I am always in awe in seeing just how right these people are and how necessary they are.

But, for the record, the one lady who came up with the final solution is on my staff. Her name is Kathy Ruffalo.

I yield the floor.

Mr. WARNER. Mr. President, I will proceed momentarily to the Executive Calendar.

But first we want to thank the Chair. The Chair has been very indulgent, and indeed, the staff of the Senate.

But I want to further say that I hope tomorrow that the infrastructure that follows this type of legislation—the contractors, the secretaries of the various organizations throughout the States who are entrusted with the very important highway construction—would immediately look at this effort by the U.S. Senate, and bring to bear their judgment tomorrow on the other body in the hopes that we can pass this.

I particularly call on the National Governors' Association. They came forward in a hearing that I chaired last week, and were very explicit on this whole matter. It was made very clear by the contractors who also appeared at that hearing that there is a short period for certain States for construction. It is imperative that this matter go forward. We have made, as I say, in a bipartisan way, our best effort. Now, with the help of the infrastructure, I am sure that the other body will see the wisdom in this measure, and pass it.

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

Mr. WARNER. Mr. President, I ask unanimous consent the Senate immediately proceed to executive session to consider the following nomination on the Executive Calendar, No. 419.

I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, any statements relating to the nomination appear at this point in the RECORD, the President be immediately

notified of the Senate's action, and the Senate then return to legislative session.

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

The nomination considered and confirmed is as follows:

William Dale Montgomery, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Croatia.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

#### AUTHORIZING AN INTERPRETIVE CENTER AT FORT PECK DAM, MONTANA

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1456, introduced earlier today by Senator BAUCUS.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1456) to authorize an interpretive center at Fort Peck Dam, Montana.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

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

Mr. WARNER. Mr. President, I ask unanimous consent that the bill be considered read three times, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

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

The bill (S. 1456) was read the third time and passed as follows:

S. 1456

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. FORT PECK DAM INTERPRETIVE CENTER.

(a) IN GENERAL.—The Director of Fish and Wildlife shall design, construct, furnish, and equip an historical, cultural and paleontological interpretive center and museum to be located at Fort Peck Dam, Montana.

(b) COORDINATION.—In carrying out subsection (a), the Director of Fish and Wildlife shall coordinate with officials of the Bureau of Reclamation, Bureau of Land Management, U.S. Army Corps of Engineers and the Fort Peck Dam Interpretive Center and Museum.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section a total of \$10,000,000. Funds appropriated are available until expended.

#### HAFFENREFFER MUSEUM RESTORATION ACT

Mr. WARNER. Mr. President, I send a bill to the desk on behalf of Senators

CHAFEE and REED, re: the relocation of the Haffenreffer Museum, and ask the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1455) to provide financial assistance for the relocation and expansion of Haffenreffer Museum of Anthropology, Providence, Rhode Island.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

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

Mr. CHAFEE. Mr. President, I am pleased to introduce legislation to assist in the relocation and expansion of the Haffenreffer Museum of Anthropology at Brown University in Providence, RI.

In 1955, the family of Rudolf F. Haffenreffer bequeathed to Brown University the museum he had founded in Bristol, RI. The museum includes more than 100,000 objects from native peoples of the Americas, Africa, Asia, and the Pacific.

This is a teaching museum owned and supported by Brown University. It has a number of world-class holdings that attract scholars from all over the globe, and has been described by the American Association of Museums as a "superb medium- to small-sized facility with outstanding collections, excellent exhibits, and a superb program of public education and outreach."

While maintaining objects from around the world, the Haffenreffer Museum exhibits extensive archaeological materials from New England that are used to interpret prehistoric and historical cultural developments in Rhode Island and surrounding States. The legislation I introduce today authorizes \$3 million to preserve these culturally important collections and to provide expanded exhibition space that will make them more accessible to schoolchildren, scholars, students, and other visitors.

In 1995, Brown University acquired from the Resolution Trust Corporation [RTC] the historic Old Stone Bank Building, built in 1854, along with the early 19th century Federal-style residence known as the Benoni-Cook House, both located in downtown Providence. The RTC took over both properties when the Old Stone Bank failed in 1993.

Prior to Brown's purchase of these sites, it was unclear how or whether they would be put to use. The funds authorized by this bill will contribute a modest portion of the estimated \$15 million Brown University will spend to relocate the Haffenreffer Museum from Bristol, RI, to the bank building and the Benoni-Cook House, both of which are located on the National Register of Historic Places.

Mr. President, this is indeed a win-win project being carried out by Brown University. We will renovate, preserve,

and make fine use of two historic architectural landmarks—while providing greater access to an extraordinary tool for cultural and historical education. This is a fine example of the type of assistance our Federal Government can provide to local communities to preserve and make available for future generations the significant developments of our past.

Mr. President, I encourage the support of our Senate colleagues.

Mr. REED. Mr. President, I am pleased to support the "Haffenreffer Museum Restoration Act of 1997", legislation that Senator CHAFEE and I introduced to assist in the relocation and expansion of Rhode Island's Haffenreffer Museum of Anthropology.

Currently situated in Bristol, R.I., the Haffenreffer Museum is home to one of our Nation's finest collections of Native American and other cultural artifacts from around the world. Each year, thousands of visitors enjoy the Haffenreffer's exhibits and benefit from its commitment to education, which is a tribute to the museum's close ties to the Brown University Department of Anthropology. Recognizing this effective combination, the American Association of Museums has described the Haffenreffer as a "superb medium-small facility with outstanding collections, excellent exhibits, and a superb program of public education and outreach."

In an effort to increase access to the Haffenreffer's resources, Brown University has begun preparations to relocate the museum to Providence, R.I. Toward this end, the university has acquired two structures on the National Register of Historic Places, the Old Stone Bank Building and the Benoni-Cooke House, to house the Haffenreffer in downtown Providence.

This move would preserve these historically significant buildings, while contributing to the resurgence of Providence by adding a nationally renowned museum to its growing arts and entertainment district. The new site would also allow the Haffenreffer to display more of its collection for visitors, whom the museum estimates would increase fivefold after the relocation. This development would particularly serve children, who currently make up more than half of the museum's visitors and for whom the downtown location would be more accessible.

Brown University is raising funds to restore and expand the Old Stone Bank Building and the Benoni-Cooke House, and to complete the relocation of the Haffenreffer's collection to Providence by the year 2000. The bill before the Senate today authorizes Federal cooperation in advancing these goals, increasing knowledge of Native American history, preserving architectural treasures, and promoting the revitalization of our Nation's downtown areas. I urge my colleagues to support this bill and the work needed to bring the Haffenreffer to Rhode Island's capital city.

Mr. WARNER. I ask the bill be advanced to third reading and passed and the motion to reconsider be laid upon the table, all without further action or debate. I further ask the statements by Senators CHAFEE and REED be printed in the RECORD.

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

The bill (S. 1455) was read the third time and passed, as follows:

S. 1455

*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 "Haffenreffer Museum Restoration Act of 1997".

#### SEC. 2. RELOCATION AND EXPANSION OF HAFFENREFFER MUSEUM OF ANTHROPOLOGY.

(a) DEFINITIONS.—In this section:

(1) MUSEUM.—The term "Museum" means the Haffenreffer Museum of Anthropology at Brown University in Providence, Rhode Island.

(2) SECRETARY.—The term "Director" means the Director of the U.S. Fish and Wildlife Service.

(b) RELOCATION AND EXPANSION OF MUSEUM.—The Director shall make a grant to Brown University in Providence, Rhode Island, to pay the Federal share of the costs associated with the relocation and expansion of the Museum, including the design, construction, renovation, restoration, furnishing, and equipping of the Museum.

(c) GRANT REQUIREMENTS.—

(1) IN GENERAL.—To receive a grant under subsection (b), the Museum shall submit to the Director a proposal for the use of the grant.

(2) FEDERAL SHARE.—The Federal share of the costs described in subsection (b) shall be 20 percent.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$3,000,000, to remain available until expended.

#### AUTHORITY TO SIGN ENROLLED BILL

Mr. WARNER. Mr. President, I ask unanimous consent that Senator ROBERTS be authorized today to sign an enrolled bill on behalf of the Senate.

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

#### ORDERS FOR SATURDAY, NOVEMBER 8, 1997

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 noon on Saturday, November 8. I further ask that on Saturday, immediately following the prayer, the routine requests through the morning hour be granted, and the Senate proceed to a period of morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak up to 10 minutes each.

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

#### PROGRAM

Mr. WARNER. Tomorrow the Senate will be in a period of morning business

from 12 noon to 1 p.m. Following morning business, the Senate intends to consider and complete action on the following: The labor-HHS. appropriations conference report, D.C. appropriations bill, the FDA reform conference report, the adoption-foster-care legislation, and any other appropriations legislation cleared for action. Therefore, Members can anticipate rollcall votes throughout Saturday's session of the Senate. However, I would expect votes would not occur before 1 p.m.

#### ORDERS FOR SUNDAY, NOVEMBER 9, 1997

Mr. WARNER. With respect to Sunday, I ask unanimous consent that when the Senate completes its business on Saturday, it stand in adjournment until 1 p.m. on Sunday, November 9.

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

#### ADJOURNMENT UNTIL TOMORROW

Mr. WARNER. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:40 p.m., adjourned until Saturday, November 8, 1997, at 12 noon.

#### NOMINATIONS

Executive nominations received by the Senate November 7, 1997:

##### DEPARTMENT OF THE INTERIOR

DONALD J. BARRY, OF WISCONSIN, TO BE ASSISTANT SECRETARY FOR FISH AND WILDLIFE, VICE GEORGE T. FRAMPTON, JR., RESIGNED.

##### CENTRAL INTELLIGENCE

JOAN AVALYN DEMPSEY, OF VIRGINIA, TO BE DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE FOR COMMUNITY MANAGEMENT. (NEW POSITION)

##### INTERNATIONAL MONETARY FUND

ALAN GREENSPAN, OF NEW YORK, TO BE UNITED STATES ALTERNATE GOVERNOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF FIVE YEARS. (REAPPOINTMENT)

##### CORPORATION FOR PUBLIC BROADCASTING

WINTER D. HORTON, JR., OF UTAH, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING JANUARY 31, 2002, VICE CAROLYN R. BACON, TERM EXPIRED.

##### DEPARTMENT OF COMMERCE

ROBERT J. SHAPIRO, OF THE DISTRICT OF COLUMBIA, TO BE UNDER SECRETARY OF COMMERCE FOR ECONOMIC AFFAIRS, VICE EVERETT M. EHRLICH.

##### OFFICE OF SPECIAL COUNSEL

ELAINE D. KAPLAN, OF THE DISTRICT OF COLUMBIA, TO BE SPECIAL COUNSEL, OFFICE OF SPECIAL COUNSEL, FOR THE TERM OF FIVE YEARS, VICE KATHLEEN DAY KOCH, TERM EXPIRED.

##### THE JUDICIARY

ROBERT T. DAWSON, OF ARKANSAS, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF ARKANSAS VICE H. FRANKLIN WATERS, RETIRED.

##### DEPARTMENT OF JUSTICE

WILMA A. LEWIS, OF THE DISTRICT OF COLUMBIA, TO BE U.S. ATTORNEY FOR THE DISTRICT OF COLUMBIA FOR THE TERM OF FOUR YEARS VICE ERIC H. HOLDER, JR., RESIGNED.

##### IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

*To be lieutenant general*

MAJ. GEN. WILLIAM P. TANGNEY, 0000.

# CONFIRMATIONS

## Executive Nominations Confirmed by the Senate November 7, 1997:

### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SAUL N. RAMIREZ, JR., OF TEXAS, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

### DEPARTMENT OF STATE

NANCY H. RUBIN, OF NEW YORK, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE HUMAN RIGHTS COMMISSION OF THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS.

A. PETER BURLEIGH, OF CALIFORNIA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HIS TENURE OF SERVICE AS DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS.

BILL RICHARDSON, OF NEW MEXICO, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS.

RICHARD SKLAR, OF CALIFORNIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS FOR U.N. MANAGEMENT AND REFORM.

BETTY EILEEN KING, OF MARYLAND, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HER TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS.

WILLIAM DALE MONTGOMERY, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE

UNITED STATES OF AMERICA TO THE REPUBLIC OF CROATIA.

### UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

KIRK K. ROBERTSON, OF VIRGINIA, TO BE EXECUTIVE VICE PRESIDENT OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION.

TERRENCE J. BROWN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

MARK ERWIN, OF NORTH CAROLINA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1999.

HARRIET C. BABBITT, OF ARIZONA, TO BE DEPUTY ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

THOMAS H. FOX, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

### UNITED STATES INFORMATION AGENCY

CHERYL F. HALPERN, OF NEW JERSEY, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 1999.

CARL SPIELVOGEL, OF NEW YORK, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 1999. (REAPPOINTMENT)

### DEPARTMENT OF ENERGY

LINDA KEY BREATHITT, OF KENTUCKY, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR A TERM EXPIRING JUNE 30, 2002.

CURT HEBERT, JR., OF MISSISSIPPI, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 30, 1999.

### DEPARTMENT OF STATE

BETTY EILEEN KING, OF MARYLAND, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS, WITH THE RANK OF AMBASSADOR.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO RE-

QUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

### THE JUDICIARY

CHRISTINA A. SNYDER, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.

JOHN M. CAMPBELL, OF THE DISTRICT OF COLUMBIA, TO BE ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS.

ANITA M. JOSEY, OF THE DISTRICT OF COLUMBIA, TO BE ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS.

### DEPARTMENT OF JUSTICE

SETH WAXMAN, OF THE DISTRICT OF COLUMBIA, TO BE SOLICITOR GENERAL OF THE UNITED STATES.

### THE JUDICIARY

STANLEY MARCUS, OF FLORIDA, TO BE U.S. CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT.

JEROME B. FRIEDMAN, OF VIRGINIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF VIRGINIA.

NORMAN K. MOON, OF VIRGINIA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF VIRGINIA.

## WITHDRAWAL

Executive message transmitted by the President to the Senate on November 7, 1997, withdrawing from further consideration the following nomination:

### THE JUDICIARY

JAMES S. WARE, OF CALIFORNIA, TO BE U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE J. CLIFFORD WALLACE, RETIRED, WHICH WAS SENT TO THE SENATE ON JUNE 27, 1997.