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# *House of Representatives*

The House was not in session today. Its next meeting will be held on Monday, November 1, 1999, at 12:30 p.m.

# *Senate*

FRIDAY, OCTOBER 29, 1999

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:

O God, we need You. The Senate schedule is full of debate, deliberations, and decisions. There are votes to cast, and inevitably the Senators and their staffs will deal with winning and losing. Lord of the loose ends, grant us Your strength. May we do all we can for everyone we can. Help us to keep our relationships in good working order, oiled with the lubricants of mutual esteem and trust. Particularly we ask You to bless the working relationship between the parties. Thank You for enabling negotiation without negativism, compromise without contradiction of truth. Keep the Senators calm as they trust You and relaxed as You replenish their reserves. You have promised never to leave nor forsake us. We are grateful for the assurance of Your presence, dependable at all times, available whatever our needs, bracing when we need correction, and inspiring when we need courage. So Lord, lead on as we press on. In Your all powerful name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MIKE DEWINE, a Senator from the State of Ohio, led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER (Mr. DEWINE). The acting majority leader is recognized.

SCHEDULE

Mr. CAMPBELL. Mr. President, this morning the Senate will begin 30 minutes of debate on H.R. 434, the African-CBI trade bill. By previous consent, the Senate will proceed to a cloture vote on the Roth substitute amendment at 10 a.m.

ORDER TO FILE SECOND-DEGREE AMENDMENTS

Under the provisions of rule XXII, I now ask unanimous consent that Senators have until 10 a.m. today in order to file second-degree amendments to the substitute.

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

Mr. CAMPBELL. Mr. President, following the vote, the Senate will continue consideration of the African trade bill or any other legislative or executive business. The Senate may also begin consideration of the conference report to accompany the D.C./Labor-HHS bill during today's session.

RESERVATION OF LEADER TIME

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

AFRICAN GROWTH AND OPPORTUNITY ACT

The PRESIDING OFFICER. Also under the previous order, the Senate will now resume consideration of H.R. 434, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 434) to authorize a new trade and investment policy for sub-Saharan Africa.

Pending:

Lott (for Roth/Moynihan) amendment No. 2325, in the nature of a substitute.

Lott amendment No. 2332 (to amendment No. 2325), of a perfecting nature.

Lott amendment No. 2333 (to amendment No. 2332), of a perfecting nature.

Lott motion to commit with instructions (to amendment No. 2333), of a perfecting nature.

Lott amendment No. 2334 (to the instructions of the motion to commit), of a perfecting nature.

Lott (for Ashcroft) amendment No. 2340 (to amendment No. 2334), to establish a Chief Agricultural Negotiator in the Office of the United States Trade Representative.

The PRESIDING OFFICER. There will now be 30 minutes of debate equally divided between the two leaders.

The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I might ask my colleague to yield 5 minutes.

Mr. HOLLINGS. I yield 5 minutes to the distinguished Senator from Minnesota.

The PRESIDING OFFICER. The Senator is recognized.

Mr. WELLSTONE. I thank the Chair and I thank my colleague from South Carolina. I thank him for all his fine work in this Chamber.

Mr. President, I want to divide my remarks in 5 minutes and deliver them in two parts. In the first part, I will talk about the African-Caribbean trade bill. I want to repeat two points I made

during the course of this debate. There are some very good Senators who in very good conscience can have different viewpoints on this legislation.

For my own part, the first point I will make is that I actually do not believe this is about whether or not we as a nation are in an international economy; we are. And I don't think it is about whether or not we are actively involved in trade; we are. It is more about the terms of the trade. I do believe it is a flaw, a fundamental flaw, of this legislation that, again, we have trade legislation that does not have any enforceable labor protections or enforceable environmental protections. At the very minimum, it would seem to me we have to get serious about having clear language in these agreements which gives people the right in countries with which we are trading to be able to organize and bargain collectively for themselves and their families. The same thing can be said for the environment, the same thing can be said for child labor, and the same thing can be said for human rights as a part of these labor agreements.

I think basically what this African and Caribbean trade agreement says is two things. It says to workers, to wage earners in our country: If you should decide you want to organize to be able to bargain collectively and get a better wage and better working conditions for yourself so you can do better for your family, then just understand that these companies, these businesses, will just go to other parts of the world where they don't have to deal with you at all. They don't have to deal with the right of the workers to be able to organize. What it says to poor people and what it says to working people in African countries and Caribbean countries is, the way you get the investment is to be willing to work for jobs that pay less than 30 cents an hour, or whatever the case might be, because that is the only way it is going to happen because there are in these agreements no protections, no enforceable labor code—child labor, right to organize, right to bargain collectively—no enforceable environmental code. That is the first point.

The second point I will make about this legislation is that I think it is a terrible message to send as we move to the WTO gathering in Seattle. I am in profound disagreement with the administration on this. They think we should pass this and that would be important. To me, I hear the administration, Democrats—I am a Democrat—saying to labor, and saying to environmentalists, and saying to nongovernmental organizations, and saying to a whole lot of other people: Listen, we have a real chance at this WTO gathering of moving toward enforceable labor codes, enforceable environmental protection. Well, if you can't do it in a bilateral agreement, how in the world are you going to do it in a multilateral agreement, multinational agreement? It is not going to happen. So I oppose this legislation on substantive grounds.

I hope my colleagues, especially Democrats, will vote against cloture because we have again been shut out of the opportunity to introduce amendments that really go to the heart of whether we can represent people in our States.

I have talked about the right to fight for family farmers for 8 weeks. The majority leader said the other day he filled up the tree one time. I said I thought the record would show more than that. I think in the last year it has been 9 or 10 times we have been shut out of the opportunity to even have an up-or-down vote. What is relevant to me is the pain and agony of the family farmers and all the producers who are being driven off the land, and to not have the opportunity to consider amendments, to have a debate and up-or-down votes, and to fight for people back in my state to try to make a difference for family farmers. And other Senators feel the same way.

I also said I do not think the debate about campaign finance reform is over. To me, the energy is at the State level. To me, the energy is toward clean money and clean elections, and I want an opportunity to offer an amendment that would give States the authority to have a clean-money, clean-election initiative that would apply not only to State races but to House and Senate races as well.

This debate is not over. Just because there are Senators here who block reform, we will not go away. I want to offer an amendment which gives States the ability to pass sweeping campaign finance reform and that would apply to our elections as well. I think that is where the energy is going to be.

If we are not going to do it here, if the powerful financial interests are going to block reform, let the States do it. I have an amendment on that. I want to be able to bring up the amendment for debate. That is what the Senate is all about. We are not the House of Representatives. Therefore, I hope Senators will vote against cloture around this fundamental principle that the Senate should be the Senate and we debate and fight for the people in our States.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I rise in strong opposition to H.R. 434, the African Growth and Opportunity Act and Caribbean Basin Trade Enhancement Act and urge my colleagues to reject the cloture motion to end debate on this ill-advised legislation.

Today's proposal offers a unilateral opening of the U.S. market in exchange for no market access commitments from the countries affected. Unlike NAFTA, no negotiations are required for these benefits contained within the legislation to take effect. It is no wonder that the governments of the impacted countries argue in favor of this legislation.

This legislation contains limited protections for Caribbean and African workers and offer no protections for the environments in either region. It is essentially an invitation for companies to leave the United States and exploit African and Caribbean workers and the environment.

Moreover, today's proposal disrupts a carefully balanced transition in textile and apparel manufacturing industries from a quota system to a less regulated market.

Five years ago, in adopting NAFTA and the WTO we established a textile and apparel policy that was designed to be implemented over a 10-year period. We are now halfway through that implementation.

Manufacturers, workers, and families made investments and planned their future based on that scheme. It is grossly unfair to all involved to alter that plan in the middle of its implementation.

Specifically, the Africa portion of the legislation alters the generalized system of preferences program by permitting increased access to imports from Africa into areas that have traditionally been limited because they are import sensitive.

Let me restate that.

This package essentially lifts the protections for the most import sensitive products. In short, that means that U.S. workers will lose jobs as a result of this legislation.

The protections that this legislation will erase have long been recognized in U.S. trade policy. Proponents of this bill will argue that the ITC has conducted a study that suggests that U.S. job loss will be less than 1,000 jobs. I do not believe the study and will offer an amendment to this legislation that would suspend benefits when textile and apparel job loss exceed 1,000 workers.

Moreover, this legislation contains few assurances that the products coming from Africa be made in Africa. In fact, for most products, a minimum of 20 percent of the work can be done in Africa and the benefits of the legislation will still apply to the product.

Traditionally, I have expressed concern on a variety of trade initiatives and most particularly with regard to those impacting the textile and apparel complex.

South Carolina has 93,000 workers in our textile and apparel industries including 73,000 in the textile industries and 20,500 in the apparel industries.

The proposal before the Senate today would essentially condemn the 20,500 employees in the apparel industry (and the 666,000 apparel workers nationally) to unemployment by permitting the duty-free entry, quota free entry of apparel products from Africa and the Caribbean that are made from American fabric—the so-called 807-a, 809 exception.

Many will claim that such a provision aids the U.S. textile industry and for a brief time it may. Unfortunately, it decimates the U.S. apparel sector. If the apparel sector is undermined, eventually the textile industry will erode as

well, because manufacturers will always move to be near their customers.

Moreover, it is unlikely that the strict provisions that exist in the legislation will remain, once the conference committee completes a reconciliation of this bill with the much more expansive proposal from the House of Representatives.

In addition, the principles underlying this legislation assumes that the current tariff situation remains unchanged as result of the new WTO Seattle Round negotiations. Such an outcome is unlikely.

This legislation merely continues the ongoing assault by the current administration on America's strong manufacturing base. It will further weaken an already besieged U.S. textile and apparel industry and cost the jobs of countless American workers.

This administration has become enchanted by the false promise of ''free trade,'' to the detriment of numerous U.S. industries. While expanding global commerce and benefiting less developed nations are admirable goals, we cannot afford to pursue them if it means dangerously weakening our industrial complex and putting American laborers out of work.

I have often spoken on behalf of the beleaguered textile and apparel industry, one that is critical to maintaining a strong U.S. manufacturing base. Currently the United States imports $21 million worth of apparel and fabric for every $6 million that it exports. This margin will likely increase substantially with the implementation of S. 1387.

American textile companies cannot compete with the increasing amount of cheap imports that are flooding our markets. Just in the past 17 months, 50 plants have been forced to close their doors, displacing 30,000 workers. And as disturbing as they are, these are just the most recent figures. I use them to underscore the seriousness of a much larger, longer-term problem.

In large part it is our previous free trade agreements that are to blame for the losses in textile jobs. During the 36 months prior to implementation of the NAFTA agreement, just 2,000 jobs were lost in the American textile sector. The ensuing 56 months saw job losses rise to 305,000. To put these numbers in perspective, that is over 300,000 families who have lost their major source of income in just the past year and a half.

The deterioration of the textile and apparel job market is not only harmful to South Carolina, but is devastating for many parts of the United States. In my State, the past 10 years has seen the number of jobs in the apparel sectors drop from 45,000 to 20,500, a decrease of more than 50 percent. Similarly, Pennsylvania's textile and apparel jobs have dipped from 80,000 jobs to 34,800 since 1989.

Some might argue that in place of these jobs, many comparable new jobs have been created through the growth of the retail industry. This fact appears to be true on the surface, but closer examination shows it to be deceiving. Textile jobs pay 63 percent more than retail jobs. While the average mill worker receives wages of $440.59 a week, retail positions pay only $270.90.

Furthermore, as an indication of the value of textile sector jobs, one can look at the increase in wages earned by mill workers over the past ten years. The $440.59 figure is up from $308.15 in 1989.

In effect, well-paying jobs are being replaced with significantly lower paying jobs. This is a serious problem, particularly when many of these workers provide the only source of income for their families.

Considering the difficulties of the domestic textile market, the last thing America needs is to increase the amount of cheap imports coming into our country. Yet this is exactly what S. 1387 does. It provides the perfect loophole for Asian countries to circumvent U.S. import restrictions.

With the implementation of the Africa trade bill and the Caribbean Basin initiative, Asian companies will be able to easily conduct illegal textile transshipments from both African and Caribbean nations. Once they build manufacturing plants on the Caribbean islands, their products will be automatically accepted into the U.S. with low duties and no quotas. The restrictions contained in the Africa trade legislation will be subverted in a similar manner. Illegal transshipments already hurt American textile companies, and making them easier will just exacerbate the problem.

This decimation of one of America's most important manufacturing sectors is unacceptable. I agree, as most of us do, that increased economic development in Africa and the Caribbean Basin is an important international objective, and is ultimately in America's best interest. Further, it is important that we assist these regions in implementing effective policies for this development. However, to do so at the expense of the textile and apparel industries and the American workers in those industries is irresponsible and foolhardy.

The opportunity we are offering to the countries covered by this legislation is enormous. We are allowing them open access to our markets, giving them the opportunity to export their products to the United States at will. Meanwhile, more American workers will lose their jobs because foreign laborers are willing to work for much lower wages. Effectively, we are opening our doors to cheap imports and unemployment, all in the name of helping these poor nations to establish a firmer economic footing.

In return for this favor we ask for nothing. We are agreeing to give away our employment and our money, and yet we want nothing in exchange. This is bad economics and poor policy-making.

It seems clear to me that we should ask for something in return. We should ask that, at the very least, these nations treat their citizens decently and with respect. The human rights records of the countries included in this trade bill range from marginal to abominable. It should not be too much to expect for their governments to take steps to improve the living conditions of their people.

Women suffer unequal and often violent treatment in many of the African countries and Caribbean nations. It is common in these societies to accept physical violence as a means of resolving domestic disputes. The result of this toleration is that women are routinely battered, raped, and assaulted. For example, human rights workers estimate that 20 percent of the female population in Nigeria has been subjected to physical abuse in the home. Furthermore, many African tribes force their female members to undergo rituals of severe violence, which are often life-threatening. In some countries, such as Sierra Leone, such brutal acts have been practiced on almost 100 percent of females.

Obviously, these women are considered inferior citizens. That inequality is clear in the labor laws of many of these countries. If they are allowed to work at all, women make far lower wages than their male counterparts. In Kenya, women's average monthly wages were a striking 37 percent below those of men in 1998.

Many of the children of these nations suffer similarly dismal fates. Street children, often orphaned by the loss of their parents to the AIDS virus, are sold into prostitution or, in some cases, into slavery. In El Salvador, as many as 270,000 children fit into this category. More ''fortunate'' minors are put to work as street vendors or domestic servants to help support their families financially. Most of these countries maintain the pretense of compulsory education and child labor laws, but few conscientiously enforce them.

The plight of unskilled laborers in Africa and the Caribbean is also problematic. Only a handful of the countries covered by S. 1387 have established minimum wages that are sufficient to allow workers to support their families. To state one example, unskilled and agricultural laborers in Burundi are forced to survive on an astonishingly low 35 cents per day! Not surprisingly, this amount has been deemed inadequate for a worker and his family to maintain a decent standard of living.

Clearly, the citizens of African and Caribbean countries are being subjected to numerous and often brutal human rights abuses. It is absurd that we are proposing to help these nations economically while turning a blind eye to the violence and inequality that goes on within their borders. If Congress and the administration insist on expanding ''free trade'' and granting open access to our markets to developing states, let us at least make such

action contingent upon the equitable and decent treatment of their people. We have a powerful tool at our disposal, and we would be foolish not to use it.

This legislation defies common sense. By passing it, we would further erode our manufacturing base and sacrifice important jobs, while receiving nothing in return. To you who represent farmers, I ask that you join me today in opposing this legislation, just as I and the textile workers have stood with you during the current crisis. To those who represent steel, I remind you that we supported you during your crisis as well. Please stand with me in voting against this proposal.

Mr. President, to sum up:

The bill decimates the apparel sector. It permits duty-free, quota-free imports from the CBI/Africa when made from United States fabric.

It targets import-sensitive sectors by altering the rules for the imports of products from Africa.

It provides limited protections for African workers and limited protections for Caribbean workers.

Unilateral action requiring that countries benefiting take no real action to obtain the benefits.

It provides no protection for the environment. Unlike the NAFTA side agreement, there are no side agreements to protect labor.

It undermines the textile and apparel policy adopted as part of GATT.

This Congress has no continuity of mind and attention. We passed a 10-year phaseout in the GATT agreement on textile quotas. Now, 5 years into the agreement, we want to cut it out. Investments made on the national policy of a 10-year phaseout are cut short. How do we pay for the machinery?

Since we have a limited time, I will bring the issue into focus. This could be called the Fruit of the Loom job flight bill or the campaign finance bill because this proves the efficacy of soft money.

I have an article from today, Friday, October 29, from the Washington Post, entitled ''Will Capitol Crusade Bear Fruit? Ailing Underwear Maker Gives Freely as Senate Mulls Tariff Cut.''

Fruit of the Loom Inc. is feeling deep pain these days. The company whose name has long been synonymous with underwear has lost money in the last three quarters. Its stock has dropped from $40 in 1997 to below $3 yesterday.

So a bill that would eliminate tariffs that it and other companies pay to bring in certain garments from their factories in the Caribbean looks awfully attractive.

That is what we will be voting on.

On Capitol Hill, the company that industry people simply call Fruit has emerged as a prime promoter of the Senate bill, which is part of the United States' Caribbean Basin Initiative. The company also has become a big contributor to Republican causes.

Contribution records show that Fruit gave $350,000 in ''soft money'' to GOP groups, $265,000 of it to the National Republican Senatorial Committee, in the 1997–98 election cycle. That placed the company in the same league as the National Rifle Association and much bigger companies, such as drugmaker Novartis Corp. and Atlantic Richfield Co.

Fruit also gave almost $90,000 in ''soft money to the Democratic cause, all of it to the Democratic Senate Campaign Committee.

Contributions have continued in 1999. Records show an additional $73,000, all of it to Republicans.

At the same time, Fruit's chairman, William Farley, has been an active donor to key Republicans, giving $2,000 in May to the group Trent Lott for Mississippi, which supports the Senate majority leader, and $2,000 to the Keep Our Majority Political Action Committee, which supports GOP candidates.

Mr. President, we are not dealing with jobs and dealing with trade. We are dealing with campaign finance.

I continue:

''It's a company in bad shape giving money fairly lavishly to the [political] process, with incredible things to gain,'' said Charles Lewis, executive director of the Center for Public Integrity.

Fruit doesn't deny the bill would help it—a spokesman said it expects to gain $25 million to $50 million a year if the Senate bill is enacted—but argues it will also help American industry and jobs.

''We don't look on this bill as corporate welfare,'' said Ronald J. Sorini, Fruit senior vice president for government affairs.

Sorini said that his company and the industry are ''getting hammered'' by imports from Asia and that the Senate version of the bill, which limits import benefits to clothes made abroad from U.S.-produced textiles, would help the company compete by helping team its U.S. textile workers with its low-cost garment stitchers overseas. The House bill does not require use of American cloth.

Mr. President, as an aside, the ATMI disapproves this particular bill because it marries the House bill with the Senate bill and does not require the Senate language.

Reading on:

He denied the contributions are targeted at the Caribbean bill, saying Fruit has more issues than that to worry about in Congress. ''We support those who generally support our industry,'' he said.

The Clinton administration also backs the Senate bill, as does the American Textile Manufacturers Institute, which represents companies that make cloth.

The Senate bill, along with one to offer similar tariff benefits to Africa, was caught up in maneuvering last night, with a vote to limit debate set for today. The measure is opposed by a coalition of labor groups and companies that still make garments in the United States. They contend it will further erode U.S. garment jobs and unfairly reward companies like Fruit that have sent garment jobs overseas.

Fruit's U.S. employment has fallen from 33,000 to 17,000 people, the company says. About 3,500 Fruit employees are based in Kentucky, and the bill has caused a split between the state's two senators, Mitch McConnell and Jim Bunning, both Republicans.

McConnell favors it. ''It's not unusual for a senator to support the interests of a major employer in his or her state,'' said Kyle Simmons, his chief of staff.

McConnell heads the Republican committee that has been the beneficiary of Fruit's soft-money contributions. Simmons said the money has no connection to McConnell's position, adding that he has always been a ''free-trader.''

Bunning has spoken out against the bill, on the grounds that too many jobs are going abroad.

All in all, the bill would cost the Treasury about $1 billion in lost tariff revenue over five years.

Mr. President, if there is any pride in being a Senator, they would withdraw this bill.

I yield the floor and I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I yield myself 10 minutes.

Mr. President, I rise one last time to implore my colleagues on both sides of the aisle to support the motion to invoke cloture. Frankly, it would be unconscionable to block progress on a bill that enjoys the support of at least 80 Senators from both sides of the aisle. It would be unconscionable to block progress on what the President has described as one of the most significant initiatives of his presidency. It would be unconscionable to block progress on a bill that enjoys the support of the vast majority of political, civic and religious leaders in this country and the support of each of the nations that would benefit from its passage.

But, most importantly, it would be unconscionable to block progress on a bill that would create 121,000 jobs in the American textile industry over the next 5 years. I have emphasized again and again in this debate that this is not a bill that is good just for our neighbors in the Caribbean and Central America or our partners in Africa. This is a bill that is good for our workers here at home!

Let me remind my colleagues that it is no benefit to workers in the textile industry if you raise the minimum wage when they don't have a job. It is of no use to American textile workers if you debate mergers and acquisitions in the agribusiness sector if we do not open markets for their products. It is of no use to the American textile workers if we debate, yet again, reform of campaign finance laws when they headed for the unemployment line.

I was not elected by my constituents in Delaware to look out for the short-term political advantage. I was not elected by my constituents in Delaware to win debating points and I have never sought the floor for that purpose.

I have drafted a bill here that is a benefit to workers and industry here in the United States, as well as neighbors in the Caribbean, Central America, and Africa. It is a ''win-win'' situation economically for American workers and our friends abroad.

The bill is also a victory for an outward looking foreign policy. It is a statement about American leadership in an age that cries out for us to lead in positive ways that ensure peace and stability around the world.

Let me remind my colleagues that no state in Africa or the Caribbean or Central America is politically stable if people cannot feed themselves!

In recent weeks, I have heard an unending cavalcade of criticism about the Senate's vote on the Comprehensive Test Ban Treaty. Isolationists!

That's what the opponents of this bill called those of us who thought more about our national security than we thought of our political expediency.

Where are those voices now? Where is the one or two voices that would argue now for an outward looking foreign policy agenda? Where are those one or two votes in favor of engagement with the world, rather than a sterile debate about senatorial privileges?

This is not a debate about the minority party's rights. This is a tyranny of the small minority on each side of the aisle that wants to kill this bill. We must see our way clear to a vote against partisanship. We must rise above the parochial and focus on our national interest and the world around us.

Let me remind my colleagues that this bill enjoys the support of one of the strongest bipartisan majorities I have seen in the Senate. The cloture vote on the motion to proceed was 90–8.

This is a measure that the distinguished minority leader himself initiated in 1994. This is a measure that the distinguished majority leader has fought for and made room for at a time on the legislative calendar when the hours are precious. This is a measure that the President has indicated in his State of the Union Address is at the top of his agenda.

This bill has the support of the strongest coalition of political, civic, and religious leaders of any measure I have seen in years.

That said, I want to give credit where credit is due. Those who want to kill this bill—those who have appeared so frequently on the floor of the Senate this week to talk about anything but this bill—have done a masterful job.

Does it strike anyone as an odd coincidence that Time magazine runs an article during the week of this debate that suggests that this bill, which would do so much for both Africa and the Caribbean and for workers in the United States, is the work of a single company? Does it strike anyone as an odd coincidence that someone named John Burgess in the Washington Post, who erroneously reported last week that Nelson Mandela opposed this legislation, regurgitates that Time magazine article in this morning's edition of the Post?

Those articles ignore the bipartisan push that has brought this bill to the floor of the Senate. A bipartisan push in the House of Representatives led by the chairman and ranking member of the Ways and Means Committee. And, the strong bipartisan push in the Senate as well.

My friends, each day this week, the Ambassadors of the 47 African countries that would benefit from this bill have watched this debate from the Senate gallery. Each day this week, members of the American public have looked on as we discussed our privileges, rather than their business. They have read the misreporting of the bill in the popular press. They have seen the pleas of the President to vindicate his foreign policy initiatives in Africa and the Caribbean go unheeded as the discussion of process, rather than substance, has dragged on.

The real question before us is whether we can look up into the Senate gallery and look those people in the eye if we fail to move this bill. There will be a time to debate an increase in the minimum wage. There will be a time to debate consolidation in the food processing industry.

There will be—and there has been—ample time devoted to the issue of campaign finance reform. A vote for cloture does not preclude that debate.

What would it do? It would leave us with a solid bill that is good for Africa and the Caribbean and good for the United States. It would also leave us with another two days to debate the merits of this bill and offer any germane amendments that would improve the legislation before us.

What is wrong with that? What is wrong with sticking to the subject at hand and getting our job done?

I implore my colleagues to vote for cloture on this bill. I implore my colleagues to vote in favor of an open engagement with the world around us, rather than a fearful isolationism that hides behind protective walls. I implore my colleagues to support this initiative with a vote in favor of the motion before us.

Make your stand here. Vote for the motion.

Thank you. I yield the floor.

The PRESIDING OFFICER (Mr. SANTORUM). Who yields time? The Senator from West Virginia.

Mr. BYRD. Mr. President, much of the controversy surrounding U.S. trade policy arises from differences in opinion about the economic benefits achieved from trade agreements. Trade agreements, in principle, have winners and losers. In recent years, regrettably, U.S. trade agreements seem to be pitting U.S. conglomerates and foreign policy interests against the traditional American workers. By traditional worker, I mean craftsmen, artisans, and laborers who, in this information age, still actually make things. Man cannot live on information alone—we still need clothes, shoes, dishes to eat from, watches, and tangible items. I believe the underlying issue for the traditional American worker is the question of who benefits from our trade negotiations. I believe that the traditional American worker perceives that a selected few U.S. industries keep winning, while other domestic industries keep losing, and that the promised trickle down of benefits from the winners to the losers never happens.

Certainly, this is the case with the trade legislation now before the Senate. The same industries keep losing. Under the African and Caribbean provisions in the bill, the losers will likely be textile and apparel, footware, glass, electronics, handbags, along with canned tuna and petroleum. In this decade alone, the Senate approved two major trade bills, the North American Free Trade Agreement (NAFTA), and the General Agreement on Tariffs and Trade (GATT), and in each of these bills the losers were many of the same players. The deemed ''losers'' were workers in traditional industries such as textile and apparel production, footware, glass, electronics, watches, and handbags.

I believe that many in the textile and apparel industry understand only too well about the stigma of losing so often in trade agreements. I am bothered by the ''loser'' sign that has been placed on the traditional U.S. workers, and the lack of concern about workers who lose their jobs as a result of a trade agreement. I believe that the so-called ''losers'' in U.S. trade policy ought not to be thoughtlessly discarded.

In the U.S. trade policy process, we have become heartless, insensitive, merciless, and numb to the potential pain that these trade agreements can inflict on Americans—on mothers, fathers, brothers, sisters, and children. The so-called Trade Adjustment Assistance program falls woefully short in providing meaningful benefits to the workers who lose their jobs as a result of trade agreements, and I hope that members are not fooling themselves about the true hardships that are ahead for many workers as a result of the trade legislation that we are considering today. Yes, today the economy is booming, in most parts of the United States. I hope this state of well-being lasts forever. However, we know it will not.

Many of my colleagues eagerly point toward the benefits in the Trade Adjustment Assistance (TAA) program. TAA is touted as the sure thing to make a winner out of the loser from a trade agreement. Under TAA, in return for their years of contributions to the local and national tax bases, workers who can prove that their company went under as a result of foreign trade might get a federal extension of unemployment checks, which is approximately $250 a week in West Virginia, and two years of ''approved'' retraining. Possibly, if no ''approved'' jobs are available in the area, these workers might also be eligible for a one-way ticket to another region or state, with a whopping $800 from the federal government to start them off in their new lives. With good reason, most workers do not want TAA. They want to earn full wages, with benefits, and two years of unemployment does not cut it.

Advocates of the trade bill proclaim that we have to think about the future U.S. relations with Africa and the Caribbean basin, and that we have to accept the fact that many traditional industries are a thing of the past in the United States. There are numbers of members who dismiss the textile and apparel industries, as sure to go the way of covered wagons or the steam locomotive. Advocates want to make the

case that you are either for the trade bill before us, or against U.S. relations with Africa and the Caribbean. I support meaningful economic development in Africa and the Caribbean, but I also care about what happens to the traditional worker here in the United States that might lose his or her job as a result of this bill, and I simply have not received any reasonable assurance that these workers will receive the support they deserve.

From my years in the Senate, I have a very strong viewpoint on accepting winners and losers as deemed by the Administration—any administration—or by the committee of jurisdiction. I can tell you that there are many, many industries that would be at risk, if certain special tax or procurement provisions failed to exist. In my view, the main reason that textile and apparel workers are so-called ''losers'' is because decade after decade we have chipped the tariffs away, allowing our trading partners to enter the U.S. market under very advantageous conditions. This strategy was called free trade, but, in reality, I believe that it was mostly a heyday for our trading partners who had no labor or environmental standards. Regardless, decade after decade, this country has relentlessly chipped away at the textile and apparel manufacturing base, mostly on the grounds that this is a natural procession of development, like the demise of the covered wagon and steam locomotive. My staff informs me that advocates of the African and Caribbean trade provisions actually use the metaphor of the covered wagon and steam locomotive as evidence that this is just the way the world works. I guess someone forgot to educate this group that, unlike covered wagons and steam locomotives, Americans will likely continue to wear and use textile and apparel products!

I wonder if members supporting this legislation recall that during debate on GATT only five years ago, we implemented drastic cuts in the textile and apparel tariff rates. We told the textile and apparel industry that they would have to swallow the cuts, but that we would phase the tariff reductions in over ten years to help them make business decisions and adjust to the new rules. Let me repeat that: five years ago this body implemented deep tariff cuts on textile and apparel with the understanding that the cuts would be phased in over ten years. Well, it is 1999, and here we are again, chipping relentlessly away at the nominal base that the textile and apparel industry has left. Does the word of this body have no meaning?

Under the African and Caribbean trade provisions, there are U.S. industry ''winners,'' mostly retailers, most notably apparel retail companies, and the bill would help U.S. fabric manufacturers and growers. To those winners, I say ''good for you.'' I know the value of a dollar. I spend my money carefully. I like the benefit of consumer savings from our free-market economy. I have never been against trade agreements on fair trade.

I am here to tell you, however, that the consideration of trade agreements should be completed in a serious, deliberative, and scrutinizing manner, as trade agreements have broad impacts, and negative consequences. There has been only one relevant hearing held on this legislation, and that hearing pertained solely to the Africa Growth and Opportunity Act. There were no hearings on the Carribean Basin Initiative, the Generalized System of Preferences, or on Trade Adjustment Assistance during this Congress.

While the proponents argue in behalf of the potential long-term benefits that the bill might provide to the United States, the fact remains that this bill lacks real reciprocal benefits for the United States. This bill is generally a foreign aid package financed on the backs of a few industries, such as the textile and apparel industry. Is that fair?

It is time for the Senate to be sensitive to the costs of trade agreements. We are preparing to approve a bill that imposes enormous costs on direct segments of our economy. TAA is a start, but it is not the whole answer. I urge my colleagues to put a human face on workers in industries such as textile and apparel, footware, glass, electronics, watches, and handbags. I can put a human face on these workers, and I put a value on their hopes and dreams, and on their future prosperity.

I am a product of the coal fields of West Virginia. I have seen what it is to work hard, physically hard, to sweat, and to toil. American workers, traditional workers, are the soul of America. They are the essence of our values. They bleed and hurt as U.S. trade policy tightens around their necks. With proper review, hearings, and consideration, I am convinced that we could find a better way to achieve U.S. foreign policy goals for the fine people of Africa and the Caribbean nations. I support a long and prosperous relationship with our friends in the sub-Saharan African and the Caribbean Basin nations.

We need to restore the average American worker's faith in our trade policy. We need to move forward on a trade process that provides fair and equitable treatment to all Americans. We need to recognize that all American workers should be able to depend upon our understanding and regard for their position upon enactment of trade law. This bill is not what we are looking for. It does not do these things. For these reasons, I cannot support this bill. I urge my colleagues to vote against this bill.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the distinguished chairman talked of a short-term political advantage. I have debated this issue for 33 years in the Senate. When I started, I was not successful. We had 90 percent of the production of textiles. We are down to one-third or less of the critical mass. If we preempt the 10-year phaseout of the Multifiber Arrangement, I can tell you right now, the industry is gone. The jobs are gone.

He talks about the tyranny of the minority. He has not seen me. If I could be a tyrant, I would be. The White House and an overwhelming majority of Republicans and Democrats are all in favor of soft money.

The morning headline: ''Will Capitol Crusade Bear Fruit?'' ''Ailing Underwear Maker Gives Freely as Senate Mulls Tariff Cut.''

It is not the jobs. The jobs have left Kentucky. Senator BUNNING has to protect the jobs so that no more of them leave. 7,000 have already left Louisiana. The gentleman, Mr. William Farley, has moved his headquarters to the Cayman Islands; so we can call this the Fruit of the Loom job flight bill.

Ms. COLLINS. Mr. President, I rise today to explain my opposition to the African Growth and Opportunity Act. My decision was difficult because I wholeheartedly support provisions of the bill that would reauthorize of two important trade-related programs—the Trade Adjustment Assistance (TAA) and the Generalized System of Preferences (GSP). These programs provide vital benefits to the state of Maine and the nation. Although on balance, I believe that H.R. 434 unfairly damages Maine's economy, I take solace in the fact that the TAA and GSP programs are one step closer to being reauthorized. I would like to focus for a moment on these two programs.

The TAA aids workers and firms in global economic readjustments. By providing funds to retrain workers, TAA's program offers both opportunity and a lifeline to workers displaced by market changes caused by imports. It helps firms threatened by increased imports through grants to explore new technology, manufacturing methods, and marketing techniques. I have seen the effectiveness and efficiency of the TAA program firsthand in my state of Maine and strongly support both its goal and methods.

Mr. President, I would like to recount just one TAA success story of the many in Maine and the nation. Four years ago, when a shoe factory in Old Town, Maine closed, one of the employees laid off was a woman in her fifties. She had worked in shoe factories all of her working life. With no high school degree, unemployed, and no skills other than making shoes in an economy with few shoe-making jobs, this woman was in dire straits until she qualified for TAA assistance. Fortunately, she seized the retraining opportunity to earn her GED and then trained as a nursing assistant. She recently proudly stopped by the local retraining office to let them know of her new job as a nursing assistant. She now works in home health care, making more money and enjoying greater flexibility than when she worked in a shoe

factory. In a true tribute to the effectiveness of the TAA program, she told the retraining officials, ''I wish I had been laid off sooner.'' This story exemplified why the TAA program must be expeditiously reauthorized.

Similarly, the GSP program deserves swift reauthorization. It establishes a mechanism for extending duty-free treatment of certain products imported from designated developing countries. The GSP program allows for participation by only those countries that adequately protect intellectual and property rights, observe international standards of labor rights, employ certain economic policies, and satisfy other important criteria. Moreover, the GSP program is limited to products that are non-import sensitive, meaning American jobs are not threatened.

In fact, the GSP program helps create jobs in America. The Foreside Company based on Gorham, Maine, depends on the GSP program to be able to import product necessary to create jobs in Maine. The Foreside Company, with over 150 employees, is one of the fastest growing companies in Maine. The energetic entrepreneur who runs this company tells me that if GSP is not renewed, it would harm this Maine business to the point that it would jeopardize dozens of jobs.

I am disappointed that legislation reauthorizing the TAA and GSP programs were incorporated in H.R. 434, and not passed as independent bills. Unfortunately, H.R. 434 includes measures that I cannot support. The African Growth and Opportunity Act and the Carribean Basin Initiative are both deeply flawed proposals that would hurt Maine workers and companies.

I want the record to clearly show, however, that in spite of my votes against H.R. 434, I remain strongly supportive of both the Generalized System of Preferences Extension Act and the Trade Adjustment Assistance Reauthorization Act and strongly advocate for reauthorization of both programs.

Mr. GORTON. Mr. President, on few occasions is this body faced with a bill that is supported by such a vast, diverse, and a broad based list of industries and organizations, such as the NAACP, the U.S. Chamber of Commerce, the Corporate Council on Africa, and the National Retail Federation. The African Growth and Opportunity Act provides a real chance for the U.S. to engage in new trading partnerships with the sub-Sahara Africa, but also provides a mechanism to assist those countries to bolster their own economies.

This bill is important not only because of the African Growth and Opportunity Act, but for the Caribbean Basin Initiative (CBI), the Generalized System of Preferences Program (GSP), and the Trade Adjustment Assistance (TAA) programs contained therein. It is essential that the Senate reauthorize the GSP and TAA and discontinue the practice of simply extending these programs year by year. This all encompassing trade package, the result of three years of negotiation, deserves passage.

What is also essential about this trade bill, is the manner in which the United States can give a hand-up to the Caribbean Basin and sub-Sahara Africa. After the death and destruction caused by Hurricane Mitch, the Caribbean nations have been struggling to regain the economic hold necessary not only to sustain their inhabitants, but to continue to prosper in the world economy. Instead of providing blanket financial assistance, the Caribbean Basin Initiative provides a mechanism and an avenue for these nations to begin rebuilding their economies. The tariff preferences provided in this bill, on products not previously covered by the 1990 CBI, will allow this region to expand economically, and integrate them into the international trading system.

In addition, these Caribbean nations have asked and desire similar treatment to those afforded Mexico in the North American Free Trade Agreement. These nations aspire to have the ability to broker trade deals with the United States in order to ensure their economic longevity in the region.

Trade with Africa is just as significant. According to the Department of Commerce, U.S. exports to sub-Saharan Africa in 1998 was approximately $6.7 billion, or 1% of total U.S. exports. Conversely, the U.S. imported approximately $13.1 billion from sub-Saharan Africa. The African Growth and Opportunity Act establishes the protocol and trade mechanisms necessary to engage in future endeavors with these countries. The bill provides for benefits under the GSP for sub-Sahara Africa as well as benefits for the textile and apparel industries. As my colleagues know, these benefits were constructed not to inhibit, but to enhance these industries in the United States. All garments and apparel manufactured in Sub-Sahara Africa must consist of U.S. thread, yarn, and other components.

For my own State of Washington, passage of this bill means additional export markets for our highly sought after wheat, world-renowned aircraft, and the various other commodities and goods and services that has made Washington the most highly trade dependent state in the nation. For example, the leading exports to sub-Saharan Africa include aircraft, wheat, and aircraft parts. Incidentally, 68% of the aircraft utilized in sub-Saharan Africa is produced by the Boeing Company. Boeing estimates that these nations will eventually require at least 270 new aircraft valued at approximately $20 billion. Naturally, the 330 in the current fleet will require new parts and services. I cannot over emphasize the importance of these numbers alone, not only to Washington state, but to all the Boeing employees nationwide.

But free trade does not exist for the soul purpose of exports. Through the mechanisms and tariff reductions provided in the CBI, Northwest companies such as Nordstrom and Eddie Bauer have an opportunity to expand and import new materials and apparel.

Mr. President, again I reiterate the importance not only of the content of this trade bill, but of the far-reaching support for its passage. Senators ROTH and MOYNIHAN have repeatedly reminded our colleagues of the many, many organizations and entities that support this bill. Religious leaders coupled with business, and agriculture working with the apparel industry—these partnerships emphasize the importance of expanding and enhancing free trade to sub-Saharan Africa and the Caribbean. I urge my colleagues to support passage of this omnibus trade bill.

Mr. THURMOND. Mr. President, as we consider the African Growth and Opportunity Act, I rise to speak about the status of the United States textile and apparel industry. During my time in the Senate, there has been an ever increasing effort to give away our textile and apparel industry. This is done in the name of free trade, under the guise of promoting market-based economies and democratic governments in developing countries. In spite of all this, the textile and apparel industry still ranks second among United States manufacturing industries. Notwithstanding downsizing, automation, and unfair import competition, this industry provides jobs for over one million two hundred thousand American workers, and contributes nearly sixty billion dollars per year to the Nation's Gross Domestic product.

Back in 1983 we passed the Caribbean Basin Economic Recovery Act. This was an attempt to provide free market economic and democratic political incentives to twenty-four Caribbean Basin countries. In 1994, the North American Free Trade Agreement (NAFTA) went into effect, lowering our quotas and tariffs for imports of textiles and apparel from Canada and Mexico. The following year, the United States made further concessions upon joining the World Trade Organization. Now the Senate is considering legislation, which, in my view, will further impair the textile and apparel industry.

What has been the result of these trade agreements on the textile and apparel industry in the United States? During the five-year period from 1994 to 1998, the trade imbalance (imports over exports) for textiles increased an annual average rate of 17.5 percent. For apparel, the trade deficit increased at an annual average rate of 9.8 percent. During this time period, textile and apparel imports from Mexico rose by 288 percent. Apparel imports from the Northern Marianas jumped by 300 percent. Additionally, the United States has endured a flood of textile and apparel imports from Asia.

This flood of imports has had a significant impact on employment. Since 1981, just prior to the initial Caribbean

Basin trade legislation, 874,400 American textile and apparel jobs have been lost. In the five years since NAFTA, which supporters argued would create more jobs in the United States, the domestic textile and apparel industry has lost 437,000 jobs. While some of these jobs have been lost as a result of restructuring and automation, major reductions in employment levels are due to the elimination of our quotas and tariffs.

The textile and apparel industry is very important to my State of South Carolina. Unfortunately, the loss of textile and apparel jobs in South Carolina has been particularly devastating. Since 1987, textile employment has decreased from a high of 108,000 to 73,000 this year. This is a loss of almost 35,000 jobs, a reduction of nearly one-third of all textile jobs in South Carolina.

During this same period, my State has also endured the elimination of over 50 percent of all its apparel jobs. Apparel employment is down from a high of 46,000 jobs in 1987 to 20,000 jobs today. This means almost 26,000 apparel jobs have disappeared in South Carolina.

The employment impact has been felt in other States as well. More recently, from 1993 to 1998, North Carolina lost over 70,000 textile and apparel jobs; Tennessee nearly 35,000; Georgia almost 29,000; Virginia and Alabama 18,000 each; Mississippi over 17,000; and in Texas about 15,000 jobs have been lost. In Oklahoma, the entire textile and apparel industry has been lost—8,300 jobs no longer exist.

What is the outlook for future employment in the textile and apparel sector? There is great uncertainty, and a wide range of estimates. What is known, Mr. President, is that by the year 2005, the Agreement on Textiles and Clothing will expire, and all quota restrictions will lapse. The Congressional Budget Office has estimated the impact of this development to be at least 200,000 jobs. The American Textiles Manufacturers Institute predicts employment losses as high as 650,000. Mr. President, it does not make sense to give away American jobs. The policy of the Federal Government should be to preserve and promote job growth for Americans, not make them unemployed. I do not think that we went through the process of reforming welfare just to add to the ranks of the unemployed.

The loss of textile and apparel jobs is more than just numbers, Mr. President. It affects the living conditions, health, and welfare of individuals, families and the communities in which they live. In many rural counties in South Carolina, where the textile plant or sewing factory is (or was) the only source of employment, unemployment rates range from 8 to 16 percent. Textile and apparel industries have been the economic backbone of many of these rural Southern counties. These communities have limited job opportunities. Furthermore, for a variety of reasons, the residents of these communities cannot just pick up and leave, nor is retraining a viable option in many cases.

Earlier during the floor debate on this bill, a report by the Congressional Research Service (CRS) was referenced during a discussion of labor productivity in the textile industry. The CRS Report notes that there has been productivity in the industry because of capital investment in labor-saving machinery. The report states, ''Rapid employment losses combined with stable output necessarily implies gains in labor productivity.'' Furthermore, it concludes that ''Many textiles factories have become almost completely machine-driven, leaving little room for further labor-savings, and the apparel industry seems ill-suited to such mechanization.'' So I wanted to clarify the record on productivity in the industry. It has come at the expense of employment.

Let me now turn to a more general issue. We must consider trade legislation in the context of our broader foreign policy objectives. To a great degree, this is made more difficult given this Administration's lack of clear foreign policy objectives. Nevertheless, let me discuss a few items which I believe deserve closer review before final action on this legislation is taken.

First, our foreign policy regarding Latin America and the Caribbean is basically running on empty. The United States is suffering in its own hemisphere strategically, politically, and economically. A good example is our relationship with Haiti. Despite our intervention, Haiti has advanced little toward establishing a minimally effective government. After spending tens of millions of taxpayer dollars, United States and Canadian troops are being pulled out.

Second, this Administration apparently cannot frame a coherent drug policy. Currently, the United States spends $289 million on security assistance to Colombia, the third-largest recipient of such aid. Aid for Colombia and its Andean neighbors, Bolivia and Peru, was meant to begin eliminating the sources which fuel the Caribbean drug trade. Yet, according to the Drug Enforcement Administration, Colombian traffickers have taken over a major chunk of the United States heroin market from Southeast Asian dealers. This is in addition to their dominance in the cocaine market. It is no secret the drug criminal organizations look for the easiest route of movement—which is through the Caribbean.

The closing of United States military bases in Panama this year has severely reduced America's ability to monitor the byways traffickers use to ferry drugs into the country. The biggest blow came with the closing of Howard Air Force Base, the U.S. center for anti-drug operations. Retired General George Joulwan, former commander of U.S. military forces in Latin America, testified that Howard was the ''crown jewel'' in our counter-drug operations because of its strategic location and infrastructure. Since being booted out of Panama, Administration officials have been scrambling for alternative sites to use to monitor and intercept drug traffic through the Caribbean.

I am concerned that as we propose to drastically increase container shipping through the Caribbean, we will be exposing our Nation to the potential for a tremendous increase in illicit drug imports. Other Senators have addressed the issue of how Custom Agents are presently unable to adequately monitor imports. This situation is aggravated by the movement toward paperless entry, where Customs forms are electronically cleared after the foreign goods move through our ports.

Mr. President, the key to resolving many of our hemispheric problems is coordinating our criminal justice efforts, defense requirements, foreign policy, and economic and trade strategy toward Latin American countries. We cannot afford to look at these in isolation of one another.

Finally, let me highlight some of the more dangerous elements of legislation which some in Congress are proposing. While the Senate bill alleviates some of the worst of these issues, I want the record to be clear on why these provisions must never become law. If, by some chance, this bill moves to a conference with the House, there may be an effort to incorporate some of these proposals. This would be a terrible mistake.

There are some in Congress who would favor the quota-free entry into the United States for apparel made in the Caribbean Basin countries from fabric produced anywhere in the world. Such a provision would void the Uruguay Round Agreement on Textiles and Clothing.

Another flawed proposal is the scheme to use Tariff Preference Levels, whereby fabric produced anywhere in the world may be used in apparel sewn in the Caribbean Basin countries and imported duty-free and quota-free into the United States. Such preferences are permitted under NAFTA. Canada has used its preferences to export into the United States textile and apparel products made of non-North American yarns and fabrics. This violation of NAFTA has permitted $300 million from textile mills in Europe and Asia to severely damage U.S. manufacturers of wool suits and wool fabrics as well as other U.S. producers. Likewise, Mexico is now sending textiles and apparel made from cheap Asian yarns and fabrics into the United States. Tariff Preference Levels are bad for the American textile and apparel industry and for its workers. They must not be permitted to be extended further.

Perhaps the worst provisions proposed in the House bill are those related to transshipment. Transshipment is the practice of producing textile and apparel goods in one country, and shipping it to the United States using the

quota and tariff preferences reserved for a third country. The most egregious part of the House bill is that it fails to include provisions for origin verification identical to those in Article 506 of the North American Free Trade Act. This could lead to Africa and the Caribbean Basin being used as an illegal transshipment point by Asian manufacturers. It would encourage the use of non-U.S. produced fiber and fabric in apparel goods entering the United States duty-free.

Finally, the House bill grants overly generous privileges and preferences to African and the Caribbean Basin countries in a unilateral fashion. There is little incentive for these countries to grant reciprocal access for products made in the United States.

I have outlined the current economic standing of the United States textile and apparel industry. There is no question that unfair trade policies have negatively impacted employment levels in this important sector of our economy. There is no reason to believe the trade bills we are debating will lead to a different result. Furthermore, these bills raise serious national defense and foreign policy questions. Finally, many provisions, which unfortunately might be included in the final legislative product, would cause unnecessary harm to the textile and apparel industry in the United States. The textile and apparel firms may survive as they adapt to our legislative actions and changing economic conditions. American textile workers may not be so fortunate. This is my main concern—for those textile and apparel workers who work hard, pay their taxes and raise their families. This is why I have reservations about this bill.

Mr. FRIST. Mr. President, the question before the Senate now—the Africa trade package and enhancement of the (Caribbean Basin Initiative) (CBI)—is a simple question of recognizing and seizing opportunities for America.

As the world continues to open trade and reduce barriers with GATT and various regional groupings and agreements the opportunity to gain competitive advantage over Europe and the industrialized countries of Asia could not be more starkly presented than with this package.

In terms of the Caribbean and Central America that opportunity begins almost right off our Atlantic and Gulf Coasts. The mutual benefit of those relationships is recognized across the board in both the United States and in the region.

The American textiles industry, which has taken such a hit in the past two decades, recognize the potential that CBI has with respect to competing with Europe and Asia in the next 10 years. Many of the companies see the future of the industry in America dependent on gaining that advantage through CBI and other trade agreements. We should recognize and seize that opportunity.

Sub-Saharan Africa presents an entirely different set of opportunities and considerations.

We have also heard a great deal of concern about what this bill will or will not do for Africa.

Much of that concern is because Africa truly sits on the margins of our external trade relationships. It also sits on the margins of our national interests. But it's not just us. Africa sits on the margins of the global economy, where the gap between it and the developed world continues to grow wider at a disturbing rate.

In the minds of many people it is a lost continent, typified by extreme poverty and horrific brutality. The number of countries is confusing, as are the fluid alliances and corrupt bases of power which dictate the continent's life.

As Chairman of the Subcommittee on African Affairs, I must admit that it is very difficult to associate the names of Somalia, Rwanda, Congo, Angola, Burundi, Sierra Leone, and even Sudan with opportunity and potential benefits to the United States. But the continent cannot be viewed as a single entity, and, even in the midst of tragedy and suffering, they still have such great untapped potential.

Sub-Saharan Africa has—depending on whom you ask—a collective population approaching 700 million people. They are overwhelmingly poor and quite often isolated. But take even half that number and view them as potential consumers of American goods, and the opportunities for beneficial trade look better.

In July I held roundtable discussion in the Africa Subcommittee with some of the top fund managers, past and current Administration officials, and economists, regarding the barriers to investment in Africa. This group brought together very disparate interests and somewhat differing views of how to address those barriers, but a single, profound view was shared by all: Africa is truly the final frontier for American investment and trade, and that the potential is great enough that it must be given immediate and higher priority by policy makers.

Although the continent is troubled and presents less immediate returns than our expanded trade relationships with Latin America, Asia, and Europe, the potential benefits to the United States 10 to 20 years from now are so great that we would be remiss if we did not act now. We have before us an opportunity to start diversifying and nurturing that growth outside of the extractive industries, and to profoundly influence the future of Africa.

The Africa trade legislation is not a comprehensive set of tools to address those barriers and gain advantage in that last frontier—it has never been billed as such and Senators should not consider it such when they vote. But it is a good start. And, remarkably, it is a beginning point upon which both Americans and Africans have agreed.

That is a remarkable opportunity in what has otherwise been a troubled and neglected relationship.

But I differ with the ranking member of the Africa Subcommittee and the other well-meaning opponents that this effort is fatally flawed. I differ as well on the idea that we must do all or nothing with respect to our potential trade relationships and policies toward Africa on this piece of legislation. That will be a long and difficult process and one which will require much more than legislation.

The Africa trade bill also has virtues beyond the expansion of trade.

The United States' national interests in Africa are not clearly understood, and, as a consequence, our policy goals are often ill-defined. Even as the Secretary of State completed her trip to the continent last week, we find a lack of a consensus on the security, economic and humanitarian interests we have there.

One point that is clearly understood and agreed upon on both sides of the aisle and throughout policy circles in the United States and the entire developed world, is that our actions must promote greater freedom and opportunity for Africans who suffer under some of the most incompetent, corrupt and sadistic regimes on the face of the earth.

These regimes also affect our lives when organized crime, terrorists, drug traffickers and disease have found fertile ground and purchase on a continent that has been so ravaged.

In the post-cold-war era, the United States; approach to Africa has been driven almost exclusively by foreign assistance packages. During the cold war, the same was true, but we added the dimension of proxy wars against Soviet and Cuban aggression. That approach was reasonable at the time, considering what was at stake for us, but it did not leave a good legacy on the continent.

We now have what is a tremendous opportunity to begin fundamentally changing that legacy and, as I noted in the opening sentences of my remarks, to seize opportunities.

If you consider the effectiveness of aid to Africa in achieving those goals a continent-wide scale, the record is not good. Almost all of Africa has seen a reduction in income and, now, life expectancy, since we began direct assistance programs in the late 1950s to mid 1960s. Regardless of that record, it is clear that monetary assistance alone is not an acceptable foundation for our relations with an entire continent.

This initiative, though, is quite different and it represents much more than simply a ''trade not aid'' approach. Not only does it potentially benefit us as well, it contains incentives for simple yet critical changes in governance in Africa.

Those incentives and mutual benefits have the added and rather dramatic quality of being backed by (literally) every single potential participant on the continent. Every single one.

That includes former South African President Nelson Mandela, who has been erroneously portrayed as opposing this bill.

I think it is paternalistic to assert that African nations do not understand the effects this bill would have on them. And I do not believe that these nations have unrealistic expectations of its potential benefits.

Africans widely view their interaction with the outside world as one that has been anything from exploitative at worst to unequal at best. From the time of the first penetration of the African interior by slavers and ivory hunters until today, that has been the case—regardless of intent. Even benevolent missions were viewed as unintentional but nonetheless effective entrees for colonial powers' exploitation of the continent.

Interestingly, our own foreign assistance to the continent—which is viewed as a product of goodwill and of shared goals with reformers—does not escape that stigma.

As with any donor/recipient relationship, the recipient will always be viewed as ''less equal'' than the donor. That fact is unavoidable and, indeed, universal.

Although cash-strapped and desperately needy, Africans rightfully view a purely donor/recipient relationship between us and them as another manifestation of the treatment of Africans as less than equal—again, that is regardless of intent.

This legislation is clearly viewed differently by Africans, and that's why I am puzzled and unimpressed with the accusations by opponents of this effort that it is ''exploitative.'' That somehow American corporations are simply going to reinvent that age-old relationship of Africa to the world and this will be their vehicle to do so. This effort is about realizing opportunities to build new mutually beneficial ties between the United States and Africa.

That is the Africans' view, at least. And that is why they bristle at the idea that this effort is not in their best interest, that they must be protected from something which they see as beneficial and positive.

In effect, it says to them that they must be protected from beginning to build relationships with America where they can be equals, where they are not simply something to pity and to patronize.

This bill will not change that attitude nor the continent overnight. As I said earlier, it is neither comprehensive trade legislation for Africa, nor is it a comprehensive policy toward Africa. It is a beginning, though. An important beginning. And, despite its potential flaws, it is critically important to pass this bill if we ever want to help bring Africa away from the margins, away from the suffering and human and environmental disasters and into the fold of developed and free nations.

That effort will require American leadership, and that leadership requires a first step. This effort is just such a first step, and I strongly urge my colleagues to support it and to defend it from those who would kill it, obstruct it or otherwise defeat it, either out of protectionist or other outmoded sentiments.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Delaware has 4 minutes remaining.

Mr. ROTH. Mr. President, I yield back the remainder of my time.

CLOTURE MOTION

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

The bill clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the substitute amendment to Calendar No. 215, H.R. 434, an act to authorize a new trade and investment policy for sub-Sahara Africa.

Trent Lott, Bill Roth, Mike DeWine, Rod Grams, Mitch McConnell, Judd Gregg, Larry E. Craig, Chuck Hagel, Chuck Grassley, Pete Domenici, Don Nickles, Connie Mack, Paul Coverdell, Phil Gramm, R.F. Bennett, and Richard G. Lugar.

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

The question is, Is it the sense of the Senate that debate on amendment No. 2325 to H.R. 434, an act to authorize a new trade and investment policy for sub-Saharan Africa, shall be brought to a close? The yeas and nays are required under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN), the Senator from Utah (Mr. HATCH), and the Senator from North Carolina (Mr. HELMS), are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) would vote ''yes.''

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the Senator from North Dakota (Mr. DORGAN), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from New Jersey (Mr. LAUTENBERG) are necessarily absent.

The yeas and nays resulted—yeas 45, nays 46, as follows:

[Rollcall Vote No. 342 Leg.]

YEAS—45

| | | |
|---|---|---|
| Abraham | Enzi | Kyl |
| Allard | Fitzgerald | Lott |
| Ashcroft | Frist | Lugar |
| Bennett | Gorton | Mack |
| Bond | Gramm | McConnell |
| Brownback | Grams | Murkowski |
| Burns | Grassley | Nickles |
| Cochran | Gregg | Roberts |
| Coverdell | Hagel | Roth |
| Craig | Hutchinson | Santorum |
| Crapo | Hutchison | Sessions |
| DeWine | Inhofe | Shelby |
| Domenici | Jeffords | Smith (OR) |
| Specter | Thomas | Voinovich |
| Stevens | Thompson | Warner |

NAYS—46

| | | |
|---|---|---|
| Akaka | Edwards | Moynihan |
| Baucus | Feingold | Murray |
| Bayh | Feinstein | Reed |
| Biden | Graham | Reid |
| Bingaman | Harkin | Robb |
| Breaux | Hollings | Rockefeller |
| Bryan | Johnson | Sarbanes |
| Bunning | Kerrey | Schumer |
| Byrd | Kerry | Smith (NH) |
| Campbell | Kohl | Snowe |
| Cleland | Landrieu | Thurmond |
| Collins | Leahy | Torricelli |
| Conrad | Levin | Wellstone |
| Daschle | Lieberman | Wyden |
| Dodd | Lincoln | |
| Durbin | Mikulski | |

NOT VOTING—8

| | | |
|---|---|---|
| Boxer | Helms | Lautenberg |
| Dorgan | Inouye | McCain |
| Hatch | Kennedy | |

The PRESIDING OFFICER. On this vote, the yeas are 45, the nays 46. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

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

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

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, may we have order. The chairman is about to speak.

The PRESIDING OFFICER. The Senate will please come to order.

## UNANIMOUS CONSENT AGREEMENT—D.C./LABOR-HHS APPROPRIATIONS CONFERENCE REPORT

Mr. ROTH. Mr. President, I ask unanimous consent that today at a time determined by the majority leader, after consultation with the Democratic leader, the Senate begin consideration of the conference report to accompany the D.C./Labor-HHS Appropriations bill and the conference report be considered read. I further ask consent that on Monday, November 1, the Senate resume consideration of the conference report. I finally ask consent that at 9:30 a.m. on Tuesday, November 2, the Senate proceed to consider the conference report and that there be 30 minutes equally divided between the two leaders, to be followed by a vote on the adoption of the conference report, with no intervening action or debate.

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

Mr. ROTH. Mr. President, in light of this agreement, there will be no further votes today. The Senate will continue debate on the CBI/African trade bill and may begin consideration of the conference report to accompany the D.C./Labor-HHS bill.

## AFRICAN GROWTH AND OPPORTUNITY ACT—continued

Mr. ROTH. Mr. President, I will make a few comments because I have

to say the vote just taken represents a sad day for America because it gives the wrong signal both to our people here at home and to those who were looking forward to this legislation as a means of beginning their country on a road of success and development.

I have to say there is something wrong with the way this Senate operates when a majority on both sides of the aisle, Republicans and Democrats, are in support of these significant treaties.

Mr. MOYNIHAN. Will the revered chairman yield for a question?

Mr. ROTH. Yes.

Mr. MOYNIHAN. Would he not estimate there are 75 votes for this measure in the Senate?

Mr. ROTH. Absolutely, I say to my distinguished friend, at least 75.

Mr. MOYNIHAN. At least 75.

Mr. ROTH. At least 75.

Mr. MOYNIHAN. And here we are.

Mr. ROTH. What kind of signal are we giving to the rest of the world? People are talking about isolationism. What does this vote represent? Does it mean we can't act effectively when the welfare of thousands of people both here and abroad is at stake? I say to my distinguished colleague and ranking member of the Finance Committee, for whom I have the greatest respect, that we will not consider this to be a dead issue.

Mr. MOYNIHAN. No.

Mr. ROTH. We shall continue to fight and assure that the opportunity arises for this Senate to take appropriate action, to have the opportunity to vote on this important matter. I lament we have spent more than a week of debate on this bill. We are ready to deal with the subject matter of this bill and relevant amendments. The vote, to be candid, is a victory for the few who oppose the bill and a vote against the interests of American workers who would benefit from this bill.

I regret it, as I said before, because this vote blocks progress—progress by the House, which passed this bill with a strong bipartisan majority. This vote blocks progress by the President, and this was one of his most important initiatives. This vote blocks progress by the Senate, which I know enjoys the support of strong majorities, as I have already said, on both sides of the aisle. Most importantly, this vote blocks progress that would mean new markets. I can't emphasize that too much. It would mean new markets for the American textile industry. It creates approximately 121,000 new jobs. It would have meant roughly $8.8 billion in enhanced business for the industry.

I deeply regret the effort to say this is just the result of campaign contributions, or whatever. Nothing could be further from the truth. I don't know whether or not we have upstairs now the Ambassadors of the 47 countries in Africa who would have benefited. They have been here day in and day out watching the developments; they are concerned about this legislation, which held out promise and hopes for them. As I said, this legislation is critically important because it promised jobs here at home. It promised the opportunity for the textile industry to better keep competitive in the local market. But not only here, I say to my distinguished friend from New York, isn't it true it would also help develop markets abroad?

Mr. MOYNIHAN. That do not now exist.

Mr. ROTH. That do not now exist. Exactly.

So that, as I say, this is a sad day for the country, and it is a sad for Delaware as well.

Let me say to the American workers, to our friends abroad, and our many supporters in the Senate gallery—I think I can include Senator MOYNIHAN—that I will continue to fight for this bill.

Mr. MOYNIHAN. Yes, sir.

Mr. ROTH. Senator MOYNIHAN and I will continue to fight for the benefits of this bill that extends to American workers and American industry. We will continue to resist the instincts of some who have fought to maintain protective walls and isolate America from the outside world.

The thing that bothers me so much is that in addition to the negative impact it has on this industry and on American workers, it sends the wrong signal just as we are on the verge of a multilateral meeting in Seattle—a historic occasion that would enable us to provide the kind of leadership that is needed if we are to continue the direction of liberal trade policy.

Yesterday, Senator MOYNIHAN pointed out so eloquently how liberal trade policies from way back in the 1930s have benefited this country, have benefited American workers, and, indeed, have benefited the entire world. We cannot turn our backs on this record.

We shall continue to fight and seek the opportunity to move forward.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, there are more than just prospective benefits for American workers in this legislation, on this Trade and Development Act of 1999. We now have 7 days before the Trade Adjustment Assistance program is ended, a program that goes back 37 years to the Trade Expansion Act that President Kennedy obtained in his first term—the only real measure he did in his first term—37 years and as many Presidents as you can count, with 200,000 persons and their families eligible for benefits. The funding ends on Friday.

More than that, we have put in jeopardy this morning—and it remains in jeopardy—trade policies of the last two-thirds of a century. In that two-thirds of a century, we have seen America rise to unknown and previously inconceivable levels of economic growth and stability.

This very morning the press reports, I will read from the New York Times:

Headline: ''Strong summer is likely to propel the economic boom to a record.'' The story: ''The American economy turned in its best quarterly performance of the year this summer, virtually guaranteeing enough momentum to carry the nation to its longest economic expansion in history early next year.''

By February—that is not very long—we shall have had the longest expansion in the history of the Nation.

Sir, I want to stand alongside my chairman and say this is not over. It cannot be over.

Do we have any idea what is at stake? Can you imagine going to Seattle having denied the President—not this President, whoever, the next President—having denied the Executive the power to negotiate trade agreements at the Seattle Round—as it could be commonly called—and the fast track is not in the President's court?

And then the matter that we took up today. It is a great effort on sub-Saharan Africa. We had the President of Nigeria here yesterday. We have had ambassadors from all over sub-Saharan Africa. The Caribbean Basin Initiative, President Reagan's initiative, sir—the new benefits that we ought to put in place—are gone. The representatives of at last democratic regimes in Central America came up, sir, at your invitation—gone. Trade Adjustment Assistance is gone. The Generalized System of Preferences—how old is that? A quarter of a century of the Generalized System of Preferences is gone, empty-handed.

The chairman and I were planning to spend a few days in Seattle just meeting with people. We were not going to speak. Dare we go? I suppose Ambassador Barshefsky is required to go. I don't want to show my face. But that need not be. We are still in session. The bill is still on the calendar.

Let us hope what we have done this weekend we can move to change it, and move on as we were moving.

I thank you, sir. No one could lead it better than the chairman did—events over which he has no control. The tangle we can get into with people who sometimes think one issue is more important than others.

We have to rise to this, sir. I hope we will.

I yield the floor.

Mr. ROTH. I thank the Senator for the gracious remarks. I assure him I will work closely with him to make certain this matter is acted upon by this Senate.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I hope—from the exchange we have just witnessed—that the two wise men will take their trip to Seattle without government gifts. But as they say, the fight will continue.

I am not at all sanguine about the recent vote. Be that as it may, it was a majority vote.

The Senator from Delaware says he knows—rather he estimated, estimated. The bipartisan majority has just stated what they would like to do, and that is to discuss this further because we are reading in the morning paper exactly what is going on. You know and I know what is going on in this country. The money boys have taken over.

For the distinguished Presiding Officer, mark it down. The money boys said this Christian right fundamentalist crowd, Gary Bauer, be gone. Mr. Buchanan, with your abortion, be gone. The rest of you with your fundamentalist stuff, be gone. We have taken over the party, and we are putting $60 million in with George Bush, and the selection process is over. They don't even have to attend the debates. That is what is expected in politics. Otherwise, they have a good friend in the White House—the soft money President, and he is on the money side. I had to fight him with NAFTA. And I am fighting him now, and I will continue to fight and to speak for jobs.

Don't give me anything about jobs. How can they talk? It ought to be ashes in their mouths.

Since they passed NAFTA promising 200,000 jobs, the textile industry alone has lost 420,000. We know about their promises. We put it in the RECORD. ATMI, and everybody else who said they wouldn't move, they all moved. They have to move. We are the ones who have caused the problem. We put in clean air, clean water, Social Security, Medicare, Medicaid, plant closing notices, parental leave, and safe machinery. Before you open up your manufacturing you have to comply with the high standard of American living, bipartisan agreement on both sides. Instead, now you can go down to Mexico for 58 cents. Maybe it is up to one dollar in some places. And you don't have to have any of those requirements. If the competition leaves, other companies have to leave to stay in business.

They say: Let's spread it to the African nations; we have the ambassadors in town. I have been in Africa. Don't tell me about sympathy for Africa. I lost friends in North Africa during the War who were helping to bring freedom there. We finally helped Mandela get out of prison. We have been the friends of Africa. We traveled there and we helped.

If we have so much to give, why don't the other industries give to Africa? The textile industry has given at the store, so to speak. Now we have lost two-thirds of our industry. We have a competitive one-third left, but it is going away. That is why I stand here.

It is a dark day. I am reminded of Jesse Jackson, who said keep hope alive. We still have hope as long as we can get the attention of a majority of Republicans and Democrats. Several Republican friends came over and said: I agree with you; I'm going to vote with you. Look at the record. I don't know how many Republicans, but it was a bipartisan vote. They are embarrassed with the Farley escapade. It is a one-way street.

Come on, trade is trade. Don't give me this whine and fail stuff.

We need not just a new agricultural assistance over there with the special Trade Representative. We need Nancy Reagan to replace Barshefsky—''Just say no.'' That is what we need. We know how to bargain. This is not foreign trade; this is foreign aid. It was good for 50 years to revive the different economies of the world, but it isn't any longer. We are in trouble. This boom they are talking about in the stock market is the information society; it doesn't create the jobs. Farley has already transferred nearly as many jobs offshore as Bill Gates has created with Microsoft. The Time magazine article says Microsoft has created 22,000 jobs. We already shipped off, job-wise, Microsoft. We have gotten rid of it, and we want to give them a $50 million prize for doing it, according to the Washington Post this morning.

Talk about a dark day. Maybe someday we will simmer down in this body and forget about the Presidential election and act like Senators—work on the minimum wage, health care, the Patients' Bill of Rights, bankruptcy bill, and other bills we have been trying to bring up.

My caucus is meeting now. I know I belong in there to try to protect my rights, but I will object to anything other than the regular order of business. Regular order is my vote. We can keep on moving. Let them vote against the minimum wage. They couldn't care less about the workers; they just want the vote. It is all politics. It is all applesauce, as Will Rogers said.

We cannot break the syndrome around here. The media is just pell-mell and fancy-free with the politicians. We got a break this morning. I bless whoever wrote that story and the one in Time magazine because I have been alone in this situation.

I am tired of this berating, when we are trying to do the work of the voters and the middle class people of America—the economic strength of this democracy—and the money guys are trying get rid of the middle class. Money is taking over the Republican Party, and now money is taking over the Democratic Party. That is what it is. It is just money. That is all.

When we started the leadership council—that crowd, our own friends—I remember it well, it was after the 1984 race. We got together all of the southern Senators, save one. We found out that the trouble was we had too many caucuses. We had the NAACP, the AFL–CIO, the women's caucus, this rights caucus and that rights caucus. So their solution was to form a caucus. They had the arrogance to call them the leadership council. They talked at the caucus yesterday, everybody bowing and scraping. They said: HOLLINGS, you got out of the Presidential race, but you head it up. I said I can't in good faith ask the Democratic Party to be there for me and then, when I get beat, say the trouble is with the party, not me. I supported Paul Kirk, and we worked and stayed in the party.

I have never been to a meeting in the leadership thing. I watched the money take over. A lot of what Buchanan said about the parties is right, there is not a dime's worth of difference. You can't get anything here for working America. It is money, money, money. They ought to be ashamed to say I am continuing to fight for this. It would shame me with those contributions.

I was looking for the distinguished leader, and I was going to tell him confidentially as a friend: Let the bill die; you don't want to bring it up. I have done you a favor.

We were headed with a symbol to the world. I am worried about the country. Don't give me symbols about Seattle and ambassadors in the gallery. We should stay here to do our work. They can make any agreement, but it had better not be unanimous because I object. I expect the regular order.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I don't intend to get involved in the debate involving the merits of this bill, but the problem with this legislation is not the legislation itself; the problem is the majority has not allowed the minority, the Republicans have not allowed the Democrats, to treat this bill as the Senate should treat any bill.

We started this bill last Thursday. It is now Friday. Eight days we have spent on this legislation. We have spent no time on a single amendment on this legislation.

The proper way to handle this is to allow the Senator from South Carolina, the Senator from Minnesota, and others to bring their amendments forward and have a debate. The Senators who want to offer amendments have all agreed to time agreements. The Senator from South Carolina desired 10 minutes on an amendment, 5 minutes per side.

Our leader, the minority leader, has also agreed, even though it is probably not in his best interest, but he believes in this legislation. He knows how important it is to the President. He has said he will offer to go along with the majority leader and table amendments not germane.

We should treat this body as it has been treated for over two hundred years: Bring a measure before the floor and let the debate proceed. We would have completed this legislation some time ago. There is no question this legislation now before this body has at least 75 supporters, maybe 80. I think this should give the majority all the backing they need for this legislation. I think it is a shame we are to the point we have not had a good debate on this legislation; in fact, probably the legislation will be pulled down. That is too bad.

We as the minority will have to continue protecting our rights, whether it is the CBI, this bill now before us, whether it is bankruptcy. Whatever the legislation that is going to be brought forward, we must have our input. That is all we are asking. We are not asking we win every amendment. Some amendments we recognize the majority does not want to vote upon. But that is not the way you conduct a legislative body, just avoid all issues that are tough votes.

We need more tough votes. We would all be better off, individually, in our respective States and the country, if we had more tough votes.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

## ARMENIA

Mr. REED. Mr. President, I rise to express my regret over the tragic situation in Armenia. As we all know, a few days ago gunmen broke into their Parliament and killed the Prime Minister and several other officials of the Armenian Government. Later today Senator ABRAHAM will introduce a resolution which will express our condolences to the people of Armenia and our expression of support for their continued struggle to create a viable and strong democratic tradition in their country.

As I said, late yesterday afternoon in Yerevan, the capital of Armenia, several gunmen broke into their Parliament and killed eight Government officials and wounded seven others. They then held hostages for 24 hours, and only after the intercession of the President of Armenia in negotiations did they relent, release the hostages, and then surrender to the authorities.

Among those killed were Prime Minister Vazgen Sarkisian, Parliament speaker Karen Demirchian, deputy speakers Yuri Bakhshian and Ruben Miroian, Energy Minister Leonard Petrosian, senior economic official Mikhail Kotanian and lawmakers Genrikh Abramian and Armenak Armenakian. These gentlemen gave their lives as they were pursuing a democratic future for the people of Armenia.

It appears the gunmen were not part of any larger conspiracy. They were family members who were bent on a path of individual retribution and revenge. But the tragic incident reminds us of the fragility of constitutional government and democracy around the world, particularly in Armenia.

Armenia declared its independence in September of 1991. It has been struggling to ensure a free and fair electoral process. Today, Armenians continue to be determined to ensure democracy will be the rule in their country. I had the occasion to travel there two years ago.

We all know one of the great points of friction in the area is the area of Nagorno-Karabakh, an ethnically Armenian territory which was controlled for years by Azerbaijan. Recently, we have seen progress. Indeed, the Prime Minister was one of the key figures in forging a dialogue between the Government of Azerbaijan and the Government of Armenia. His tragic loss, I hope, is not a setback for that process.

Deputy Secretary of State Strobe Talbott had just left Armenia in his efforts to try to prompt further discussions between Azerbaijan and Armenia. He has now returned there to ensure it is clear to the Government and people of Armenia that America will stand with them.

Today is an opportunity to send our message of support, our message of condolence; also, our message of further support for the people of Armenia as they confront the challenges of democracy.

I join my colleague, Senator ABRAHAM, and others supporting this legislation to, once again, signal to the world and the people of Armenia that we stand with them in this time of tragedy, and will in the future on more hopeful days.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

## DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2000—CONFERENCE REPORT

Mrs. HUTCHISON. Mr. President, I ask that the Chair lay before the Senate the conference report to accompany the D.C. Labor-HHS appropriations bill.

The PRESIDING OFFICER. The report will be stated.

The legislative assistant read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill, H.R. 3064, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 27, 1999.)

Mrs. HUTCHISON. Mr. President, I want to talk a little bit about the bill as a whole. There is going to be a joint effort between two subcommittees on the Appropriations Committee—my subcommittee, the D.C. appropriations subcommittee, on which Senator DURBIN is the ranking member, and then the Labor-HHS spending bill, which has Senator SPECTER as the chairman and Senator HARKIN as the ranking member. In addition, this bill contains the 1-percent across-the-board spending cut that is necessary for us to come into our budget caps and save the Social Security surplus intact.

First, I want to talk about the bigger bill because I think we should understand this is a very important achievement that we will make if Congress passes this bill and sends it to the President.

This bill marks, for the first time in 30 years, that we will pass all of our spending bills, and there will be no raid on the Social Security trust funds. The Social Security trust funds will be left intact so that people who have paid in will get back not only what they have paid in, but they will be given Social Security benefits after they are eligible. No longer will we dip into the Nation's retirement fund to pay for today's spending needs. This is a significant achievement.

For the record, this bill will be voted on on Tuesday. We will debate today and Monday. On Tuesday, I hope we will send this bill to the President, and I hope the President will sign it.

Some have complained about the across-the-board spending cuts. I think we can afford one penny of savings on every dollar to preserve the retirement needs of America. I do not think that is too much to ask of this Congress. After all, there is a little waste in Federal Government.

The inspectors general within the Departments across Government have already identified $16 billion in funds that have been misspent. The Governmental Affairs Committee, working with the General Accounting Office, has identified nearly $200 billion in savings in Federal overpayments, erroneous payments, and wasteful practices.

With this waste, I believe we can take a 1-percent cut to preserve the integrity of Social Security to cover the programs that are worthy and use our taxpayer dollars more efficiently. With $216 billion in waste, we can cover the programs that need to be covered if our administrators have any integrity and if they are, in fact, competent. I hope they are. I do not think it is too much to ask. After all, when any family sees it is not going to meet its income and its spending needs, what does it do? It does not just spend anyway. Hopefully, it does not borrow. It sits down and determines where it can cut. I wager most families in America have had to make more than a 1-percent cut in their budgets when they have run into an emergency and do not have the funds to spend.

I now turn to the provisions in the District of Columbia portion of this bill. This is our second attempt to get a District of Columbia funding bill the President will sign. I believe we have reached a solution that is acceptable to all the relevant parties.

Senator DURBIN has been very productive; he has been responsible; he has been a real player in this process. In

our negotiation, we came to terms that allowed both of us to be comfortable that we are doing the right thing for the District and that everyone has given a little bit without sacrificing principle.

No bill is perfect. I am the first to say that. We all have had to sacrifice a little, but this is a bill the President will sign and it is important we have a bill the President will sign because every day this bill is not signed is a day our Nation's Capital is without important new initiatives that will make this a better city for our citizens and visitors. Despite our differences on other issues, let's look at what is good in this bill.

We have provided $17 million for college scholarships for D.C. students. We have provided funds to fight the war on drugs in the District of Columbia, including money to combat open-air drug markets. We have $5 million for commercial revitalization. We have funds to clean up the Anacostia River, to promote adoptions, and to help the Children's Hospital.

On marijuana legalization, the ban is retained. Medical marijuana use will not become law in the Nation's Capital.

On needle exchanges, there has been a great deal of misinformation. In this bill, we continue the ban on Federal and local funding for needle exchanges. I believe needle exchanges do not work. The drug czar of the United States, who represents the President of the United States, believes needle exchanges do not work, and not one penny of tax dollars will be used to support needle exchanges in the District of Columbia.

Any suggestion that tax dollars from the Federal Government or D.C. Government are being used is simply wrong. What the bill does allow is for clinics that have privately funded needle exchanges and do other worthy projects will not be prohibited from Federal funding for other worthy projects. But it is very clear there will be no Federal and no local money spent on needle exchanges in the District of Columbia.

On the voting rights lawsuit, I believe strongly this is a constitutional issue. It is a legislative prerogative to deal with it. This lawsuit has named officers of the Senate, the House, and even the President as defendants. The taxpayers of our country are spending money to defend against the lawsuit. We provide the District with 2 billion Federal dollars. Those funds should not be used to sue the Federal Government on an issue that is squarely a legislative prerogative.

In my view, no public money should be used for this suit—not local money, not Federal money. Our bill permits the D.C. Corporation City Counsel to review and comment on legal briefs in private lawsuits. This is a limited role for their attorneys, but that is as far as this bill goes. There will be no public money spent on the D.C. voting rights lawsuit or to provide statehood for the District of Columbia.

Finally, on legal fees in school disability cases, we retain the $60 cap, up $10 from a $50 cap, but the cap will be removed if local officials develop a joint agreement—the school superintendent, the Mayor, and the control board—on a new cap.

These are the changes we have made to our bill since it went through the Senate. We have White House support for these changes, and we have the support of the Democratic side for these changes.

I want to mention one other very important part of the bill that has remained intact, and that is the Mayor asked for the ability to spend more of the D.C. funds. The District does have quite stringent requirements for a surplus as well as a rainy day fund. That is sound because we are just beginning to get investment grade bonds for the city which lowers the interest rate they will have to pay, and that, of course, means it lowers the cost of borrowing for the city.

I thought it important to keep the reserve requirements intact. That will keep the city on a secure basis. I believed if they were going to spend money out of the surplus, that half of the surplus above the basic reserve requirement should be spent only for paying down debt, while the other half could go to new programs. That was a compromise the Mayor welcomed. He believes they will be able to address some of the infrastructure issues that they have not been able to address in their budget, while at the same time I will be satisfied that they will begin to pay down their long-term debt so they will have a more correct debt-income ratio. That will give them a higher bond rating. It will lower the amount of debt they are carrying and I think will put the city on a very firm financial footing in the very near future, which, of course, would then allow the city to go forward with a lower interest rate, a higher bond rating; and our capital city, I hope, will be able to flourish.

So this is an excellent bill. I hope the President will sign it.

With respect to the Labor-HHS part of the bill, I think this also contains a number of positive provisions and should not be vetoed. Senator SPECTER and Senator HARKIN have worked very hard on this bill. No one should be led to believe this bill is underfunded. It is $6 billion higher than last year's bill. In fact, it is $600 million above the President's request. This bill contains $2 billion more for education than last year; $300 million more in funding for the Department of Education than the President even requested. So if anyone tries to say we have underfunded education, the facts do not bear that argument out.

The National Institutes of Health will receive nearly $18 billion. This is the funding for research, for medical research, for quality-of-life improvements in our country. It is a $2 billion increase over last year's bill and $2 billion above the President's request.

The Head Start program is increased by $600 million.

So despite our goal of keeping funds intact for Social Security, we have still funded important priorities. If the bill is vetoed, it will not be vetoed because we have not addressed the correct priorities.

With that, Mr. President, I conclude and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank the Chair.

Mr. President, we come today to begin the debate on the appropriations bill for the District of Columbia. I am not certain, but I believe, of the 13 appropriations bills considered by the House and Senate, this is probably the smallest bill. Yet if you looked at the controversy that has preceded this debate, it would be a surprise to realize it is a small bill in comparison to other spending bills.

I say at the outset, my colleague and my friend, the Senator from Texas, Mrs. HUTCHISON, has been a pleasure to work with. Oh, we disagree on some things, and we have had some pretty hot debates, but I have the highest respect for her ability and her hard work and her willingness to sit down to try to work out our differences. I think it is because of that that we come today with the underlying D.C. appropriations bill—once vetoed by President Clinton—considerably improved over the original version.

The Senator from Texas has outlined several elements that we have changed or improved, and I would like to note them as well for the record.

I think it is important we follow the lead of the public health experts, who tell us the incidence of HIV and AIDS in the District of Columbia is a national disaster. It is seven times the rate of the rest of the United States. If we do not acknowledge this health care crisis, and respond to it with aggressive and creative programs, we are going to doom generations of D.C. residents and others who come into contact with them. It is that serious. That is why I applaud the Senator from Texas.

The needle exchange program no longer receives any Federal funds or any local funds, but if the program is offered by a clinic, in the District of Columbia, they will not be disqualified from other public health programs. That, then, leaves it to the individual clinics to make the decision. It does not ban the program, it merely says there will not be governmental funds used for these purposes. That is not the compromise I was looking for, but I think it is a reasonable one. I support it.

On the question of voting rights, it retains the ban on local and Federal funds on the voting rights case. But the D.C. corporation counsel, the city's attorney, is permitted to review and comment on legal briefs and private lawsuits.

This is what it is all about. There is a fear on the Republican side of the

aisle that if the District of Columbia ever achieves statehood, it will elect Democrats. So they have historically opposed any efforts toward statehood; and they have tried to stop or slow it down in a variety of ways throughout history. It is a very clear political decision. But I think we have done the best we can and said that the D.C. corporation counsel can at least review and comment on the status of lawsuits moving in that direction with the city council.

The cap on city council salaries of 5 percent is not something I would vote for were it not part of a package that I think is important to pass. I do not believe we should try to inject ourselves in the decisions of the D.C. City Council—even bad decisions. This is a questionable decision. The pay raise they are envisioning, I believe, is in the neighborhood of 15 percent, if I am not mistaken—a pretty substantial increase. And the Senator from Texas believes it should be no more than 5 percent.

I am not certain I would even weigh in on that debate since it is a local decision. If we are going to weigh in on local decisions, I certainly would like to weigh in on what I consider the absolute foolishness of the D.C. City Council in announcing a tax cut of $57 million at a time when the District of Columbia still lacks the most basic in public services.

You can leave this Capitol Building right here, that is well known around the world, and go four or five blocks away, at night, and run the risk of being shot and killed. Of course, that happens in some other cities, including in my State of Illinois. But the fact is, the District of Columbia is not safe for visitors or residents. And to declare a tax cut under these circumstances is absolutely foolish. To ignore the public health needs of the District of Columbia and to say we have so much money in our till that we can give away $57 million in tax cuts is ridiculous.

The HIV/AIDS crisis alone would argue that the District should take this public health issue more seriously. There was a program on television the other day, on CNN, which reported the ratio of students to computers in the United States of America: Dead last—and no surprise—the District of Columbia, 1 computer for every 31 kids. That is as good as it gets if you happen to be a child in the District of Columbia.

Did the D.C. City Council decide to buy more computers so the kids could learn and become proficient in the use of computers to be able to compete and get good jobs? No; no way. They want to give a tax cut of $100 or $200 a year.

Oh, there is applause among some quarters. You can say: I'm a politician. I'm giving away a tax cut. Then you look around and say: Wait a minute. It's not safe to live in my neighborhood. There's an HIV epidemic going on. And the schools are the most disgraceful in the Nation. That is what it comes down to. I think it is a bad decision, but it is a decision they have made.

When you come down to other questions, such as attorneys fees and special education, we have made a concession in terms of the amount of money that will be allowed to attorneys representing families of special ed kids.

I would like to finish my comments on this bill related to the D.C. Appropriations bill and the Labor-HHS Appropriations bill which is before us, but I see our minority leader has come to the floor.

Mr. President, I ask unanimous consent to yield to the minority leader for such time as he may consume, and then resume my comments on the bill.

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

The minority leader.

Mr. DASCHLE. I appreciate very much the courtesy of the distinguished Senator from Illinois. I came to the floor to have a personal conversation with him on another matter. So I will yield the floor at this time to allow that opportunity, and appreciate, again, his courtesy.

Mr. DURBIN. Thank you very much, Mr. President. I was trying to do my duty as a member of Senator DASCHLE's team.

Let me say that having said earlier that Senator HUTCHISON has done such an extraordinary job in trying to find a compromise, I would have to tell you that the District of Columbia deserves better. They deserve better than a process where every Member of the House or the Senate would decide that they might add a rider to a bill to override local decisions by the D.C. City Council.

The District of Columbia certainly deserves better than to be in the predicament they are in today, where they have been appended as an afterthought to a huge spending bill, the Labor-HHS and Education bill, and, frankly, have bought a ticket on the Titanic. This bill is going to be vetoed, just as sure as I am standing here. So D.C. is about to see its third incarnation as an appropriations bill even later in the session.

I would like to yield, if I might, to the Senator from——

Mrs. HUTCHISON. Mr. President, reserving the right to object, I think Senator SPECTER, the chairman of the Labor-HHS committee, was going to make the next presentation. That was the order. Is that acceptable?

Mr. DURBIN. I find no problem with that. I would be glad to yield to Senator SPECTER in one moment.

Let me just finish on the D.C. bill, if I might, very quickly, and then yield to Senator SPECTER. Then we can come back to our side of the aisle for further comment. Let me tell Senators, for perspective, we are talking about a $429 million Federal appropriations bill for the District. The District of Columbia has its own budget of $6.8 billion. That budget is twisted in knots by Members of the House and Senate who have their own political agenda they want to inject into the appropriation for the District of Columbia. They impose standards and restrictions on the District of Columbia they would never consider even suggesting in their home States. The evidence is obvious. Some of the more controversial issues in which we get involved in the D.C. appropriations bill turn out to be programs these Congressmen and Senators don't even talk about in their home States. I think that really tells the whole story about what has happened with the District of Columbia in its spending bill.

I have a number of comments I would like to make about the underlying bill, the Labor-HHS appropriations bill. But in the interest of continuing this debate and acknowledging the presence of the chairman of that Appropriations subcommittee, I yield the floor to Senator HUTCHISON, if she would like to yield to Senator SPECTER.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, it is now my intention to allow Senator SPECTER to take the floor. As I said, we have two bills together—the D.C. bill, which I chair, and the Labor-HHS bill, which Senator SPECTER chairs. Senator SPECTER has been very helpful, very cooperative to allow his very major bill to be put together with mine. He is very much a greater than equal partner in this bill. I have to admit, his bill is much bigger and much more important from a national standpoint, although the District of Columbia is very important. Nevertheless, Senator SPECTER's bill affects the lives of people all over our country.

It is my pleasure to yield the floor to Senator SPECTER for such time as he may consume.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank my distinguished colleague from Texas for yielding. I know there are other Senators on the floor waiting to speak, so I shall be relatively brief.

I do chair the Subcommittee on Labor, Health and Human Services, and Education. We thank the managers of the District of Columbia bill for allowing us to participate in their conference and for bringing our bill along.

The distinguished Senator from Iowa, Mr. HARKIN, and I had worked through, in our subcommittee, a bill to finance the Department of Education, the Department of Labor, and the Department of Health and Human Services which received a vote of 73 to 25. It is a very solid bill.

We then proceeded in a rather unusual way, because the House of Representatives had not passed a bill, to have an informal conference where Senator HARKIN and I represented the Senate and Congressman PORTER, chairman of the subcommittee on the House side, represented the House. Congressman OBEY, the ranking Democrat on the subcommittee, declined to participate because there had not been a House bill.

We are trying to make the best of a very difficult situation. As I noted, I will speak relatively briefly because I came to the floor on Wednesday, October 27, and spoke at some length when we had just finished the conference. Those remarks appear in the CONGRESSIONAL RECORD for October 27.

In substance, the portion of this bill on Labor, Health and Human Services is a $93.7 billion bill. It is an increase of $6 billion over fiscal year 1999, an increase of some $600 million over the President's figure. On education, which is a very high priority in America, priority second to none, this bill has appropriations totaling some $35 billion, and it is a $300 million increase over what the President had recommended.

We have sought to accommodate the President's interests and recognize his priorities. On Head Start, we had an increase of some $608.5 million, bringing the total funding for Head Start in excess of $5 billion. On GEAR UP, we had a 50-percent increase, from $120 million to $180 million. The President wanted a doubling. We could not find that much money. It is a good program, but we think a 50-percent increase was very substantial.

There is a point of controversy on the question of teacher classroom size. We have funded that at $1.2 billion. The President wanted $200 million extra. We anticipate that in negotiations that figure could be raised. Mr. Jack Lew, head of the Office of Management and Budget, has some add-ons he wants to make when the negotiations finally do occur, and they have some additional offsets to talk about at that time.

There has been a disagreement over whether there ought to be a mandate for those funds to be used for classroom size reduction or whether there ought to be some flexibility on the school districts. On this matter, we have specified that classroom size is the first item on the agenda, but we have given the local districts the option of using them for teacher training or some other local purpose.

We do not believe there ought to be a straitjacket coming out of Washington, if the local districts have some other need and can demonstrate that. I know this causes some heartburn to the administration. I talked to the President about it personally and talked to Jack Lew about it. It seems to us this is a matter where there ought to be some significant congressional input. The primary responsibility on appropriations comes to the Congress. That is what the Constitution says. Of course, the President has to sign the bill, and we are always concerned and take into consideration the President's priorities. But as a matter of public policy, it makes a lot of sense to allow local school districts to make a different allocation from classroom size reduction if they don't have a problem on classroom size. So that is one issue where there is disagreement.

One aspect of the final bill, which came out of the conference, provides for a 1-percent across-the-board cut, with which, as I noted 2 days ago, I am personally not in agreement. My preference would have been to go through the bill and itemize various programs to make those reductions without a 1-percent across-the-board cut. There was a very strenuous effort made by the leadership of the House and Senate and the representatives of the subcommittee and the full committee to find another way out, to have this bill come in without touching Social Security. Simply stated, this was the least of all the undesirable alternatives.

It is my hope the President will sign this bill. He has already stated he will veto it. This is another step in the process of the appropriations procedures to come back to negotiations and to try to find a bill which will be acceptable to the President and to the Congress.

I note that when we talk about a 1-percent across-the-board cut on a program such as Head Start, there will still be an increase of some $569 million, not as much as the $608 million we had hoped for but still a very substantial increase. When it comes to a variety of other programs, we have added very substantial increases, so even when there is a 1-percent across-the-board cut, there is still a net advance.

Two more items are worthy of brief mention. We have added very substantially to the National Institutes of Health, some $2.3 billion. That is the crown jewel of the Federal Government. They are making enormous strides. The expert testimony specifies that the cure for Parkinson's may be only 5 years away; great advances on Alzheimer's, great advances on cancer—cervical cancer, breast cancer, prostate cancer—heart disease, the entire range of problems.

We have in this bill an allocation of some $800 million for a program directed at youth violence. The actual figure is $733.8 million, where no additional funds were added, but there is a redirection to try to deal with that major problem in America.

In essence, I think the bill that passed the Senate was a really good bill which would have clearly merited the President's signature, even though some differences have existed with the 1 percent across-the-board cut. I understand the problems there. But if somebody has a suggestion on how to have offsets or cuts to protect Social Security, we are prepared to sit down and meet with the officers of the executive branch and the President to try to work out a bill that is acceptable to both the administration and the Congress, to be sure there is adequate funding for these three very important Departments.

I thank the Chair and yield the floor.

Mr. ABRAHAM. Mr. President, recently the Senate passed the last of the Fiscal Year 2000 appropriations bills, the Labor, Health & Human Services, Education appropriations bill. Despite tight budgetary constraints, the Senate has passed a bill which embodies the basic principles of our democratic society—all of our citizens deserve an equal opportunity to reach one's highest potential—by providing access to a good education, jobs skills training and protection from illness.

While I believe that this is a well balanced bill which appropriately reflects the priorities of the Senate, many of the votes that we cast in relation to the this bill challenged these priorities as well as our commitment to protecting the Social Security surplus from careless government over-spending. Therefore, please allow me to address some of the specifics of individual amendments which touch upon these issues.

As I stated before, this legislation rightly embodies the ideals of responsibility, accountability and flexibility. No greater are these ideals highlighted than in the areas of education. This legislation provides for $37.6 billion for the Department of Education; $6 billion for special education; and $892 million in education impact aid. In fact, the Committee exceeded the President's funding level requests by $537 million, $586 million and $156 million respectively. This support will provide the foundation by which we can continue to strengthen and improve the education system for all of our children.

In addition, this legislation respects the right of the states and local districts to make appropriate decisions regarding education.

However, some of my colleagues would jeopardize the jurisdiction of states, schools and parents to decide the most appropriate means by which to address the specific concerns of their children.

Senator MURRAY offered an amendment (No. 1804) which would have increased the levels for the class-size reduction program from $1.2 billion to $1.4 billion. This increase would be coupled to a mandate which requires that the funding must be used to reduce class size. Now, I agree that smaller class size is preferable to a larger class-size, just about anyone would; children receive more individual attention from the teacher when there are fewer children in the classroom. However, not all schools have the need for smaller class-sizes—42 states have already met the goal of 18 students per teacher. Thus, not all districts place priority on smaller class-sizes. Why would the federal government force districts and states to spend limited resources on a program which is unnecessary? What right does the federal government have to decide for the schools and the parents what their priorities should be? Forcing schools to spend funding on one particular program, simply takes valuable resources from other programs which might better address the needs of their students. Although this amendment failed, the funding itself is still available to schools; to reduce the number of children in each classroom if they so choose or, if further class-size

reduction is unnecessary, to fund a more appropriate program such as technology-related training for teachers, dropout or drug abuse prevention programs and building new school facilities.

It is for similar reasons that I could not support an amendment (No. 1809) to increase funding for 21st Century Community Learning Centers. Again, I do not doubt that after-school programs offer structural, educational, and health services to children and the families of communities. However, the funding for this program had already been increased $200 million over FY99 funding levels by the Committee. I cannot justify forcing states and localities to spend additional funding on specific programs which might not be appropriate for their communities.

As we continue to raise the bar on the quality of education provided to our children, we have also increased state and local accountability for reaching these high standards. Accountability is a key component of a successful education policy, without it there is less incentive to succeed or exceed goals. Earlier this session, we passed the Education Flexibility Partnership Act (Public Law 106–25), which in exchange for greater accountability, provides states with expanded flexibility to choose which education initiatives best fit the needs of their children. In the five years the Ed-Flex program was in effect, prior to its expansion to all states with the passage of this bill, it has realized modest to spectacular results, and in no case has performance declined or has a state abused its increased flexibility by diverting or misrepresenting funds. I am proud to have voted for Ed-Flex and the principles it upholds.

Unfortunately, some of my colleagues, while espousing the virtues of accountability, would at the same time take away the flexibility states need to respond quickly and effectively to the needs of their students and schools. This is why I opposed an amendment (No. 1861) offered by Senator BINGAMAN, which purported to increase accountability for states. This amendment undermined the principles of responsibility, accountability and flexibility. While the amendment would increase funding for disadvantaged students by $49 million, it specifically mandated that $70 million in funding must be used for state accountability programs. This represents a net loss of $21 million in funding which could have gone directly to the classrooms—funding which could have directly and positively impacted the quality of education provided for economically disadvantaged students. This amendment represents accountability, or at least requires the implementation of an accountability program, without the accompanying flexibility states need to effectively address education issues.

Mr. President, there is another side to responsibility as well. Earlier this year, we made a promise to the American people that we would not raid the Social Security surplus. Even as the President's budget proposal threatened drain the Social Security surplus by $158 billion over five years and the Democrats continued to filibuster my Social Security Lockbox legislation, we still held true to our commitment not to spend a single penny of the Social Security trust fund. Now, as we are nearing the end of the appropriations process, it is vital that we uphold our responsibility to the American people and keep this promise.

Senator NICKLES offered an amendment (No. 1889) which rightly expressed the sense of the Senate regarding the importance of protecting the Social Security surplus. Recognizing the possibility that the amount of funding appropriated through the 13 appropriations bills could exceed budgetary restraints, the Senate agreed that a solution could be an across-the-board reduction in discretionary funding in an amount equal to that needed to stay within budget constraints, thereby protecting Social Security. My vote reflects my unwavering belief that the social security surplus must be protected from wanton government spending. It also highlights my continuing opposition to rasing taxes on America's working families, especially when cutting wasteful Washington spending is certainly a viable alternative.

Some of my colleagues, many of whom are the same individuals who have continued to vote against a Social Security Lockbox, denounced the across-the-board proposal. Although they could have offered a substantial and realistic alternative to across-the-board reductions in reductions, instead they choose to introduce an amendment (No. 2267) which merely denounces the proposal for a reduction in discretionary funding and offers vague support for paying for the budget shortfall by raising taxes and using other offsets.

When my colleagues were pressed about details, they stated that there is currently $4 trillion in tax expenditures which could be examined and possibly eliminated to raise revenue for excess spending: that ''there may very well be an opportunity to squeeze some resources out of tax expenditures * * *''. Another term for tax expenditure is tax relief. And when my colleagues talk about squeezing out resources, this includes ''squeezing'' relief measures such as the tax credit for post-secondary education, the $500 per child tax credit, estate tax relief and the home interest deduction, among many other provisions which allow families to save and invest in their own and their children's futures. Without a clear explanation of exactly how enough revenue would be raised to fill the budget shortfall, thereby avoiding spending the Social Security surplus, I could not support the alternative amendment to the across-the-board reduction in discretionary spending levels and I will not support any proposal which would increase the already excessive tax burden on American families.

In addition, some of my colleagues offered an amendment (No. 2268) which would reduce the level of fairness inherent in an across-the-board reduction by insisting on an exemption for specific programs from the resulting decreases in discretionary funding, specifically education funding. While I believe that education is a top national priority, this amendment primarily highlights a general lack of understanding about the actual education funding levels in this appropriations bill.

My votes on these Sense of the Senate amendments simply express my preference for spending reductions versus raising taxes or spending the Social Security surplus. In that there are many specific areas of federal spending that in my view can and should be cut back, I would prefer to see us balance the budget with reductions of that type. Unfortunately, gaining consensus on such reductions will be difficult, although I will continue to press for this type of approach. Failing that, some type of across-the-board reductions may be the last resort.

As I mentioned earlier, the education funding in this bill exceeds the levels requested by the Administration on many fronts. While it is impossible at this point to know exactly what the final spending level will be at the end of the day, even after including all of the President's emergency spending and a possible Balanced Budget Act of 1997 (BBA) pay-back bill, an across-the-board reduction, designed to protect Social Security, would result in approximately a 1.4 percent decrease.

Mr. President, even with a 1.4 percent reduction in discretionary funding, I would further note that special education and education impact aid would have funding levels $521 million and $143 million above the President's request levels, respectively. In addition, the Department of Education would be funded $10.6 million over that which the President requested. Far from under-funding education, this bill continues to provide strong support for our schools and our students.

We have almost completed our appropriations work this year, and I applaud the effort and dedication demonstrated by my colleagues on the Senate Appropriations Committee and in the Senate as whole. I hope, as we go into the final stages of this process, we will continue to abide by the ideals of responsibility, accountability and flexibility by upholding our promise to protect Social Security and by producing a final package which will serve Americans well.

I yield the floor.

## TAX RELIEF EXTENSION ACT OF 1999

Mr. LOTT. Mr. President, we have some very important extenders in the Tax Code that need to be acted on before the end of this year or they will

expire. The Finance Committee, in a broad bipartisan way, reported out the bill. We have now cleared it on both sides. So this is very important to get it into conference with the House quickly so we can get this legislation completed before the year's legislative end.

Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 346, S. 1792, the so-called Finance Committee extenders bill, and there be 10 minutes for debate, with no amendments or motions in order.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1792) to amend the Internal Revenue Code of 1986 to extend expiring provisions, to fully allow the nonrefundable personal credits against regular tax liability, and for other purposes.

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

Mr. BAUCUS. Mr. President, I express my support for this bill.

This bill is not perfect. There are many of us in the Senate who have hoped we could have done more. I have argued that the Research and Development tax credit should be made permanent for many years. Companies plan their research many years in advance, and we don't get the full benefit of the R&D credit by allowing it to expire so frequently.

I also support making the AMT exclusion in the bill permanent. Taxpayers should be assured they will receive the full benefits of the personal credits that we enacted with such fanfare just last session.

There are other credits in this bill that should be made permanent, such as the Work Opportunities and Welfare to Work tax credits. These credits help compensate companies for hiring those employees that are the hardest to employ and train—those coming off the welfare rolls.

But we cannot allow the perfect to be the enemy of the good. We stand here in the waning days of this session, and it appears as though enacting legislation that would make these credits permanent is simply not in the cards. They are expensive, and it is not possible to enact major tax legislation that uses a substantial portion of the surplus unless it is in the context of a comprehensive bill.

Above all, we must be fiscally responsible, and protect the surplus for our children and grandchildren.

This bill has been reviewed by all Senators and has received unanimous consent to proceed. I hope the Conferees on the bill will work out the differences between the House and Senate quickly, and send us back a bill the President can sign into law. Doing otherwise risks getting nothing at all, and allowing the gap since these important credits lapsed to grow. This would further undermine their effectiveness, and leave thousands of businesses and individuals with tremendous uncertainty about their tax liabilities for this year.

We cannot and should not leave this important work undone. We should restore these credits as soon as possible, even if that means leaving the debate about permanence for these credits for another day.

Mr. LOTT. Mr. President, I ask consent that following the conclusion or yielding back of time, the bill be advanced to third reading and passed and the motion to reconsider be laid upon the table. I further ask consent that the bill remain at the desk, and once the Senate receives the House companion bill, the Senate proceed to its immediate consideration and all after the enacting clause be stricken, the text of the Senate bill be inserted, the bill be advanced to third reading and passed. I further ask consent that the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate, and passage of the Senate bill be vitiated and it be placed back on the calendar.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill (S. 1792) was read the third time and passed, as follows:

S. 1792

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; ETC.**

(a) SHORT TITLE.—This Act may be cited as the ''Tax Relief Extension Act of 1999''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

## TITLE I—EXTENSION OF EXPIRED AND EXPIRING PROVISIONS

**SEC. 101. EXTENSION OF MINIMUM TAX RELIEF FOR INDIVIDUALS.**

(a) IN GENERAL.—The second sentence of section 26(a) (relating to limitations based on amount of tax) is amended by striking ''1998'' and inserting ''calendar year 1998, 1999, or 2000''.

(b) CHILD CREDIT.—Section 24(d)(2) (relating to reduction of credit to taxpayer subject to alternative minimum tax) is amended by striking ''December 31, 1998'' and inserting ''December 31, 2000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

**SEC. 102. EXTENSION OF EXCLUSION FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.**

(a) IN GENERAL.—Section 127(d) (relating to termination) is amended by striking ''May 31, 2000'' and inserting ''December 31, 2000''.

(b) REPEAL OF LIMITATION ON GRADUATE EDUCATION.—

(1) IN GENERAL.—The last sentence of section 127(c)(1) (defining educational assistance) is amended by striking '', and such term also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to expenses relating to courses beginning after December 31, 1999.

**SEC. 103. EXTENSION OF RESEARCH AND EXPERIMENTATION CREDIT AND INCREASE IN RATES FOR ALTERNATIVE INCREMENTAL RESEARCH CREDIT.**

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h) (relating to termination) is amended—

(A) by striking ''June 30, 1999'' and inserting ''December 31, 2000'',

(B) by striking ''36-month'' and inserting ''54-month'', and

(C) by striking ''36 months'' and inserting ''54 months''.

(2) CONFORMING AMENDMENT.—Section 45C(b)(1)(D) is amended by striking ''June 30, 1999'' and inserting ''December 31, 2000''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after June 30, 1999.

(b) INCREASE IN PERCENTAGES UNDER ALTERNATIVE INCREMENTAL CREDIT.—

(1) IN GENERAL.—Subparagraph (A) of section 41(c)(4) is amended—

(A) by striking ''1.65 percent'' and inserting ''2.65 percent'',

(B) by striking ''2.2 percent'' and inserting ''3.2 percent'', and

(C) by striking ''2.75 percent'' and inserting ''3.75 percent''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after June 30, 1999.

(c) EXTENSION OF RESEARCH CREDIT TO RESEARCH IN PUERTO RICO AND THE POSSESSIONS OF THE UNITED STATES.—

(1) IN GENERAL.—Section 41(d)(4)(F) (relating to foreign research) is amended by inserting '', the Commonwealth of Puerto Rico, or any possession of the United States'' after ''United States''.

(2) DENIAL OF DOUBLE BENEFIT.—Section 280C(c)(1) is amended by inserting ''or credit'' after ''deduction'' each place it appears.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after June 30, 1999.

**SEC. 104. EXTENSION OF EXCEPTIONS UNDER SUBPART F FOR ACTIVE FINANCING INCOME.**

(a) IN GENERAL.—Sections 953(e)(10) and 954(h)(9) (relating to application) are each amended—

(1) by striking ''the first taxable year'' and inserting ''taxable years'',

(2) by striking ''January 1, 2000'' and inserting ''January 1, 2001'', and

(3) by striking ''within which such'' and inserting ''within which any such''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

**SEC. 105. EXTENSION OF SUSPENSION OF NET INCOME LIMITATION ON PERCENTAGE DEPLETION FROM MARGINAL OIL AND GAS WELLS.**

(a) IN GENERAL.—Subparagraph (H) of section 613A(c)(6) (relating to temporary suspension of taxable limit with respect to marginal production) is amended by striking ''January 1, 2000'' and inserting ''January 1, 2001''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1999.

**SEC. 106. EXTENSION OF WORK OPPORTUNITY TAX CREDIT AND WELFARE-TO-WORK TAX CREDIT.**

(a) TEMPORARY EXTENSION.—Sections 51(c)(4)(B) and 51A(f) (relating to termination) are each amended by striking ''June 30, 1999'' and inserting ''December 31, 2000''.

(b) CLARIFICATION OF FIRST YEAR OF EMPLOYMENT.—Paragraph (2) of section 51(i) is amended by striking ''during which he was not a member of a targeted group''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after June 30, 1999.

**SEC. 107. EXTENSION AND MODIFICATION OF TAX CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.**

(a) EXTENSION AND MODIFICATION OF PLACED-IN-SERVICE RULES.—Paragraph (3) of section 45(c) is amended to read as follows:

''(3) QUALIFIED FACILITY.—

''(A) WIND FACILITY.—In the case of a facility using wind to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 1993, and before January 1, 2001.

''(B) CLOSED-LOOP BIOMASS FACILITY.—In the case of a facility using closed-loop biomass to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is—

''(i) originally placed in service after December 31, 1992, and before January 1, 2001, or

''(ii) originally placed in service before December 31, 1992, and modified to use closed-loop biomass to co-fire with coal after such date and before January 1, 2001.

''(C) BIOMASS FACILITY.—In the case of a facility using biomass (other than closed-loop biomass) to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service before January 1, 2001.

''(D) LANDFILL GAS OR POULTRY WASTE FACILITY.—

''(i) IN GENERAL.—In the case of a facility using landfill gas or poultry waste to produce electricity, the term 'qualified facility' means any facility of the taxpayer which is originally placed in service after December 31, 1999, and before January 1, 2001.

''(ii) LANDFILL GAS.—In the case of a facility using landfill gas, such term shall include equipment and housing (not including wells and related systems required to collect and transmit gas to the production facility) required to generate electricity which are owned by the taxpayer and so placed in service.

''(E) SPECIAL RULE.—In the case of a qualified facility described in subparagraph (B) or (C) using coal to co-fire with biomass, the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than January 1, 2000.''

(b) EXPANSION OF QUALIFIED ENERGY RESOURCES.—

(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting a comma, and by adding at the end the following new subparagraphs:

''(C) biomass (other than closed-loop biomass),

''(D) landfill gas, and

''(E) poultry waste.''

(2) DEFINITIONS.—Section 45(c), as amended by subsection (a), is amended by redesignating paragraph (3) as paragraph (6) and inserting after paragraph (2) the following new paragraphs:

''(3) BIOMASS.—The term 'biomass' means any solid, nonhazardous, cellulosic waste material which is segregated from other waste materials and which is derived from—

''(A) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush, but not including old-growth timber,

''(B) urban sources, including waste pallets, crates, and dunnage, manufacturing and construction wood wastes, and landscape or right-of-way tree trimmings, but not including unsegregated municipal solid waste (garbage) or paper that is commonly recycled, or

''(C) agriculture sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues.

''(4) LANDFILL GAS.—The term 'landfill gas' means gas from the decomposition of any household solid waste, commercial solid waste, and industrial solid waste disposed of in a municipal solid waste landfill unit (as such terms are defined in regulations promulgated under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.)).

''(5) POULTRY WASTE.—The term 'poultry waste' means poultry manure and litter, including wood shavings, straw, rice hulls, and other bedding material for the disposition of manure.''

(c) SPECIAL RULES.—Section 45(d) (relating to definitions and special rules) is amended by adding at the end the following new paragraphs:

''(6) CREDIT ELIGIBILITY IN THE CASE OF GOVERNMENT-OWNED FACILITIES USING POULTRY WASTE.—In the case of a facility using poultry waste to produce electricity and owned by a governmental unit, the person eligible for the credit under subsection (a) is the lessor or the operator of such facility.

''(7) PROPORTIONAL CREDIT FOR FACILITY USING COAL TO CO-FIRE WITH BIOMASS.—In the case of a qualified facility described in subparagraph (B) or (C) of subsection (c)(6) using coal to co-fire with biomass, the amount of the credit determined under subsection (a) for the taxable year shall be reduced by the percentage coal comprises (on a Btu basis) of the average fuel input of the facility for the taxable year.

''(8) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section with respect to a facility for any taxable year if the credit under section 29 is allowed in such year or has been allowed in any preceding taxable year with respect to any fuel produced from such facility.''

(d) CONFORMING AMENDMENT.—Section 29(d) (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

''(9) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section with respect to any fuel produced from a facility for any taxable year if the credit under section 45 is allowed in such year or has been allowed in any preceding taxable year with respect to such facility.''

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 108. EXPANSION OF BROWNFIELDS ENVIRONMENTAL REMEDIATION.**

(a) IN GENERAL.—Section 198(c) is amended to read as follows:

''(c) QUALIFIED CONTAMINATED SITE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified contaminated site' means any area—

''(A) which is held by the taxpayer for use in a trade or business or for the production of income, or which is property described in section 1221(1) in the hands of the taxpayer, and

''(B) at or on which there has been a release (or threat of release) or disposal of any hazardous substance.

''(2) NATIONAL PRIORITIES LISTED SITES NOT INCLUDED.—Such term shall not include any site which is on, or proposed for, the national priorities list under section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this section).

''(3) TAXPAYER MUST RECEIVE STATEMENT FROM STATE ENVIRONMENTAL AGENCY.—An area shall be treated as a qualified contaminated site with respect to expenditures paid or incurred during any taxable year only if the taxpayer receives a statement from the appropriate environmental agency of the State in which such area is located that such area meets the requirement of paragraph (1)(B).

''(4) APPROPRIATE STATE AGENCY.—For purposes of paragraph (3), the chief executive officer of each State may, in consultation with the Administrator of the Environmental Protection Agency, designate the appropriate State environmental agency within 60 days of the date of the enactment of this section. If the chief executive officer of a State has not designated an appropriate State environmental agency within such 60-day period, the appropriate environmental agency for such State shall be designated by the Administrator of the Environmental Protection Agency.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred after December 31, 1999.

**SEC. 109. TEMPORARY INCREASE IN AMOUNT OF RUM EXCISE TAX COVERED OVER TO PUERTO RICO AND VIRGIN ISLANDS.**

(a) IN GENERAL.—Section 7652(f)(1) (relating to limitation on cover over of tax on distilled spirits) is amended to read as follows:

''(1) $10.50 ($13.50 in the case of distilled spirits brought into the United States after June 30, 1999, and before January 1, 2001), or''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall take effect on July 1, 1999.

(2) SPECIAL RULE.—

(A) IN GENERAL.—For the period beginning after June 30, 1999, and before January 1, 2001, the treasury of Puerto Rico shall make a Conservation Trust Fund transfer within 30 days from the date of each cover over payment made during such period to such treasury under section 7652(e) of the Internal Revenue Code of 1986.

(B) CONSERVATION TRUST FUND TRANSFER.—

(i) IN GENERAL.—For purposes of this paragraph, the term ''Conservation Trust Fund transfer'' means a transfer to the Puerto Rico Conservation Trust Fund of an amount equal to 50 cents per proof gallon of the taxes imposed under section 5001 or section 7652 of such Code on distilled spirits that are covered over to the treasury of Puerto Rico under section 7652(e) of such Code.

(ii) TREATMENT OF TRANSFER.—Each Conservation Trust Fund transfer shall be treated as principal for an endowment, the income from which to be available for use by the Puerto Rico Conservation Trust Fund for the purposes for which the Trust Fund was established.

(iii) RESULT OF NONTRANSFER.—

(I) IN GENERAL.—Upon notification by the Secretary of the Interior that a Conservation Trust Fund transfer has not been made by the treasury of Puerto Rico during the period described in subparagraph (A), the Secretary of the Treasury shall, except as provided in subclause (II), deduct and withhold from the next cover over payment to be made to the treasury of Puerto Rico under section 7652(e) of such Code an amount equal to the appropriate Conservation Trust Fund transfer and interest thereon at the underpayment rate established under section 6621 of such Code as of the due date of such transfer. The Secretary of the Treasury shall transfer such amount deducted and withheld, and the interest thereon, directly to the Puerto Rico Conservation Trust Fund.

(II) GOOD CAUSE EXCEPTION.—If the Secretary of the Interior finds, after consultation with the Governor of Puerto Rico, that the failure by the treasury of Puerto Rico to make a required transfer was for good cause, and notifies the Secretary of the Treasury of the finding of such good cause before the due date of the next cover over payment following the notification of nontransfer, then the Secretary of the Treasury shall not deduct the amount of such nontransfer from any cover over payment.

(C) PUERTO RICO CONSERVATION TRUST FUND.—For purposes of this paragraph, the term ''Puerto Rico Conservation Trust Fund'' means the fund established pursuant to a Memorandum of Understanding between the United States Department of the Interior and the Commonwealth of Puerto Rico, dated December 24, 1968.

**SEC. 110. DELAY REQUIREMENT THAT REGISTERED MOTOR FUELS TERMINALS OFFER DYED FUEL AS A CONDITION OF REGISTRATION.**

Subsection (f)(2) of section 1032 of the Taxpayer Relief Act of 1997, as amended by section 9008 of the Transportation Equity Act for the 21st Century, is amended by striking ''July 1, 2000'' and inserting ''January 1, 2001''.

**SEC. 111. EXTENSION OF PRODUCTION CREDIT FOR FUEL PRODUCED BY CERTAIN GASIFICATION FACILITIES.**

(a) IN GENERAL.—Section 29(g)(1)(A) (relating to extension for certain facilities) is amended by striking ''July 1, 1998'' and inserting ''July 1, 2000''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels produced on and after July 1, 1998.

(c) SPECIAL RULE.—

(1) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, the credit determined under section 29 of such Code which is otherwise allowable under such Code by reason of the amendment made by subsection (a) and which is attributable to the suspension period shall not be taken into account prior to October 1, 2004. On or after such date, such credit may be taken into account through the filing of an amended return, an application for expedited refund, an adjustment of estimated taxes, or other means allowed by such Code. Interest shall not be allowed under section 6511(a) of such Code on any overpayment attributable to such credit for any period before the 45th day after the credit is taken into account under the preceding sentence.

(2) SUSPENSION PERIOD.—For purposes of this subsection, the suspension period is the period beginning on July 1, 1998, and ending on September 30, 2004.

(3) EXPEDITED REFUNDS.—

(A) IN GENERAL.—If there is an overpayment of tax with respect to a taxable year by reason of paragraph (1), the taxpayer may file an application for a tentative refund of such overpayment. Such application shall be in such manner and form, and contain such information, as the Secretary may prescribe.

(B) DEADLINE FOR APPLICATIONS.—Subparagraph (A) shall apply only to applications filed before October 1, 2005.

(C) ALLOWANCE OF ADJUSTMENTS.—Not later than 90 days after the date on which an application is filed under this paragraph, the Secretary shall—

(i) review the application,

(ii) determine the amount of the overpayment, and

(iii) apply, credit, or refund such overpayment,

in a manner similar to the manner provided in section 6411(b) of such Code.

(D) CONSOLIDATED RETURNS.—The provisions of section 6411(c) of such Code shall apply to an adjustment under this paragraph in such manner as the Secretary may provide.

(4) CREDIT ATTRIBUTABLE TO SUSPENSION PERIOD.—For purposes of this subsection, in the case of a taxable year which includes a portion of the suspension period, the amount of credit determined under section 29 of such Code for such taxable year which is attributable to such period is the amount which bears the same ratio to the amount of credit determined under such section 29 for such taxable year as the number of months in the suspension period which are during such taxable year bears to the number of months in such taxable year.

(5) WAIVER OF STATUTE OF LIMITATIONS.—If, on October 1, 2004 (or at any time within the 1-year period beginning on such date) credit or refund of any overpayment of tax resulting from the provisions of this subsection is barred by any law or rule of law, credit or refund of such overpayment shall, nevertheless, be allowed or made if claim therefore is filed before the date 1 year after October 1, 2004.

(6) SECRETARY.—For purposes of this subsection, the term ''Secretary'' means the Secretary of the Treasury (or such Secretary's delegate).

## TITLE II—REVENUE OFFSET PROVISIONS

### Subtitle A—General Provisions

**SEC. 201. MODIFICATION OF INDIVIDUAL ESTIMATED TAX SAFE HARBOR.**

(a) IN GENERAL.—The table contained in clause (i) of section 6654(d)(1)(C) (relating to limitation on use of preceding year's tax) is amended by striking all matter beginning with the item relating to 1999 or 2000 and inserting the following new items:

| | |
|---|---|
| ''1999 | 110.5 |
| 2000 | 106 |
| 2001 | 112 |
| 2002 | 110 |
| 2003 | 112 |
| 2004 or thereafter | 110''. |

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any installment payment for taxable years beginning after December 31, 1999.

**SEC. 202. MODIFICATION OF FOREIGN TAX CREDIT CARRYOVER RULES.**

(a) IN GENERAL.—Section 904(c) (relating to limitation on credit) is amended—

(1) by striking ''in the second preceding taxable year,'', and

(2) by striking ''or fifth'' and inserting ''fifth, sixth, or seventh''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to credits arising in taxable years beginning after December 31, 1999.

**SEC. 203. CLARIFICATION OF TAX TREATMENT OF INCOME AND LOSS ON DERIVATIVES.**

(a) IN GENERAL.—Section 1221 (defining capital assets) is amended—

(1) by striking ''For purposes'' and inserting the following:

''(a) IN GENERAL.—For purposes'',

(2) by striking the period at the end of paragraph (5) and inserting a semicolon, and

(3) by adding at the end the following:

''(6) any commodities derivative financial instrument held by a commodities derivatives dealer, unless—

''(A) it is established to the satisfaction of the Secretary that such instrument has no connection to the activities of such dealer as a dealer, and

''(B) such instrument is clearly identified in such dealer's records as being described in subparagraph (A) before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe);

''(7) any hedging transaction which is clearly identified as such before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe); or

''(8) supplies of a type regularly used or consumed by the taxpayer in the ordinary course of a trade or business of the taxpayer.

''(b) DEFINITIONS AND SPECIAL RULES.—

''(1) COMMODITIES DERIVATIVE FINANCIAL INSTRUMENTS.—For purposes of subsection (a)(6)—

''(A) COMMODITIES DERIVATIVES DEALER.—The term 'commodities derivatives dealer' means a person which regularly offers to enter into, assume, offset, assign, or terminate positions in commodities derivative financial instruments with customers in the ordinary course of a trade or business.

''(B) COMMODITIES DERIVATIVE FINANCIAL INSTRUMENT.—

''(i) IN GENERAL.—The term 'commodities derivative financial instrument' means any contract or financial instrument with respect to commodities (other than a share of stock in a corporation, a beneficial interest in a partnership or trust, a note, bond, debenture, or other evidence of indebtedness, or a section 1256 contract (as defined in section 1256(b)), the value or settlement price of which is calculated by or determined by reference to a specified index.

''(ii) SPECIFIED INDEX.—The term 'specified index' means any one or more or any combination of—

''(I) a fixed rate, price, or amount, or

''(II) a variable rate, price, or amount,

which is based on any current, objectively determinable financial or economic information with respect to commodities which is not within the control of any of the parties to the contract or instrument and is not unique to any of the parties' circumstances.

''(2) HEDGING TRANSACTION.—

''(A) IN GENERAL.—For purposes of this section, the term 'hedging transaction' means any transaction entered into by the taxpayer in the normal course of the taxpayer's trade or business primarily—

''(i) to manage risk of price changes or currency fluctuations with respect to ordinary property which is held or to be held by the taxpayer,

''(ii) to manage risk of interest rate or price changes or currency fluctuations with respect to borrowings made or to be made, or ordinary obligations incurred or to be incurred, by the taxpayer, or

''(iii) to manage such other risks as the Secretary may prescribe in regulations.

''(B) TREATMENT OF NONIDENTIFICATION OR IMPROPER IDENTIFICATION OF HEDGING TRANSACTIONS.—Notwithstanding subsection (a)(7), the Secretary shall prescribe regulations to properly characterize any income, gain, expense, or loss arising from a transaction—

''(i) which is a hedging transaction but which was not identified as such in accordance with subsection (a)(7), or

''(ii) which was so identified but is not a hedging transaction.

''(3) REGULATIONS.—The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of paragraph (6) and (7) of subsection (a) in the case of transactions involving related parties.''.

(b) MANAGEMENT OF RISK.—

(1) Section 475(c)(3) is amended by striking ''reduces'' and inserting ''manages''.

(2) Section 871(h)(4)(C)(iv) is amended by striking ''to reduce'' and inserting ''to manage''.

(3) Clauses (i) and (ii) of section 988(d)(2)(A) are each amended by striking ''to reduce'' and inserting ''to manage''.

(4) Paragraph (2) of section 1256(e) is amended to read as follows:

''(2) DEFINITION OF HEDGING TRANSACTION.—For purposes of this subsection, the term 'hedging transaction' means any hedging transaction (as defined in section 1221(b)(2)(A)) if, before the close of the day on which such transaction was entered into (or such earlier time as the Secretary may prescribe by regulations), the taxpayer clearly identifies such transaction as being a hedging transaction.''.

(c) CONFORMING AMENDMENTS.—

(1) Each of the following sections are amended by striking ''section 1221'' and inserting ''section 1221(a)'':

(A) Section 170(e)(3)(A).
(B) Section 170(e)(4)(B).
(C) Section 367(a)(3)(B)(i).
(D) Section 818(c)(3).
(E) Section 865(i)(1).
(F) Section 1092(a)(3)(B)(ii)(II).
(G) Subparagraphs (C) and (D) of section 1231(b)(1).
(H) Section 1234(a)(3)(A).

(2) Each of the following sections are amended by striking ''section 1221(1)'' and inserting ''section 1221(a)(1)'':

(A) Section 198(c)(1)(A)(i).
(B) Section 263A(b)(2)(A).
(C) Clauses (i) and (iii) of section 267(f)(3)(B).
(D) Section 341(d)(3).
(E) Section 543(a)(1)(D)(i).
(F) Section 751(d)(1).
(G) Section 775(c).
(H) Section 856(c)(2)(D).
(I) Section 856(c)(3)(C).
(J) Section 856(e)(1).
(K) Section 856( j)(2)(B).
(L) Section 857(b)(4)(B)(i).
(M) Section 857(b)(6)(B)(iii).
(N) Section 864(c)(4)(B)(iii).
(O) Section 864(d)(3)(A).
(P) Section 864(d)(6)(A).
(Q) Section 954(c)(1)(B)(iii).
(R) Section 995(b)(1)(C).
(S) Section 1017(b)(3)(E)(i).
(T) Section 1362(d)(3)(C)(ii).
(U) Section 4662(c)(2)(C).
(V) Section 7704(c)(3).
(W) Section 7704(d)(1)(D).
(X) Section 7704(d)(1)(G).
(Y) Section 7704(d)(5).

(3) Section 818(b)(2) is amended by striking ''section 1221(2)'' and inserting ''section 1221(a)(2)''.

(4) Section 1397B(e)(2) is amended by striking ''section 1221(4)'' and inserting ''section 1221(a)(4)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any instrument held, acquired, or entered into, any transaction entered into, and supplies held or acquired on or after the date of the enactment of this Act.

**SEC. 204. INCLUSION OF CERTAIN VACCINES AGAINST STREPTOCOCCUS PNEUMONIAE TO LIST OF TAXABLE VACCINES.**

(a) INCLUSION OF VACCINES.—

(1) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine) is amended by adding at the end the following new subparagraph:

''(L) Any conjugate vaccine against streptococcus pneumoniae.''

(2) EFFECTIVE DATE.—

(A) SALES.—The amendment made by this subsection shall apply to vaccine sales beginning on the day after the date on which the Centers for Disease Control makes a final recommendation for routine administration to children of any conjugate vaccine against streptococcus pneumoniae, but shall not take effect if subsection (b) does not take effect.

(B) DELIVERIES.—For purposes of subparagraph (A), in the case of sales on or before the date described in such subparagraph for which delivery is made after such date, the delivery date shall be considered the sale date.

(b) VACCINE TAX AND TRUST FUND AMENDMENTS.—

(1) Sections 1503 and 1504 of the Vaccine Injury Compensation Program Modification Act (and the amendments made by such sections) are hereby repealed.

(2) Subparagraph (A) of section 9510(c)(1) is amended by striking ''August 5, 1997'' and inserting ''October 21, 1998''.

(3) The amendments made by this subsection shall take effect as if included in the provisions of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 to which they relate.

(c) REPORT.—Not later than January 31, 2000, the Comptroller General of the United States shall prepare and submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the operation of the Vaccine Injury Compensation Trust Fund and on the adequacy of such Fund to meet future claims made under the Vaccine Injury Compensation Program.

**SEC. 205. EXPANSION OF REPORTING OF CANCELLATION OF INDEBTEDNESS INCOME.**

(a) IN GENERAL.—Paragraph (2) of section 6050P(c) (relating to definitions and special rules) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by inserting after subparagraph (C) the following new subparagraph:

''(D) any organization a significant trade or business of which is the lending of money.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to discharges of indebtedness after December 31, 1999.

**SEC. 206. IMPOSITION OF LIMITATION ON PREFUNDING OF CERTAIN EMPLOYEE BENEFITS.**

(a) BENEFITS TO WHICH EXCEPTION APPLIES.—Section 419A(f)(6)(A) (relating to exception for 10 or more employer plans) is amended to read as follows:

''(A) IN GENERAL.—This subpart shall not apply to a welfare benefit fund which is part

of a 10 or more employer plan if the only benefits provided through the fund are 1 or more of the following:

''(i) Medical benefits.

''(ii) Disability benefits.

''(iii) Group term life insurance benefits which do not provide directly or indirectly for any cash surrender value or other money that can be paid, assigned, borrowed, or pledged for collateral for a loan.

The preceding sentence shall not apply to any plan which maintains experience-rating arrangements with respect to individual employers.''

(b) LIMITATION ON USE OF AMOUNTS FOR OTHER PURPOSES.—Section 4976(b) (defining disqualified benefit) is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULE FOR 10 OR MORE EMPLOYER PLANS EXEMPTED FROM PREFUNDING LIMITS.—For purposes of paragraph (1)(C), if—

''(A) subpart D of part I of subchapter D of chapter 1 does not apply by reason of section 419A(f)(6) to contributions to provide 1 or more welfare benefits through a welfare benefit fund under a 10 or more employer plan, and

''(B) any portion of the welfare benefit fund attributable to such contributions is used for a purpose other than that for which the contributions were made,

then such portion shall be treated as reverting to the benefit of the employers maintaining the fund.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions paid or accrued after June 9, 1999, in taxable years ending after such date.

**SEC. 207. INCREASE IN ELECTIVE WITHHOLDING RATE FOR NONPERIODIC DISTRIBUTIONS FROM DEFERRED COMPENSATION PLANS.**

(a) IN GENERAL.—Section 3405(b)(1) (relating to withholding) is amended by striking ''10 percent'' and inserting ''15 percent''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions after December 31, 2000.

**SEC. 208. LIMITATION ON CONVERSION OF CHARACTER OF INCOME FROM CONSTRUCTIVE OWNERSHIP TRANSACTIONS.**

(a) IN GENERAL.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by inserting after section 1259 the following new section:

**''SEC. 1260. GAINS FROM CONSTRUCTIVE OWNERSHIP TRANSACTIONS.**

''(a) IN GENERAL.—If the taxpayer has gain from a constructive ownership transaction with respect to any financial asset and such gain would (without regard to this section) be treated as a long-term capital gain—

''(1) such gain shall be treated as ordinary income to the extent that such gain exceeds the net underlying long-term capital gain, and

''(2) to the extent such gain is treated as a long-term capital gain after the application of paragraph (1), the determination of the capital gain rate (or rates) applicable to such gain under section 1(h) shall be determined on the basis of the respective rate (or rates) that would have been applicable to the net underlying long-term capital gain.

''(b) INTEREST CHARGE ON DEFERRAL OF GAIN RECOGNITION.—

''(1) IN GENERAL.—If any gain is treated as ordinary income for any taxable year by reason of subsection (a)(1), the tax imposed by this chapter for such taxable year shall be increased by the amount of interest determined under paragraph (2) with respect to each prior taxable year during any portion of which the constructive ownership transaction was open. Any amount payable under this paragraph shall be taken into account in computing the amount of any deduction allowable to the taxpayer for interest paid or accrued during such taxable year.

''(2) AMOUNT OF INTEREST.—The amount of interest determined under this paragraph with respect to a prior taxable year is the amount of interest which would have been imposed under section 6601 on the underpayment of tax for such year which would have resulted if the gain (which is treated as ordinary income by reason of subsection (a)(1)) had been included in gross income in the taxable years in which it accrued (determined by treating the income as accruing at a constant rate equal to the applicable Federal rate as in effect on the day the transaction closed). The period during which such interest shall accrue shall end on the due date (without extensions) for the return of tax imposed by this chapter for the taxable year in which such transaction closed.

''(3) APPLICABLE FEDERAL RATE.—For purposes of paragraph (2), the applicable Federal rate is the applicable Federal rate determined under 1274(d) (compounded semiannually) which would apply to a debt instrument with a term equal to the period the transaction was open.

''(4) NO CREDITS AGAINST INCREASE IN TAX.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining—

''(A) the amount of any credit allowable under this chapter, or

''(B) the amount of the tax imposed by section 55.

''(c) FINANCIAL ASSET.—For purposes of this section—

''(1) IN GENERAL.—The term 'financial asset' means—

''(A) any equity interest in any pass-thru entity, and

''(B) to the extent provided in regulations—

''(i) any debt instrument, and

''(ii) any stock in a corporation which is not a pass-thru entity.

''(2) PASS-THRU ENTITY.—For purposes of paragraph (1), the term 'pass-thru entity' means—

''(A) a regulated investment company,

''(B) a real estate investment trust,

''(C) an S corporation,

''(D) a partnership,

''(E) a trust,

''(F) a common trust fund,

''(G) a passive foreign investment company (as defined in section 1297 without regard to subsection (e) thereof),

''(H) a foreign personal holding company,

''(I) a foreign investment company (as defined in section 1246(b)), and

''(J) a REMIC.

''(d) CONSTRUCTIVE OWNERSHIP TRANSACTION.—For purposes of this section—

''(1) IN GENERAL.—The taxpayer shall be treated as having entered into a constructive ownership transaction with respect to any financial asset if the taxpayer—

''(A) holds a long position under a notional principal contract with respect to the financial asset,

''(B) enters into a forward or futures contract to acquire the financial asset,

''(C) is the holder of a call option, and is the grantor of a put option, with respect to the financial asset and such options have substantially equal strike prices and substantially contemporaneous maturity dates, or

''(D) to the extent provided in regulations prescribed by the Secretary, enters into one or more other transactions (or acquires one or more positions) that have substantially the same effect as a transaction described in any of the preceding subparagraphs.

''(2) EXCEPTION FOR POSITIONS WHICH ARE MARKED TO MARKET.—This section shall not apply to any constructive ownership transaction if all of the positions which are part of such transaction are marked to market under any provision of this title or the regulations thereunder.

''(3) LONG POSITION UNDER NOTIONAL PRINCIPAL CONTRACT.—A person shall be treated as holding a long position under a notional principal contract with respect to any financial asset if such person—

''(A) has the right to be paid (or receive credit for) all or substantially all of the investment yield (including appreciation) on such financial asset for a specified period, and

''(B) is obligated to reimburse (or provide credit for) all or substantially all of any decline in the value of such financial asset.

''(4) FORWARD CONTRACT.—The term 'forward contract' means any contract to acquire in the future (or provide or receive credit for the future value of) any financial asset.

''(e) NET UNDERLYING LONG-TERM CAPITAL GAIN.—For purposes of this section, in the case of any constructive ownership transaction with respect to any financial asset, the term 'net underlying long-term capital gain' means the aggregate net capital gain that the taxpayer would have had if—

''(1) the financial asset had been acquired for fair market value on the date such transaction was opened and sold for fair market value on the date such transaction was closed, and

''(2) only gains and losses that would have resulted from the deemed ownership under paragraph (1) were taken into account.

The amount of the net underlying long-term capital gain with respect to any financial asset shall be treated as zero unless the amount thereof is established by clear and convincing evidence.

''(f) SPECIAL RULE WHERE TAXPAYER TAKES DELIVERY.—Except as provided in regulations prescribed by the Secretary, if a constructive ownership transaction is closed by reason of taking delivery, this section shall be applied as if the taxpayer had sold all the contracts, options, or other positions which are part of such transaction for fair market value on the closing date. The amount of gain recognized under the preceding sentence shall not exceed the amount of gain treated as ordinary income under subsection (a). Proper adjustments shall be made in the amount of any gain or loss subsequently realized for gain recognized and treated as ordinary income under this subsection.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

''(1) to permit taxpayers to mark to market constructive ownership transactions in lieu of applying this section, and

''(2) to exclude certain forward contracts which do not convey substantially all of the economic return with respect to a financial asset.''

(b) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end the following new item:

''Sec. 1260. Gains from constructive ownership transactions.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after July 11, 1999.

**SEC. 209. TREATMENT OF EXCESS PENSION ASSETS USED FOR RETIREE HEALTH BENEFITS.**

(a) EXTENSION.—

(1) IN GENERAL.—Paragraph (5) of section 420(b) (relating to expiration) is amended by

striking ''in any taxable year beginning after December 31, 2000'' and inserting ''made after September 30, 2009''.

(2) CONFORMING AMENDMENTS.—

(A) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking ''January 1, 1995'' and inserting ''the date of the enactment of the Tax Relief Extension Act of 1999''.

(B) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking ''January 1, 1995'' and inserting ''the date of the enactment of the Tax Relief Extension Act of 1999''.

(C) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(13)) is amended—

(i) by striking ''in a taxable year beginning before January 1, 2001'' and inserting ''made before October 1, 2009'', and

(ii) by striking ''January 1, 1995'' and inserting ''the date of the enactment of the Tax Relief Extension Act of 1999''.

(b) APPLICATION OF MINIMUM COST REQUIREMENTS.—

(1) IN GENERAL.—Paragraph (3) of section 420(c) is amended to read as follows:

''(3) MINIMUM COST REQUIREMENTS.—

''(A) IN GENERAL.—The requirements of this paragraph are met if each group health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the cost maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer.

''(B) APPLICABLE EMPLOYER COST.—For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by dividing—

''(i) the qualified current retiree health liabilities of the employer for such taxable year determined—

''(I) without regard to any reduction under subsection (e)(1)(B), and

''(II) in the case of a taxable year in which there was no qualified transfer, in the same manner as if there had been such a transfer at the end of the taxable year, by

''(ii) the number of individuals to whom coverage for applicable health benefits was provided during such taxable year.

''(C) ELECTION TO COMPUTE COST SEPARATELY.—An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

''(D) COST MAINTENANCE PERIOD.—For purposes of this paragraph, the term 'cost maintenance period' means the period of 5 taxable years beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in two or more overlapping cost maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Clause (iii) of section 420(b)(1)(C) is amended by striking ''benefits'' and inserting ''cost''.

(B) Subparagraph (D) of section 420(e)(1) is amended by striking ''and shall not be subject to the minimum benefit requirements of subsection (c)(3)'' and inserting ''or in calculating applicable employer cost under subsection (c)(3)(B)''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to qualified transfers occurring after the date of the enactment of this Act.

(2) TRANSITION RULE.—If the cost maintenance period for any qualified transfer after the date of the enactment of this Act includes any portion of a benefit maintenance period for any qualified transfer on or before such date, the amendments made by subsection (b) shall not apply to such portion of the cost maintenance period (and such portion shall be treated as a benefit maintenance period).

**SEC. 210. MODIFICATION OF INSTALLMENT METHOD AND REPEAL OF INSTALLMENT METHOD FOR ACCRUAL METHOD TAXPAYERS.**

(a) REPEAL OF INSTALLMENT METHOD FOR ACCRUAL BASIS TAXPAYERS.—

(1) IN GENERAL.—Subsection (a) of section 453 (relating to installment method) is amended to read as follows:

''(a) USE OF INSTALLMENT METHOD.—

''(1) IN GENERAL.—Except as otherwise provided in this section, income from an installment sale shall be taken into account for purposes of this title under the installment method.

''(2) ACCRUAL METHOD TAXPAYER.—The installment method shall not apply to income from an installment sale if such income would be reported under an accrual method of accounting without regard to this section. The preceding sentence shall not apply to a disposition described in subparagraph (A) or (B) of subsection (l)(2).''

(2) CONFORMING AMENDMENTS.—Sections 453(d)(1), 453(i)(1), and 453(k) are each amended by striking ''(a)'' each place it appears and inserting ''(a)(1)''.

(b) MODIFICATION OF PLEDGE RULES.—Paragraph (4) of section 453A(d) (relating to pledges, etc., of installment obligations) is amended by adding at the end the following: ''A payment shall be treated as directly secured by an interest in an installment obligation to the extent an arrangement allows the taxpayer to satisfy all or a portion of the indebtedness with the installment obligation.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or other dispositions occurring on or after the date of the enactment of this Act.

**SEC. 211. LIMITATION ON USE OF NONACCRUAL EXPERIENCE METHOD OF ACCOUNTING.**

(a) IN GENERAL.—Section 448(d)(5) (relating to special rule for services) is amended—

(1) by inserting ''in fields described in paragraph (2)(A)'' after ''services by such person'', and

(2) by inserting ''CERTAIN PERSONAL'' before ''SERVICES'' in the heading.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendments made by this section to change its method of accounting for its first taxable year ending after the date of the enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period (not greater than 4 taxable years) beginning with such first taxable year.

**SEC. 212. DENIAL OF CHARITABLE CONTRIBUTION DEDUCTION FOR TRANSFERS ASSOCIATED WITH SPLIT-DOLLAR INSURANCE ARRANGEMENTS.**

(a) IN GENERAL.—Subsection (f) of section 170 (relating to disallowance of deduction in certain cases and special rules) is amended by adding at the end the following new paragraph:

''(10) SPLIT-DOLLAR LIFE INSURANCE, ANNUITY, AND ENDOWMENT CONTRACTS.—

''(A) IN GENERAL.—Nothing in this section or in section 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 shall be construed to allow a deduction, and no deduction shall be allowed, for any transfer to or for the use of an organization described in subsection (c) if in connection with such transfer—

''(i) the organization directly or indirectly pays, or has previously paid, any premium on any personal benefit contract with respect to the transferor, or

''(ii) there is an understanding or expectation that any person will directly or indirectly pay any premium on any personal benefit contract with respect to the transferor.

''(B) PERSONAL BENEFIT CONTRACT.—For purposes of subparagraph (A), the term 'personal benefit contract' means, with respect to the transferor, any life insurance, annuity, or endowment contract if any direct or indirect beneficiary under such contract is the transferor, any member of the transferor's family, or any other person (other than an organization described in subsection (c)) designated by the transferor.

''(C) APPLICATION TO CHARITABLE REMAINDER TRUSTS.—In the case of a transfer to a trust referred to in subparagraph (E), references in subparagraphs (A) and (F) to an organization described in subsection (c) shall be treated as a reference to such trust.

''(D) EXCEPTION FOR CERTAIN ANNUITY CONTRACTS.—If, in connection with a transfer to or for the use of an organization described in subsection (c), such organization incurs an obligation to pay a charitable gift annuity (as defined in section 501(m)) and such organization purchases any annuity contract to fund such obligation, persons receiving payments under the charitable gift annuity shall not be treated for purposes of subparagraph (B) as indirect beneficiaries under such contract if—

''(i) such organization possesses all of the incidents of ownership under such contract,

''(ii) such organization is entitled to all the payments under such contract, and

''(iii) the timing and amount of payments under such contract are substantially the same as the timing and amount of payments to each such person under such obligation (as such obligation is in effect at the time of such transfer).

''(E) EXCEPTION FOR CERTAIN CONTRACTS HELD BY CHARITABLE REMAINDER TRUSTS.—A person shall not be treated for purposes of subparagraph (B) as an indirect beneficiary under any life insurance, annuity, or endowment contract held by a charitable remainder annuity trust or a charitable remainder unitrust (as defined in section 664(d)) solely by reason of being entitled to any payment referred to in paragraph (1)(A) or (2)(A) of section 664(d) if—

''(i) such trust possesses all of the incidents of ownership under such contract, and

''(ii) such trust is entitled to all the payments under such contract.

''(F) EXCISE TAX ON PREMIUMS PAID.—

''(i) IN GENERAL.—There is hereby imposed on any organization described in subsection (c) an excise tax equal to the premiums paid by such organization on any life insurance, annuity, or endowment contract if the payment of premiums on such contract is in

connection with a transfer for which a deduction is not allowable under subparagraph (A), determined without regard to when such transfer is made.

''(ii) PAYMENTS BY OTHER PERSONS.—For purposes of clause (i), payments made by any other person pursuant to an understanding or expectation referred to in subparagraph (A) shall be treated as made by the organization.

''(iii) REPORTING.—Any organization on which tax is imposed by clause (i) with respect to any premium shall file an annual return which includes—

''(I) the amount of such premiums paid during the year and the name and TIN of each beneficiary under the contract to which the premium relates, and

''(II) such other information as the Secretary may require.

The penalties applicable to returns required under section 6033 shall apply to returns required under this clause. Returns required under this clause shall be furnished at such time and in such manner as the Secretary shall by forms or regulations require.

''(iv) CERTAIN RULES TO APPLY.—The tax imposed by this subparagraph shall be treated as imposed by chapter 42 for purposes of this title other than subchapter B of chapter 42.

''(G) SPECIAL RULE WHERE STATE REQUIRES SPECIFICATION OF CHARITABLE GIFT ANNUITANT IN CONTRACT.—In the case of an obligation to pay a charitable gift annuity referred to in subparagraph (D) which is entered into under the laws of a State which requires, in order for the charitable gift annuity to be exempt from insurance regulation by such State, that each beneficiary under the charitable gift annuity be named as a beneficiary under an annuity contract issued by an insurance company authorized to transact business in such State, the requirements of clauses (i) and (ii) of subparagraph (D) shall be treated as met if—

''(i) such State law requirement was in effect on February 8, 1999,

''(ii) each such beneficiary under the charitable gift annuity is a bona fide resident of such State at the time the obligation to pay a charitable gift annuity is entered into, and

''(iii) the only persons entitled to payments under such contract are persons entitled to payments as beneficiaries under such obligation on the date such obligation is entered into.

''(H) MEMBER OF FAMILY.—For purposes of this paragraph, an individual's family consists of the individual's grandparents, the grandparents of such individual's spouse, the lineal descendants of such grandparents, and any spouse of such a lineal descendant.

''(I) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations to prevent the avoidance of such purposes.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendment made by this section shall apply to transfers made after February 8, 1999.

(2) EXCISE TAX.—Except as provided in paragraph (3) of this subsection, section 170(f)(10)(F) of the Internal Revenue Code of 1986 (as added by this section) shall apply to premiums paid after the date of the enactment of this Act.

(3) REPORTING.—Clause (iii) of such section 170(f)(10)(F) shall apply to premiums paid after February 8, 1999 (determined as if the tax imposed by such section applies to premiums paid after such date).

**SEC. 213. PREVENTION OF DUPLICATION OF LOSS THROUGH ASSUMPTION OF LIABILITIES GIVING RISE TO A DEDUCTION.**

(a) IN GENERAL.—Section 358 (relating to basis to distributees) is amended by adding at the end the following new subsection:

''(h) SPECIAL RULES FOR ASSUMPTION OF LIABILITIES TO WHICH SUBSECTION (d) DOES NOT APPLY.—

''(1) IN GENERAL.—If, after application of the other provisions of this section to an exchange or series of exchanges, the basis of property to which subsection (a)(1) applies exceeds the fair market value of such property, then such basis shall be reduced (but not below such fair market value) by the amount (determined as of the date of the exchange) of any liability—

''(A) which is assumed in exchange for such property, and

''(B) with respect to which subsection (d)(1) does not apply to the assumption.

''(2) EXCEPTION.—Paragraph (1) shall not apply to any liability if the trade or business giving rise to the liability is transferred to the person assuming the liability as part of the exchange.

''(3) LIABILITY.—For purposes of this subsection, the term 'liability' shall include any obligation to make payment, without regard to whether the obligation is fixed or contingent or otherwise taken into account for purposes of this title.

''(4) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subsection.''

(b) APPLICATION OF COMPARABLE RULES TO PARTNERSHIPS.—The Secretary of the Treasury or his delegate shall prescribe rules which provide appropriate adjustments under subchapter K of chapter 1 of the Internal Revenue Code of 1986 to prevent the acceleration or duplication of losses through the assumption of (or transfer of assets subject to) liabilities described in section 358(h)(3) of such Code (as added by subsection (a)) in transactions involving partnerships.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to assumptions of liability after October 18, 1999.

(2) RULES.—The rules prescribed under subsection (b) shall apply to assumptions of liability after October 18, 1999, or such later date as may be prescribed in such rules.

**SEC. 214. CONSISTENT TREATMENT AND BASIS ALLOCATION RULES FOR TRANSFERS OF INTANGIBLES IN CERTAIN NONRECOGNITION TRANSACTIONS.**

(a) TRANSFERS TO CORPORATIONS.—Section 351 (relating to transfer to corporation controlled by transferor) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) TREATMENT OF TRANSFERS OF INTANGIBLE PROPERTY.—

''(1) TRANSFERS OF LESS THAN ALL SUBSTANTIAL RIGHTS.

''(A) IN GENERAL.—A transfer of an interest in intangible property (as defined in section 936(h)(3)(B)) shall be treated under this section as a transfer of property even if the transfer is of less than all of the substantial rights of the transferor in the property.

''(B) ALLOCATION OF BASIS.—In the case of a transfer of less than all of the substantial rights of the transferor in the intangible property, the transferor's basis immediately before the transfer shall be allocated among the rights retained by the transferor and the rights transferred on the basis of their respective fair market values.

''(2) NONRECOGNITION NOT TO APPLY TO INTANGIBLE PROPERTY DEVELOPED FOR TRANSFEREE.—This section shall not apply to a transfer of intangible property developed by the transferor or any related person if such development was pursuant to an arrangement with the transferee.''

(b) TRANSFERS TO PARTNERSHIPS.—Subsection (d) of section 721 is amended to read as follows:

''(d) TRANSFERS OF INTANGIBLE PROPERTY.—

''(1) IN GENERAL.—Rules similar to the rules of section 351(h) shall apply for purposes of this section.

''(2) TRANSFERS TO FOREIGN PARTNERSHIPS.—For regulatory authority to treat intangibles transferred to a partnership as sold, see section 367(d)(3).''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers on or after the date of the enactment of this Act.

**SEC. 215. DISTRIBUTIONS BY A PARTNERSHIP TO A CORPORATE PARTNER OF STOCK IN ANOTHER CORPORATION.**

(a) IN GENERAL.—Section 732 (relating to basis of distributed property other than money) is amended by adding at the end the following new subsection:

''(f) CORRESPONDING ADJUSTMENT TO BASIS OF ASSETS OF A DISTRIBUTED CORPORATION CONTROLLED BY A CORPORATE PARTNER.—

''(1) IN GENERAL.—If—

''(A) a corporation (hereafter in this subsection referred to as the 'corporate partner') receives a distribution from a partnership of stock in another corporation (hereafter in this subsection referred to as the 'distributed corporation'),

''(B) the corporate partner has control of the distributed corporation immediately after the distribution or at any time thereafter, and

''(C) the partnership's adjusted basis in such stock immediately before the distribution exceeded the corporate partner's adjusted basis in such stock immediately after the distribution,

then an amount equal to such excess shall be applied to reduce (in accordance with subsection (c)) the basis of property held by the distributed corporation at such time (or, if the corporate partner does not control the distributed corporation at such time, at the time the corporate partner first has such control).

''(2) EXCEPTION FOR CERTAIN DISTRIBUTIONS BEFORE CONTROL ACQUIRED.—Paragraph (1) shall not apply to any distribution of stock in the distributed corporation if—

''(A) the corporate partner does not have control of such corporation immediately after such distribution, and

''(B) the corporate partner establishes to the satisfaction of the Secretary that such distribution was not part of a plan or arrangement to acquire control of the distributed corporation.

''(3) LIMITATIONS ON BASIS REDUCTION.—

''(A) IN GENERAL.—The amount of the reduction under paragraph (1) shall not exceed the amount by which the sum of the aggregate adjusted bases of the property and the amount of money of the distributed corporation exceeds the corporate partner's adjusted basis in the stock of the distributed corporation.

''(B) REDUCTION NOT TO EXCEED ADJUSTED BASIS OF PROPERTY.—No reduction under paragraph (1) in the basis of any property shall exceed the adjusted basis of such property (determined without regard to such reduction).

''(4) GAIN RECOGNITION WHERE REDUCTION LIMITED.—If the amount of any reduction under paragraph (1) (determined after the application of paragraph (3)(A)) exceeds the aggregate adjusted bases of the property of the distributed corporation—

''(A) such excess shall be recognized by the corporate partner as long-term capital gain, and

''(B) the corporate partner's adjusted basis in the stock of the distributed corporation shall be increased by such excess.

''(5) CONTROL.—For purposes of this subsection, the term 'control' means ownership of stock meeting the requirements of section 1504(a)(2).

''(6) INDIRECT DISTRIBUTIONS.—For purposes of paragraph (1), if a corporation acquires (other than in a distribution from a partnership) stock the basis of which is determined in whole or in part by reference to subsection (a)(2) or (b), the corporation shall be treated as receiving a distribution of such stock from a partnership.

''(7) SPECIAL RULE FOR STOCK IN CONTROLLED CORPORATION.—If the property held by a distributed corporation is stock in a corporation which the distributed corporation controls, this subsection shall be applied to reduce the basis of the property of such controlled corporation. This subsection shall be reapplied to any property of any controlled corporation which is stock in a corporation which it controls.

''(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations to avoid double counting and to prevent the abuse of such purposes.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to distributions made after July 14, 1999.

(2) PARTNERSHIPS IN EXISTENCE ON JULY 14, 1999.—In the case of a corporation which is a partner in a partnership as of July 14, 1999, the amendment made by this section shall apply to distributions made to such partner from such partnership after the date of the enactment of this Act.

**SEC. 216. PROHIBITED ALLOCATIONS OF STOCK IN S CORPORATION ESOP.**

(a) IN GENERAL.—Section 409 (relating to qualifications for tax credit employee stock ownership plans) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) PROHIBITED ALLOCATIONS OF SECURITIES IN AN S CORPORATION.—

''(1) IN GENERAL.—An employee stock ownership plan holding employer securities consisting of stock in an S corporation shall provide that no portion of the assets of the plan attributable to (or allocable in lieu of) such employer securities may, during a nonallocation year, accrue (or be allocated directly or indirectly under any plan of the employer meeting the requirements of section 401(a)) for the benefit of any disqualified person.

''(2) FAILURE TO MEET REQUIREMENTS.—

''(A) IN GENERAL.—If a plan fails to meet the requirements of paragraph (1), the plan shall be treated as having distributed to any disqualified person the amount allocated to the account of such person in violation of paragraph (1) at the time of such allocation.

''(B) CROSS REFERENCE.—

**''For excise tax relating to violations of paragraph (1) and ownership of synthetic equity, see section 4979A.**

''(3) NONALLOCATION YEAR.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'nonallocation year' means any plan year of an employee stock ownership plan if, at any time during such plan year—

''(i) such plan holds employer securities consisting of stock in an S corporation, and

''(ii) disqualified persons own at least 50 percent of the number of shares of stock in the S corporation.

''(B) ATTRIBUTION RULES.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—The rules of section 318(a) shall apply for purposes of determining ownership, except that—

''(I) in applying paragraph (1) thereof, the members of an individual's family shall include members of the family described in paragraph (4)(D), and

''(II) paragraph (4) thereof shall not apply.

''(ii) DEEMED-OWNED SHARES.—Notwithstanding the employee trust exception in section 318(a)(2)(B)(i), individual shall be treated as owning deemed-owned shares of the individual.

Solely for purposes of applying paragraph (5), this subparagraph shall be applied after the attribution rules of paragraph (5) have been applied.

''(4) DISQUALIFIED PERSON.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'disqualified person' means any person if—

''(i) the aggregate number of deemed-owned shares of such person and the members of such person's family is at least 20 percent of the number of deemed-owned shares of stock in the S corporation, or

''(ii) in the case of a person not described in clause (i), the number of deemed-owned shares of such person is at least 10 percent of the number of deemed-owned shares of stock in such corporation.

''(B) TREATMENT OF FAMILY MEMBERS.—In the case of a disqualified person described in subparagraph (A)(i), any member of such person's family with deemed-owned shares shall be treated as a disqualified person if not otherwise treated as a disqualified person under subparagraph (A).

''(C) DEEMED-OWNED SHARES.—

''(i) IN GENERAL.—The term 'deemed-owned shares' means, with respect to any person—

''(I) the stock in the S corporation constituting employer securities of an employee stock ownership plan which is allocated to such person under the plan, and

''(II) such person's share of the stock in such corporation which is held by such plan but which is not allocated under the plan to participants.

''(ii) PERSON'S SHARE OF UNALLOCATED STOCK.—For purposes of clause (i)(II), a person's share of unallocated S corporation stock held by such plan is the amount of the unallocated stock which would be allocated to such person if the unallocated stock were allocated to all participants in the same proportions as the most recent stock allocation under the plan.

''(D) MEMBER OF FAMILY.—For purposes of this paragraph, the term 'member of the family' means, with respect to any individual—

''(i) the spouse of the individual,

''(ii) an ancestor or lineal descendant of the individual or the individual's spouse,

''(iii) a brother or sister of the individual or the individual's spouse and any lineal descendant of the brother or sister, and

''(iv) the spouse of any individual described in clause (ii) or (iii).

A spouse of an individual who is legally separated from such individual under a decree of divorce or separate maintenance shall not be treated as such individual's spouse for purposes of this subparagraph.

''(5) TREATMENT OF SYNTHETIC EQUITY.—For purposes of paragraphs (3) and (4), in the case of a person who owns synthetic equity in the S corporation, except to the extent provided in regulations, the shares of stock in such corporation on which such synthetic equity is based shall be treated as outstanding stock in such corporation and deemed-owned shares of such person if such treatment of synthetic equity of 1 or more such persons results in—

''(A) the treatment of any person as a disqualified person, or

''(B) the treatment of any year as a nonallocation year.

For purposes of this paragraph, synthetic equity shall be treated as owned by a person in the same manner as stock is treated as owned by a person under the rules of paragraphs (2) and (3) of section 318(a). If, without regard to this paragraph, a person is treated as a disqualified person or a year is treated as a nonallocation year, this paragraph shall not be construed to result in the person or year not being so treated.

''(6) DEFINITIONS.—For purposes of this subsection—

''(A) EMPLOYEE STOCK OWNERSHIP PLAN.—The term 'employee stock ownership plan' has the meaning given such term by section 4975(e)(7).

''(B) EMPLOYER SECURITIES.—The term 'employer security' has the meaning given such term by section 409(l).

''(C) SYNTHETIC EQUITY.—The term 'synthetic equity' means any stock option, warrant, restricted stock, deferred issuance stock right, or similar interest or right that gives the holder the right to acquire or receive stock of the S corporation in the future. Except to the extent provided in regulations, synthetic equity also includes a stock appreciation right, phantom stock unit, or similar right to a future cash payment based on the value of such stock or appreciation in such value.

''(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.''

(b) COORDINATION WITH SECTION 4975(e)(7).—The last sentence of section 4975(e)(7) (defining employee stock ownership plan) is amended by inserting '', section 409(p),'' after ''409(n)''.

(c) EXCISE TAX.—

(1) APPLICATION OF TAX.—Subsection (a) of section 4979A (relating to tax on certain prohibited allocations of employer securities) is amended—

(A) by striking ''or'' at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting a comma, and

(C) by striking all that follows paragraph (2) and inserting the following:

''(3) there is any allocation of employer securities which violates the provisions of section 409(p), or a nonallocation year described in subsection (c)(2)(C) with respect to an employee stock ownership plan, or

''(4) any synthetic equity is owned by a disqualified person in any nonallocation year,

there is hereby imposed a tax on such allocation or ownership equal to 50 percent of the amount involved.''

(2) LIABILITY.—Section 4979A(c) (defining liability for tax) is amended to read as follows:

''(c) LIABILITY FOR TAX.—The tax imposed by this section shall be paid—

''(1) in the case of an allocation referred to in paragraph (1) or (2) of subsection (a), by—

''(A) the employer sponsoring such plan, or

''(B) the eligible worker-owned cooperative,

which made the written statement described in section 664(g)(1)(E) or in section 1042(b)(3)(B) (as the case may be), and

''(2) in the case of an allocation or ownership referred to in paragraph (3) or (4) of subsection (a), by the S corporation the stock in which was so allocated or owned.''

(3) DEFINITIONS.—Section 4979A(e) (relating to definitions) is amended to read as follows:

''(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) DEFINITIONS.—Except as provided in paragraph (2), terms used in this section have the same respective meanings as when used in sections 409 and 4978.

''(2) SPECIAL RULES RELATING TO TAX IMPOSED BY REASON OF PARAGRAPH (3) OR (4) OF SUBSECTION (a).—

''(A) PROHIBITED ALLOCATIONS.—The amount involved with respect to any tax imposed by reason of subsection (a)(3) is the amount allocated to the account of any person in violation of section 409(p)(1).

''(B) SYNTHETIC EQUITY.—The amount involved with respect to any tax imposed by reason of subsection (a)(4) is the value of the shares on which the synthetic equity is based.

''(C) SPECIAL RULE DURING FIRST NONALLOCATION YEAR.—For purposes of subparagraph (A), the amount involved for the first nonallocation year of any employee stock ownership plan shall be determined by taking into account the total value of all the deemed-owned shares of all disqualified persons with respect to such plan.

''(D) STATUTE OF LIMITATIONS.—The statutory period for the assessment of any tax imposed by this section by reason of paragraph (3) or (4) of subsection (a) shall not expire before the date which is 3 years from the later of—

''(i) the allocation or ownership referred to in such paragraph giving rise to such tax, or

''(ii) the date on which the Secretary is notified of such allocation or ownership.''

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2000.

(2) EXCEPTION FOR CERTAIN PLANS.—In the case of any—

(A) employee stock ownership plan established after July 14, 1999, or

(B) employee stock ownership plan established on or before such date if employer securities held by the plan consist of stock in a corporation with respect to which an election under section 1362(a) of the Internal Revenue Code of 1986 is not in effect on such date,

the amendments made by this section shall apply to plan years ending after July 14, 1999.

## Subtitle B—Provisions Relating to Real Estate Investment Trusts

## PART I—TREATMENT OF INCOME AND SERVICES PROVIDED BY TAXABLE REIT SUBSIDIARIES

### SEC. 221. MODIFICATIONS TO ASSET DIVERSIFICATION TEST.

(a) IN GENERAL.—Subparagraph (B) of section 856(c)(4) is amended to read as follows:

''(B)(i) not more than 25 percent of the value of its total assets is represented by securities (other than those includible under subparagraph (A)),

''(ii) not more than 20 percent of the value of its total assets is represented by securities of 1 or more taxable REIT subsidiaries, and

''(iii) except with respect to a taxable REIT subsidiary and securities includible under subparagraph (A)—

''(I) not more than 5 percent of the value of its total assets is represented by securities of any one issuer,

''(II) the trust does not hold securities possessing more than 10 percent of the total voting power of the outstanding securities of any one issuer, and

''(III) the trust does not hold securities having a value of more than 10 percent of the total value of the outstanding securities of any one issuer.''.

(b) EXCEPTION FOR STRAIGHT DEBT SECURITIES.—Subsection (c) of section 856 is amended by adding at the end the following new paragraph:

''(7) STRAIGHT DEBT SAFE HARBOR IN APPLYING PARAGRAPH (4).—Securities of an issuer which are straight debt (as defined in section 1361(c)(5) without regard to subparagraph (B)(iii) thereof) shall not be taken into account in applying paragraph (4)(B)(ii)(III) if—

''(A) the issuer is an individual, or

''(B) the only securities of such issuer which are held by the trust or a taxable REIT subsidiary of the trust are straight debt (as so defined), or

''(C) the issuer is a partnership and the trust holds at least a 20 percent profits interest in the partnership.''.

### SEC. 222. TREATMENT OF INCOME AND SERVICES PROVIDED BY TAXABLE REIT SUBSIDIARIES.

(a) INCOME FROM TAXABLE REIT SUBSIDIARIES NOT TREATED AS IMPERMISSIBLE TENANT SERVICE INCOME.—Clause (i) of section 856(d)(7)(C) (relating to exceptions to impermissible tenant service income) is amended by inserting ''or through a taxable REIT subsidiary of such trust'' after ''income''.

(b) CERTAIN INCOME FROM TAXABLE REIT SUBSIDIARIES NOT EXCLUDED FROM RENTS FROM REAL PROPERTY.—

(1) IN GENERAL.—Subsection (d) of section 856 (relating to rents from real property defined) is amended by adding at the end the following new paragraphs:

''(8) SPECIAL RULE FOR TAXABLE REIT SUBSIDIARIES.—For purposes of this subsection, amounts paid to a real estate investment trust by a taxable REIT subsidiary of such trust shall not be excluded from rents from real property by reason of paragraph (2)(B) if the requirements of either of the following subparagraphs are met:

''(A) LIMITED RENTAL EXCEPTION.—The requirements of this subparagraph are met with respect to any property if at least 90 percent of the leased space of the property is rented to persons other than taxable REIT subsidiaries of such trust and other than persons described in section 856(d)(2)(B). The preceding sentence shall apply only to the extent that the amounts paid to the trust as rents from real property (as defined in paragraph (1) without regard to paragraph (2)(B)) from such property are substantially comparable to such rents made by the other tenants of the trust's property for comparable space.

''(B) EXCEPTION FOR CERTAIN LODGING FACILITIES.—The requirements of this subparagraph are met with respect to an interest in real property which is a qualified lodging facility leased by the trust to a taxable REIT subsidiary of the trust if the property is operated on behalf of such subsidiary by a person who is an eligible independent contractor.

''(9) ELIGIBLE INDEPENDENT CONTRACTOR.—For purposes of paragraph (8)(B)—

''(A) IN GENERAL.—The term 'eligible independent contractor' means, with respect to any qualified lodging facility, any independent contractor if, at the time such contractor enters into a management agreement or other similar service contract with the taxable REIT subsidiary to operate the facility, such contractor (or any related person) is actively engaged in the trade or business of operating qualified lodging facilities for any person who is not a related person with respect to the real estate investment trust or the taxable REIT subsidiary.

''(B) SPECIAL RULES.—Solely for purposes of this paragraph and paragraph (8)(B), a person shall not fail to be treated as an independent contractor with respect to any qualified lodging facility by reason of any of the following:

''(i) The taxable REIT subsidiary bears the expenses for the operation of the facility pursuant to the management agreement or other similar service contract.

''(ii) The taxable REIT subsidiary receives the revenues from the operation of such facility, net of expenses for such operation and fees payable to the operator pursuant to such agreement or contract.

''(iii) The real estate investment trust receives income from such person with respect to another property that is attributable to a lease of such other property to such person that was in effect as of the later of—

''(I) January 1, 1999, or

''(II) the earliest date that any taxable REIT subsidiary of such trust entered into a management agreement or other similar service contract with such person with respect to such qualified lodging facility.

''(C) RENEWALS, ETC., OF EXISTING LEASES.—For purposes of subparagraph (B)(iii)—

''(i) a lease shall be treated as in effect on January 1, 1999, without regard to its renewal after such date, so long as such renewal is pursuant to the terms of such lease as in effect on whichever of the dates under subparagraph (B)(iii) is the latest, and

''(ii) a lease of a property entered into after whichever of the dates under subparagraph (B)(iii) is the latest shall be treated as in effect on such date if—

''(I) on such date, a lease of such property from the trust was in effect, and

''(II) under the terms of the new lease, such trust receives a substantially similar or lesser benefit in comparison to the lease referred to in subclause (I).

''(D) QUALIFIED LODGING FACILITY.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified lodging facility' means any lodging facility unless wagering activities are conducted at or in connection with such facility by any person who is engaged in the business of accepting wagers and who is legally authorized to engage in such business at or in connection with such facility.

''(ii) LODGING FACILITY.—The term 'lodging facility' means a hotel, motel, or other establishment more than one-half of the dwelling units in which are used on a transient basis.

''(iii) CUSTOMARY AMENITIES AND FACILITIES.—The term 'lodging facility' includes customary amenities and facilities operated as part of, or associated with, the lodging facility so long as such amenities and facilities are customary for other properties of a comparable size and class owned by other owners unrelated to such real estate investment trust.

''(E) OPERATE INCLUDES MANAGE.—References in this paragraph to operating a property shall be treated as including a reference to managing the property.

''(F) RELATED PERSON.—Persons shall be treated as related to each other if such persons are treated as a single employer under subsection (a) or (b) of section 52.''.

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 856(d)(2) is amended by inserting ''except as provided in paragraph (8),'' after ''(B)''.

(3) DETERMINING RENTS FROM REAL PROPERTY.—

(A)(i) Paragraph (1) of section 856(d) is amended by striking ''adjusted bases'' each place it occurs and inserting ''fair market values''.

(ii) The amendment made by this subparagraph shall apply to taxable years beginning after December 31, 2000.

(B)(i) Clause (i) of section 856(d)(2)(B) is amended by striking ''number'' and inserting ''value''.

(ii) The amendment made by this subparagraph shall apply to amounts received or accrued in taxable years beginning after December 31, 2000, except for amounts paid pursuant to leases in effect on July 12, 1999, or pursuant to a binding contract in effect on such date and at all times thereafter.

**SEC. 223. TAXABLE REIT SUBSIDIARY.**

(a) IN GENERAL.—Section 856 is amended by adding at the end the following new subsection:

''(l) TAXABLE REIT SUBSIDIARY.—For purposes of this part—

''(1) IN GENERAL.—The term 'taxable REIT subsidiary' means, with respect to a real estate investment trust, a corporation (other than a real estate investment trust) if—

''(A) such trust directly or indirectly owns stock in such corporation, and

''(B) such trust and such corporation jointly elect that such corporation shall be treated as a taxable REIT subsidiary of such trust for purposes of this part.

Such an election, once made, shall be irrevocable unless both such trust and corporation consent to its revocation. Such election, and any revocation thereof, may be made without the consent of the Secretary.

''(2) 35 PERCENT OWNERSHIP IN ANOTHER TAXABLE REIT SUBSIDIARY.—The term 'taxable REIT subsidiary' includes, with respect to any real estate investment trust, any corporation (other than a real estate investment trust) with respect to which a taxable REIT subsidiary of such trust owns directly or indirectly—

''(A) securities possessing more than 35 percent of the total voting power of the outstanding securities of such corporation, or

''(B) securities having a value of more than 35 percent of the total value of the outstanding securities of such corporation.

The preceding sentence shall not apply to a qualified REIT subsidiary (as defined in subsection (i)(2)). The rule of section 856(c)(7) shall apply for purposes of subparagraph (B).

''(3) EXCEPTIONS.—The term 'taxable REIT subsidiary' shall not include—

''(A) any corporation which directly or indirectly operates or manages a lodging facility or a health care facility, and

''(B) any corporation which directly or indirectly provides to any other person (under a franchise, license, or otherwise) rights to any brand name under which any lodging facility or health care facility is operated.

Subparagraph (B) shall not apply to rights provided to an eligible independent contractor to operate or manage a lodging facility if such rights are held by such corporation as a franchisee, licensee, or in a similar capacity and such lodging facility is either owned by such corporation or is leased to such corporation from the real estate investment trust.

''(4) DEFINITIONS.—For purposes of paragraph (3)—

''(A) LODGING FACILITY.—The term 'lodging facility' has the meaning given to such term by paragraph (9)(D)(ii).

''(B) HEALTH CARE FACILITY.—The term 'health care facility' has the meaning given to such term by subsection (e)(6)(D)(ii).''.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 856(i) is amended by adding at the end the following new sentence: ''Such term shall not include a taxable REIT subsidiary.''.

**SEC. 224. LIMITATION ON EARNINGS STRIPPING.**

Paragraph (3) of section 163( j) (relating to limitation on deduction for interest on certain indebtedness) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any interest paid or accrued (directly or indirectly) by a taxable REIT subsidiary (as defined in section 856(l)) of a real estate investment trust to such trust.''.

**SEC. 225. 100 PERCENT TAX ON IMPROPERLY ALLOCATED AMOUNTS.**

(a) IN GENERAL.—Subsection (b) of section 857 (relating to method of taxation of real estate investment trusts and holders of shares or certificates of beneficial interest) is amended by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively, and by inserting after paragraph (6) the following new paragraph:

''(7) INCOME FROM REDETERMINED RENTS, REDETERMINED DEDUCTIONS, AND EXCESS INTEREST.—

''(A) IMPOSITION OF TAX.—There is hereby imposed for each taxable year of the real estate investment trust a tax equal to 100 percent of redetermined rents, redetermined deductions, and excess interest.

''(B) REDETERMINED RENTS.—

''(i) IN GENERAL.—The term 'redetermined rents' means rents from real property (as defined in subsection 856(d)) the amount of which would (but for subparagraph (E)) be reduced on distribution, apportionment, or allocation under section 482 to clearly reflect income as a result of services furnished or rendered by a taxable REIT subsidiary of the real estate investment trust to a tenant of such trust.

''(ii) EXCEPTION FOR CERTAIN SERVICES.—Clause (i) shall not apply to amounts received directly or indirectly by a real estate investment trust for services described in paragraph (1)(B) or (7)(C)(i) of section 856(d).

''(iii) EXCEPTION FOR DE MINIMIS AMOUNTS.—Clause (i) shall not apply to amounts described in section 856(d)(7)(A) with respect to a property to the extent such amounts do not exceed the one percent threshold described in section 856(d)(7)(B) with respect to such property.

''(iv) EXCEPTION FOR COMPARABLY PRICED SERVICES.—Clause (i) shall not apply to any service rendered by a taxable REIT subsidiary of a real estate investment trust to a tenant of such trust if—

''(I) such subsidiary renders a significant amount of similar services to persons other than such trust and tenants of such trust who are unrelated (within the meaning of section 856(d)(8)(F)) to such subsidiary, trust, and tenants, but

''(II) only to the extent the charge for such service so rendered is substantially comparable to the charge for the similar services rendered to persons referred to in subclause (I).

''(v) EXCEPTION FOR CERTAIN SEPARATELY CHARGED SERVICES.—Clause (i) shall not apply to any service rendered by a taxable REIT subsidiary of a real estate investment trust to a tenant of such trust if—

''(I) the rents paid to the trust by tenants (leasing at least 25 percent of the net leasable space in the trust's property) who are not receiving such service from such subsidiary are substantially comparable to the rents paid by tenants leasing comparable space who are receiving such service from such subsidiary, and

''(II) the charge for such service from such subsidiary is separately stated.

''(vi) EXCEPTION FOR CERTAIN SERVICES BASED ON SUBSIDIARY'S INCOME FROM THE SERVICES.—Clause (i) shall not apply to any service rendered by a taxable REIT subsidiary of a real estate investment trust to a tenant of such trust if the gross income of such subsidiary from such service is not less than 150 percent of such subsidiary's direct cost in furnishing or rendering the service.

''(vii) EXCEPTIONS GRANTED BY SECRETARY.—The Secretary may waive the tax otherwise imposed by subparagraph (A) if the trust establishes to the satisfaction of the Secretary that rents charged to tenants were established on an arms' length basis even though a taxable REIT subsidiary of the trust provided services to such tenants.

''(C) REDETERMINED DEDUCTIONS.—The term 'redetermined deductions' means deductions (other than redetermined rents) of a taxable REIT subsidiary of a real estate investment trust if the amount of such deductions would (but for subparagraph (E)) be decreased on distribution, apportionment, or allocation under section 482 to clearly reflect income as between such subsidiary and such trust.

''(D) EXCESS INTEREST.—The term 'excess interest' means any deductions for interest payments by a taxable REIT subsidiary of a real estate investment trust to such trust to the extent that the interest payments are in excess of a rate that is commercially reasonable.

''(E) COORDINATION WITH SECTION 482.—The imposition of tax under subparagraph (A) shall be in lieu of any distribution, apportionment, or allocation under section 482.

''(F) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph. Until the Secretary prescribes such regulations, real estate investment trusts and their taxable REIT subsidiaries may base their allocations on any reasonable method.''.

(b) AMOUNT SUBJECT TO TAX NOT REQUIRED TO BE DISTRIBUTED.—Subparagraph (E) of section 857(b)(2) (relating to real estate investment trust taxable income) is amended by striking ''paragraph (5)'' and inserting ''paragraphs (5) and (7)''.

**SEC. 226. EFFECTIVE DATE.**

(a) IN GENERAL.—The amendments made by this part shall apply to taxable years beginning after December 31, 2000.

(b) TRANSITIONAL RULES RELATED TO SECTION 221.—

(1) EXISTING ARRANGEMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendment made by section 221 shall not apply to a real estate investment trust with respect to—

(i) securities of a corporation held directly or indirectly by such trust on July 12, 1999,

(ii) securities of a corporation held by an entity on July 12, 1999, if such trust acquires control of such entity pursuant to a written binding contract in effect on such date and at all times thereafter before such acquisition,

(iii) securities received by such trust (or a successor) in exchange for, or with respect to, securities described in clause (i) or (ii) in a transaction in which gain or loss is not recognized, and

(iv) securities acquired directly or indirectly by such trust as part of a reorganization (as defined in section 368(a)(1) of the Internal Revenue Code of 1986) with respect to such trust if such securities are described in clause (i), (ii), or (iii) with respect to any other real estate investment trust.

(B) NEW TRADE OR BUSINESS OR SUBSTANTIAL NEW ASSETS.—Subparagraph (A) shall cease to apply to securities of a corporation as of the first day after July 12, 1999, on which such corporation engages in a substantial new line of business, or acquires any substantial asset, other than—

(i) pursuant to a binding contract in effect on such date and at all times thereafter before the acquisition of such asset,

(ii) in a transaction in which gain or loss is not recognized by reason of section 1031 or 1033 of the Internal Revenue Code of 1986, or

(iii) in a reorganization (as so defined) with another corporation the securities of which are described in paragraph (1)(A) of this subsection.

(C) LIMITATION ON TRANSITION RULES.—Subparagraph (A) shall cease to apply to securities of a corporation held, acquired, or received, directly or indirectly, by a real estate investment trust as of the first day after July 12, 1999, on which such trust acquires any additional securities of such corporation other than—

(i) pursuant to a binding contract in effect on July 12, 1999, and at all times thereafter, or

(ii) in a reorganization (as so defined) with another corporation the securities of which are described in paragraph (1)(A) of this subsection.

(2) TAX-FREE CONVERSION.—If—

(A) at the time of an election for a corporation to become a taxable REIT subsidiary, the amendment made by section 221 does not apply to such corporation by reason of paragraph (1), and

(B) such election first takes effect before January 1, 2004,

such election shall be treated as a reorganization qualifying under section 368(a)(1)(A) of such Code.

## PART II—HEALTH CARE REITS

### SEC. 231. HEALTH CARE REITS.

(a) SPECIAL FORECLOSURE RULE FOR HEALTH CARE PROPERTIES.—Subsection (e) of section 856 (relating to special rules for foreclosure property) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULE FOR QUALIFIED HEALTH CARE PROPERTIES.—For purposes of this subsection—

''(A) ACQUISITION AT EXPIRATION OF LEASE.—The term 'foreclosure property' shall include any qualified health care property acquired by a real estate investment trust as the result of the termination of a lease of such property (other than a termination by reason of a default, or the imminence of a default, on the lease).

''(B) GRACE PERIOD.—In the case of a qualified health care property which is foreclosure property solely by reason of subparagraph (A), in lieu of applying paragraphs (2) and (3)—

''(i) the qualified health care property shall cease to be foreclosure property as of the close of the second taxable year after the taxable year in which such trust acquired such property, and

''(ii) if the real estate investment trust establishes to the satisfaction of the Secretary that an extension of the grace period in clause (i) is necessary to the orderly leasing or liquidation of the trust's interest in such qualified health care property, the Secretary may grant one or more extensions of the grace period for such qualified health care property.

Any such extension shall not extend the grace period beyond the close of the 6th year after the taxable year in which such trust acquired such qualified health care property.

''(C) INCOME FROM INDEPENDENT CONTRACTORS.—For purposes of applying paragraph (4)(C) with respect to qualified health care property which is foreclosure property by reason of subparagraph (A) or paragraph (1), income derived or received by the trust from an independent contractor shall be disregarded to the extent such income is attributable to—

''(i) any lease of property in effect on the date the real estate investment trust acquired the qualified health care property (without regard to its renewal after such date so long as such renewal is pursuant to the terms of such lease as in effect on such date), or

''(ii) any lease of property entered into after such date if—

''(I) on such date, a lease of such property from the trust was in effect, and

''(II) under the terms of the new lease, such trust receives a substantially similar or lesser benefit in comparison to the lease referred to in subclause (I).

''(D) QUALIFIED HEALTH CARE PROPERTY.—

''(i) IN GENERAL.—The term 'qualified health care property' means any real property (including interests therein), and any personal property incident to such real property, which—

''(I) is a health care facility, or

''(II) is necessary or incidental to the use of a health care facility.

''(ii) HEALTH CARE FACILITY.—For purposes of clause (i), the term 'health care facility' means a hospital, nursing facility, assisted living facility, congregate care facility, qualified continuing care facility (as defined in section 7872(g)(4)), or other licensed facility which extends medical or nursing or ancillary services to patients and which, immediately before the termination, expiration, default, or breach of the lease of or mortgage secured by such facility, was operated by a provider of such services which was eligible for participation in the medicare program under title XVIII of the Social Security Act with respect to such facility.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2000.

## PART III—CONFORMITY WITH REGULATED INVESTMENT COMPANY RULES

### SEC. 241. CONFORMITY WITH REGULATED INVESTMENT COMPANY RULES.

(a) DISTRIBUTION REQUIREMENT.—Clauses (i) and (ii) of section 857(a)(1)(A) (relating to requirements applicable to real estate investment trusts) are each amended by striking ''95 percent (90 percent for taxable years beginning before January 1, 1980)'' and inserting ''90 percent''.

(b) IMPOSITION OF TAX.—Clause (i) of section 857(b)(5)(A) (relating to imposition of tax in case of failure to meet certain requirements) is amended by striking ''95 percent (90 percent in the case of taxable years beginning before January 1, 1980)'' and inserting ''90 percent''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

## PART IV—CLARIFICATION OF EXCEPTION FROM IMPERMISSIBLE TENANT SERVICE INCOME

### SEC. 251. CLARIFICATION OF EXCEPTION FOR INDEPENDENT OPERATORS.

(a) IN GENERAL.—Paragraph (3) of section 856(d) (relating to independent contractor defined) is amended by adding at the end the following flush sentence:

''In the event that any class of stock of either the real estate investment trust or such person is regularly traded on an established securities market, only persons who own, directly or indirectly, more than 5 percent of such class of stock shall be taken into account as owning any of the stock of such class for purposes of applying the 35 percent limitation set forth in subparagraph (B) (but all of the outstanding stock of such class shall be considered outstanding in order to compute the denominator for purpose of determining the applicable percentage of ownership).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2000.

## PART V—MODIFICATION OF EARNINGS AND PROFITS RULES

### SEC. 261. MODIFICATION OF EARNINGS AND PROFITS RULES.

(a) RULES FOR DETERMINING WHETHER REGULATED INVESTMENT COMPANY HAS EARNINGS AND PROFITS FROM NON-RIC YEAR.—Subsection (c) of section 852 is amended by adding at the end the following new paragraph:

''(3) DISTRIBUTIONS TO MEET REQUIREMENTS OF SUBSECTION (a)(2)(B).—Any distribution which is made in order to comply with the requirements of subsection (a)(2)(B)—

''(A) shall be treated for purposes of this subsection and subsection (a)(2)(B) as made from the earliest earnings and profits accumulated in any taxable year to which the provisions of this part did not apply rather than the most recently accumulated earnings and profits, and

''(B) to the extent treated under subparagraph (A) as made from accumulated earnings and profits, shall not be treated as a distribution for purposes of subsection (b)(2)(D) and section 855.''.

(b) CLARIFICATION OF APPLICATION OF REIT SPILLOVER DIVIDEND RULES TO DISTRIBUTIONS TO MEET QUALIFICATION REQUIREMENT.—Subparagraph (B) of section 857(d)(3) is amended by inserting before the period ''and section 858''.

(c) APPLICATION OF DEFICIENCY DIVIDEND PROCEDURES.—Paragraph (1) of section 852(e) is amended by adding at the end the following new sentence: ''If the determination under subparagraph (A) is solely as a result of the failure to meet the requirements of subsection (a)(2), the preceding sentence shall also apply for purposes of applying subsection (a)(2) to the non-RIC year.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2000.

## PART VI—MODIFICATION OF ESTIMATED TAX RULES

### SEC. 271. MODIFICATION OF ESTIMATED TAX RULES FOR CLOSELY HELD REAL ESTATE INVESTMENT TRUSTS.

(a) IN GENERAL.—Subsection (e) of section 6655 (relating to estimated tax by corporations) is amended by adding at the end the following new paragraph:

''(5) TREATMENT OF CERTAIN REIT DIVIDENDS.—

''(A) IN GENERAL.—Any dividend received from a closely held real estate investment trust by any person which owns (after application of subsections (d)(5) and (l)(3)(B) of section 856) 10 percent or more (by vote or value) of the stock or beneficial interests in the trust shall be taken into account in computing annualized income installments under paragraph (2) in a manner similar to the manner under which partnership income inclusions are taken into account.

''(B) CLOSELY HELD REIT.—For purposes of subparagraph (A), the term 'closely held real estate investment trust' means a real estate investment trust with respect to which 5 or fewer persons own (after application of subsections (d)(5) and (l)(3)(B) of section 856) 50 percent or more (by vote or value) of the stock or beneficial interests in the trust.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to estimated tax payments due on or after November 15, 1999.

## PART VII—MODIFICATION OF TREATMENT OF CLOSELY-HELD REITS

### SEC. 281. CONTROLLED ENTITIES INELIGIBLE FOR REIT STATUS.

(a) IN GENERAL.—Subsection (a) of section 856 (relating to definition of real estate investment trust) is amended by striking ''and'' at the end of paragraph (6), by redesignating paragraph (7) as paragraph (8), and by inserting after paragraph (6) the following new paragraph:

''(7) which is not a controlled entity (as defined in subsection (l)); and''.

(b) CONTROLLED ENTITY.—Section 856 is amended by adding at the end the following new subsection:

''(l) CONTROLLED ENTITY.—

''(1) IN GENERAL.—For purposes of subsection (a)(7), an entity is a controlled entity if, at any time during the taxable year, one person (other than a qualified entity)—

''(A) in the case of a corporation, owns stock—

''(i) possessing at least 50 percent of the total voting power of the stock of such corporation, or

''(ii) having a value equal to at least 50 percent of the total value of the stock of such corporation, or

''(B) in the case of a trust, owns beneficial interests in the trust which would meet the requirements of subparagraph (A) if such interests were stock.

''(2) QUALIFIED ENTITY.—For purposes of paragraph (1), the term 'qualified entity' means—

''(A) any real estate investment trust, and

''(B) any partnership in which one real estate investment trust owns at least 50 percent of the capital and profits interests in the partnership.

''(3) ATTRIBUTION RULES.—For purposes of this paragraphs (1) and (2)—

''(A) IN GENERAL.—Rules similar to the rules of subsections (d)(5) and (h)(3) shall apply; except that section 318(a)(3)(C) shall not be applied under such rules to treat stock owned by a qualified entity as being owned by a person which is not a qualified entity.

''(B) STAPLED ENTITIES.—A group of entities which are stapled entities (as defined in section 269B(c)(2)) shall be treated as one person.

''(4) EXCEPTION FOR CERTAIN NEW REITS.—

''(A) IN GENERAL.—The term 'controlled entity' shall not include an incubator REIT.

''(B) INCUBATOR REIT.—A corporation shall be treated as an incubator REIT for any taxable year during the eligibility period if it meets all the following requirements for such year:

''(i) The corporation elects to be treated as an incubator REIT.

''(ii) The corporation has only voting common stock outstanding.

''(iii) Not more than 50 percent of the corporation's real estate assets consist of mortgages.

''(iv) From not later than the beginning of the last half of the second taxable year, at least 10 percent of the corporation's capital is provided by lenders or equity investors who are unrelated to the corporation's largest shareholder.

''(v) The corporation annually increases the value of its real estate assets by at least 10 percent.

''(vi) The directors of the corporation adopt a resolution setting forth an intent to engage in a going public transaction.

No election may be made with respect to any REIT if an election under this subsection was in effect for any predecessor of such REIT. The requirement of clause (ii) shall not fail to be met merely because a going public transaction is accomplished through a transaction described in section 368(a)(1) with another corporation which had another class of stock outstanding prior to the transaction.

''(C) ELIGIBILITY PERIOD.—

''(i) IN GENERAL.—The eligibility period (for which an incubator REIT election can be made) begins with the REIT's second taxable year and ends at the close of the REIT's third taxable year, except that the REIT may, subject to clauses (ii), (iii), and (iv), elect to extend such period for an additional 2 taxable years.

''(ii) GOING PUBLIC TRANSACTION.—A REIT may not elect to extend the eligibility period under clause (i) unless it enters into an agreement with the Secretary that if it does not engage in a going public transaction by the end of the extended eligibility period, it shall pay Federal income taxes for the 2 years of the extended eligibility period as if it had not made an incubator REIT election and had ceased to qualify as a REIT for those 2 taxable years.

''(iii) RETURNS, INTEREST, AND NOTICE.—

''(I) RETURNS.—In the event the corporation ceases to be treated as a REIT by operation of clause (ii), the corporation shall file any appropriate amended returns reflecting the change in status within 3 months of the close of the extended eligibility period.

''(II) INTEREST.—Interest shall be payable on any tax imposed by reason of clause (ii) for any taxable year but, unless there was a finding under subparagraph (D), no substantial underpayment penalties shall be imposed.

''(III) NOTICE.—The corporation shall, at the same time it files its returns under subclause (I), notify its shareholders and any other persons whose tax position is, or may reasonably be expected to be, affected by the change in status so they also may file any appropriate amended returns to conform their tax treatment consistent with the corporation's loss of REIT status.

''(IV) REGULATIONS.—The Secretary shall provide appropriate regulations setting forth transferee liability and other provisions to ensure collection of tax and the proper administration of this provision.

''(iv) Clauses (ii) and (iii) shall not apply if the corporation allows its incubator REIT status to lapse at the end of the initial 2-year eligibility period without engaging in a going public transaction if the corporation is not a controlled entity as of the beginning of its fourth taxable year. In such a case, the corporation's directors may still be liable for the penalties described in subparagraph (D) during the eligibility period.

''(D) SPECIAL PENALTIES.—If the Secretary determines that an incubator REIT election was filed for a principal purpose other than as part of a reasonable plan to undertake a going public transaction, an excise tax of $20,000 shall be imposed on each of the corporation's directors for each taxable year for which an election was in effect.

''(E) GOING PUBLIC TRANSACTION.—For purposes of this paragraph, a going public transaction means—

''(i) a public offering of shares of the stock of the incubator REIT;

''(ii) a transaction, or series of transactions, that results in the stock of the incubator REIT being regularly traded on an established securities market and that results in at least 50 percent of such stock being held by shareholders who are unrelated to persons who held such stock before it began to be so regularly traded; or

''(iii) any transaction resulting in ownership of the REIT by 200 or more persons (excluding the largest single shareholder) who in the aggregate own at least 50 percent of the stock of the REIT.

For the purposes of this subparagraph, the rules of paragraph (3) shall apply in determining the ownership of stock.

''(F) DEFINITIONS.—The term 'established securities market' shall have the meaning set forth in the regulations under section 897.''

(c) CONFORMING AMENDMENT.—Paragraph (2) of section 856(h) is amended by striking ''and (6)'' each place it appears and inserting '', (6), and (7)''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after July 14, 1999.

(2) EXCEPTION FOR EXISTING CONTROLLED ENTITIES.—The amendments made by this section shall not apply to any entity which is a controlled entity (as defined in section 856(l) of the Internal Revenue Code of 1986, as added by this section) as of July 14, 1999, which is a real estate investment trust for the taxable year which includes such date, and which has significant business assets or activities as of such date. For purposes of the preceding sentence, an entity shall be treated as such a controlled entity on July 14, 1999, if it becomes such an entity after such date in a transaction—

(A) made pursuant to a written agreement which was binding on such date and at all times thereafter, or

(B) described on or before such date in a filing with the Securities and Exchange Commission required solely by reason of the transaction.

**TITLE III—BUDGET PROVISION**

**SEC. 301. EXCLUSION FROM PAYGO SCORECARD.**

Any net deficit increase or net surplus increase resulting from the enactment of this Act shall not be counted for purposes of section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902).

Mr. ROTH. Mr. President, today I am pleased to join the distinguished ranking member of the Finance Committee, Senator MOYNIHAN, in discussing Senate passage of the Tax Relief Extension Act of 1999.

The bill the Senate passed today is a consensus package of extensions of expiring tax provisions, known as ''extenders.'' Working together, Senator MOYNIHAN and I produced a package that was reported out of the Finance Committee unanimously.

In order to get a package that could be approved by unanimous consent, we had to achieve a fair compromise. Every Member would probably differ in the way he or she would write an extenders bill.

Fortunately, Members of the Senate realize the importance of addressing these expiring provisions. The evidence of that importance is demonstrated by the unanimous consent agreement for passage that we entered into today.

The most important of the expiring provisions, as Senator MOYNIHAN noted, is the exclusion of nonrefundable tax credits from the alternative minimum taxes (''AMT''). The Finance Committee bill insures that middle income families will receive the benefits of the $500 per child tax credit, HOPE Scholarship credit, Lifetime Learning credit, adoption credit, and dependent care tax credit. This relief is extended through December 31, 2000.

There are other important expiring tax provisions the Finance Committee bill addresses. Included is the research and development (''R&D'') tax credit, the tax-free treatment of employer-provided educational assistance, the work opportunity tax credit, the welfare-to-work tax credit, the active finance exception to Subpart F, and the extension and modification of the tax credit for production of electricity from wind and biomass, including poultry waste. There are several other important extenders in this legislation.

Mr. President, I urge the House to pass its extenders bill. We will then proceed to a conference and work out the differences between the two bills. It is important that we work quickly and produce a conference agreement that addresses these important matters.

Mr. MOYNIHAN. Mr. President, I have just a couple of points to make about this extender bill. First, my congratulations to our revered chairman

of the Finance Committee, who brought all sides together in a consensus bill that accomplishes our objective—extend expiring provisions that command support from all Senators. This was not a simple task.

Tax extenders were part of the large tax bill that began working its way through the Congress in July—a bill that in my view needed to be and was vetoed. This fall, Senator ROTH returned to the task and presented a chairman's mark focused on extenders. He built bipartisan support for the bill, and that is why we are here on the Senate floor so soon, ready to pass the legislation by unanimous consent.

This bill is a paid-for extenders package. As such, it meets the standards of Members on both sides of the aisle. It is a bill that can pass this Congress and can be signed by the President.

And it is important that we pass legislation that can be signed. If we do not, approximately 1.1 million Americans will find out that they will lose part or all of the $500 child credit or the HOPE scholarship credit when they sit down to complete their 1999 tax return. That is because these credits have not yet been permanently exempted from what we call the alternative minimum tax. This legislation will exempt these credits from the alternative minimum tax for 1999 and 2000.

The American people ask us to be responsible in managing our tax laws. To not pass this bill would be irresponsible and contribute to a perception that Members of Congress who agree on what should be done cannot sit down and figure out a way to do them.

Again, my congratulations to the chairman, and let's move expeditiously to a conference with the House of Representatives as soon as they pass similar legislation.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I appreciate the cooperation we have had on both sides of the aisle to get to this point. A number of Senators have expressed a desire to offer amendments and to change, in some way, the package as it has been presented and passed this morning. We will work with our colleagues to find ways in which to address many of these issues, whether it is in conference or on other vehicles.

There are a number of issues I care about as well, and I share the concerns expressed to me by some of our colleagues. It is very important that before the end of the session we pass this legislation out and get to conference within a time where we might be able to move it further along.

I strongly support the action the Senate has just taken. My only regret is that these matters aren't permanent law and that they require extension at all. There should come a time when we pass them permanently so we aren't required to come back year after year. Having said that, again, I appreciate the work of the majority leader.

I yield the floor.

Mr. LOTT. Mr. President, I agree with that. I might say that there are some permanent provisions in the House Ways and Means version of this bill. They would make permanent the extender with regard to the alternative minimum tax and how it affects the low- and middle-income people and others. Also, I have a bill at the desk to express my strong feeling on this subject that would make the R&D tax credit permanent. I think to come back every year, 2 years, or even every 5 years, causes concern and insecurity with regard to those tax credits. I hope we will make it either permanent, or as long as possible, in the conference.

I know there is at least one Senator who has provisions he hopes will be considered in the conference, and I think they should be. On our side, I have one Senator who feels very strongly that there are three parts of this bill that affect permanent law, which is not extenders. I agree. I think those permanent law issues should be dealt with by the regular committees. One has to do with brownfields, one with a rum provision, maybe in the Virgin Islands—not that you might want to be for them; I am just questioning whether or not they should be in a bill that is supposed to be tax credit extenders. We have other good provisions in here, a welfare-to-work tax credit, and others. So I am glad we are going to get this done before we leave. I thank Senators for the cooperation on both sides.

## DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2000—CONFERENCE REPORT—Continued

Mr. DURBIN. Mr. President, I yield some time at this moment to the Senator from Washington, Mrs. MURRAY.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I thank the chairman of the Labor-HHS Subcommittee for his commitment to children and health. He stood with many of us many times. Unfortunately, the Labor bill that is now before us simply doesn't make the grade. I believe a number of our colleagues on this side of the aisle will be speaking against this and voting against this in the hopes that when the President vetoes it, the Senator from Pennsylvania, chairman of the committee, will work out some of the things about which we care deeply.

When you leave something for the last minute, you can't do it justice. This Congress has left our investment in educating our children, in protecting our American workforce, and in ensuring the health of the people of this country for the last minute, and the failures are pretty obvious. The Labor-HHS appropriations bill should have been the first bill we brought to the floor—not the last.

This Congress has tried every trick and every gimmick to play games with the budget. I am here to say we are nearing the end of this game; and for the American people who are watching this Congress, they must wonder how serious we are about addressing their concerns. If this flawed proposal passes, the American people will be the ones who lose out.

I am on the floor to say this combination D.C./Labor-HHS conference report—with its irresponsible across-the-board cuts—fails to make the vital investments we need, the investments our constituents are asking for.

Mr. President, I will vote against this conference report, and I will tell you why. First, and most important, this bill will not guarantee that we reduce class size.

Now, last year, this Congress, the House and Senate, Democrats and Republicans, made a bipartisan commitment to help our districts hire and train new teachers. We did that because research shows students who learn in classes where there are fewer students in the early grades do better throughout their educational careers. They learn the basics—math, science, and English—and they have fewer discipline problems. We did that because it was a goal of all of us to make a concerted national effort to make sure that young children learned the basics, reduced the discipline problems, went on to college, and would be viable contributors to our economy when they graduated.

Last year, we made that bipartisan commitment and promised the parents of this country we would give their schools targeted money for smaller class sizes for the next 7 years. This bill walks away from that commitment. That is not acceptable. Not only does it walk away, but it broadens the use of the money so much that it could open the door to using vital, public education, class size dollars for private school vouchers.

Now, the President has said he will veto this bill if it does not keep our commitment to hire more teachers to reduce class size. I am proud that 37 Senators have joined with me to sign a letter saying they will back up that veto because we know that guaranteeing smaller classes for our children is worth fighting for.

The Labor-HHS bill's failure on class size is glaring. But to me it is just a start of many things that need to be fixed once this is vetoed and sent back to us in order for Democrats to be supportive.

It also fails to help families gain the literacy skills they need. When the Senate passed its version, we were able to provide an increase of $103 million, which would have taken thousands of people off of waiting lists for literacy services. But in this conference agreement, they cut the Senate number by $43 million. Those families were just about to get the skills they needed to rejoin our economy, and this agreement pushes them to back of the line.

This bill fails to make kids safer in our schools. In a year when the tragedy

at Columbine High School is still fresh in our minds, this bill cuts—cuts—$31 million from the Senate bill for the Safe and Drug-Free Schools Program. Local educators tell me we should double our funding in this area which is vital. Cutting it is just not acceptable.

This bill also fails the children who depend on the Head Start program. Head Start often makes the difference between success and failure in school for so many disadvantaged children. This bill does not do right by them.

This bill also cuts basic skills education for disadvantaged students. And it underfunds education technology programs at a time when we know all of our students need to get the skills in technology so that they can get the jobs that are open and waiting for them in so many communities across our country. It also cuts the vocational education program at a time when we know we need to make sure our kids graduate with skills to help them get jobs.

This bill does not do enough to support the Reading Excellence Act and bilingual education. This bill underfunds several important programs that build access and success for higher education students by not adequately funding Pell grants and vital programs like GEAR UP, LEAP, and TRIO.

I could go on. But it is clear that on education this bill is a missed opportunity. I am sure many people will try to claim that this agreement is ''a victory for education.'' But I can tell you as a former teacher and a former school board member that it is a hollow victory.

Mr. President, on labor issues, the Labor, HHS bill fails to adequately protect American workers and to promote universal employment.

This bill cuts funds for vital organizations, like the National Labor Relations Board—by 5 percent—and the Occupational Safety and Health Administration—by 6 percent—below the administration's request. I don't want to be any part of a bill that could harm our ability to enforce the labor and workplace laws that protect the health and safety of our country's workers.

This bill's irresponsible across-the-board spending cut would also hurt many vital job programs. For example, it would cut the Department of Labor's Youth Activities formula grants by $9.7 million, closing the door to almost 5,700 disadvantaged young people as they seek job training, summer employment, and educational opportunities. That is not acceptable to this Senator.

Mr. President, when it comes to protecting the health of our citizens, this bill is a mixed bag. While it does offer important support for the National Institutes of Health, for telemedicine for Children's Hospital in Seattle, poison control, and community and migrant health centers, the areas where it fails are so significant and so glaring that I cannot support the underlying bill.

This bill fails to address the human and social costs of AIDS and HIV. This bill's arbitrary and irresponsible across-the-board cut means that AIDS patients and their communities will suffer because it doesn't meet the growing need for services—services like drug assistance and pediatric AIDS care.

Similarly, the D.C. appropriations bill will hurt our ability to halt the spread of the disease because the bill continues to prohibit public funds from being used for clean needle exchange.

This bill also reduces our commitment to reproductive health care and family planning. I find it painfully ironic that last week, 48 Senators went on record against the principles of Roe v. Wade, claiming that abortion should not be a choice for women. Yet when it comes to reducing unintentional pregnancies or providing health care services for pregnant women, those same Senators are simply not there. This bill means that 40,000 women will be denied access to basic reproductive health care. It will reduce women's access to critical pre-natal care.

This bill's irresponsible across-the-board cut will also weaken our ability to respond to domestic violence. This bill would spend less money than we are spending this year on programs under the Violence Against Women Act. That means less money for rape prevention and for battered women's shelters.

Many communities in my State are struggling—struggling—to help women and children affected by rape and abuse. Reducing the Federal commitment in this area is simply unacceptable.

Some people will say this bill's across-the-board cut won't hurt anyone. They are wrong because denying emergency shelter to a battered woman and her children is painful. Denying access to reproductive health care services to 40,000 women is painful, and denying access to life-saving drug therapies for AIDS patients is worse than painful, it is deadly.

Mr. President, we still have an opportunity to do the right thing for our children, our families and our communities. I urge my colleagues to vote ''no'' on this bill so the President can veto it and we can fix it—by undoing its damaging across-the-board cut and keeping our commitment to reduce class size. Let's show the American people that even though this Congress has failed—throughout the session—to do its work in a timely, responsible way, we still have the wisdom to get things right at the end.

Mr. HARKIN. Mr. President, I wish to speak on the Labor-HHS bill which has been attached to the D.C. appropriations bill. I will not have any comments on the D.C. appropriations bill; I leave that to my friend and colleague, my leader, Senator DURBIN from Illinois.

PRIVILEGE OF THE FLOOR

I ask unanimous consent Jane Daye, Mark Laisch, and Dr. Jack Chow, detailees to the Labor-HHS-Education Subcommittee, be permitted on the floor during consideration of the D.C. and Labor-HHS-Education conference report.

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

Mr. HARKIN. Today we are bringing up—and I guess the vote will be held on Tuesday—the conference report that accompanies the D.C. appropriations bill. This report, as we now know, also includes the Labor, Health and Human Services, and Education appropriations bill negotiated by the House and Senate appropriators.

I regret very much that the conference agreement includes a poison pill inserted by the House Republican leadership, an irresponsible and indiscriminate across-the-board cut against all discretionary programs, projects, and activities. Later I will discuss that at length.

First, I commend the work of my colleague and chairman on the appropriations bill, Senator SPECTER. He and I have had a great working relationship through the years, a true partnership every year on this bill, first when I was Chair and he was ranking member and now he is Chair and I am ranking.

Senator SPECTER has a deep commitment to the vitally important health, education, labor, research, and other initiatives in this bill. Senator SPECTER and his staff have always treated our side fairly. I want him and them to know how much I appreciate that. I not only appreciate it; I understand how important it is in terms of completing our Nation's business.

A few weeks ago, the Senate passed the Labor-HHS-Education appropriations bill by an overwhelming vote of 73–25; 41 Democrats and 32 Republicans voted for it. This is an exceedingly strong vote. It got this strong vote because Senator SPECTER and I worked together and we worked with Senators from both sides of the aisle to craft a bill that truly reflected our Senate priorities. It was a good bill. It provides a major increase for medical research. It provides $500 million more than the President requested for education. It maintained our commitment to worker safety provisions.

It did have one major flaw. It did not fund the President's class size initiative in an acceptable manner. Nonetheless, I argued strongly for its passage. At the time, I told Members on my side of the aisle I would work to resolve the class size issue in conference. We had a good Senate bill. We had a strong Senate vote, with 73 votes on the Senate side.

The House of Representatives, on the other hand, was not able even to produce a bill. The Appropriations Committee on the House side reported out a bill. It cut education, cut job training, had a whole lot of bad labor riders dealing with workers' safety protection. But the full House never even took it up.

Several weeks ago, we began something I had never ever engaged in

around here; we began a nonconference conference. We could not have had a conference because the House never passed a bill, but we met with the House appropriators. Congressman JOHN PORTER, the chairman of the Labor-HHS subcommittee on the House side—Senator SPECTER and I, and our staffs, met with him in an effort to move the process forward. When our committee was working on it, we made good progress. We worked together to produce an agreement that was very close to the Senate bill.

Again, I compliment and commend my colleague on the other side of the aisle in the House, Congressman PORTER, for working together in an open and constructive manner to produce a bill I believe could have garnered votes and could have passed. If we could have ended the conference at that point, I would be here today speaking in favor of the Labor-HHS and Education bill. However that is not the case.

With regard to the class size reduction issue, I raised the point in our negotiations with the House that 38 Senators encouraged the President to veto the conference report if it did not include this initiative. However, I was not able to convince the negotiators on this point. I am, however, convinced this issue will be addressed in any final bill. But putting this class size initiative aside, we had put together, I thought, really a pretty good agreement. We included a large increase for biomedical research, $100 million for community health centers, and a big increase for Head Start. None of what I term ''the offensive House riders'' the House had put on for labor, health, and safety—none of those were included. Largely, it reflected most of the priorities of the Senate on both sides of the aisle, both Republican and Democratic.

As I said, if we could have ended it there, we probably would have had a pretty good bill. But then Republican House leadership got involved. First, they insisted key programs be cut. They insisted afterschool programs be reduced by $100 million. They insisted the small increase we had for critical family planning services be eliminated. They insisted on cutting Goals 2000. Why? I don't know, unless it was because it was a Presidential priority.

Next, they insisted on further delayed obligations. We had some delayed obligations, but I think they were delayed obligations with which we could have lived, with which the Departments and Agencies could have lived. But the delayed obligations the House leadership put in, I think, will cause some real problems at the National Institutes of Health.

I have long said not only do we have to increase the money going to the NIH, that we had to double their budget over 5 years—of which I have been very supportive—but that we need continuity, so grants could go out to researchers that are not interrupted, so when researchers start on a program and a research project they can continue.

With the delayed obligations and the extent to which we have them in this bill, it appears that NIH will not be able to fund these research programs on a longer term basis. It is just going to be from 1 year to the next. As any person familiar with research can tell you, that is not the best way to conduct research. I think the delayed obligations are going to cut back on the good that we did in terms of increasing the funding for NIH.

Next, the House leaders also put in a $121 million reduction in salaries and expenses. That was over and above the reductions we had already made on the Senate side. We cut pretty deeply in the salaries and expenses and administrative costs of the Departments under our jurisdiction, but the House leadership cut another $121 million. I believe that is unacceptable.

After that, the House leadership added—over, I might say, the opposition of most of the appropriators—the poison pill across-the-board cut. The House Republican leaders repeatedly said this cut will give each Department the ability to cut fraud, waste, and abuse. I take a back seat to no one in this body or the other body or on either side of the aisle when it comes to fighting fraud, waste, and abuse in government programs, but that is not what this provision says, nor would it accomplish that. This is not a 1-percent cut that can be taken from any broad array of programs. Every program, project, and activity in this bill has to be cut by 1 percent.

So when you see the House Republican leaders on television saying: 1 percent, that's nothing, we can take that out of fraud, waste, and abuse—sorry. That is not the way the provision is written. The provision is written it is 1 percent. It is not 1 percent of the increase; it is 1 percent of the total that goes to each line item in this bill, every single line item has to be cut.

You might say that is not, that 1 percent—that doesn't sound like a lot. When you put it in the Social Security system and the offices that administer Social Security, it cuts it big time. It cuts millions of dollars out of veterans' health care. It cuts Meals on Wheels, community health centers, afterschool programs; it cuts education. Again, I point out it does not just cut the increases; it cuts many important programs actually below last year's level.

I will read from a list here of some programs that actually will have less than last year because of this across-the-board cut. Adult job training—we saw the other day our economy is booming at unprecedented rates. But the economy is changing. For example, we had an announcement the other day in Iowa a major packing plant was closing its doors 5 days before Christmas. I will not go into that right now, but talk about heartless; 5 days before Christmas, Iowa Beef Processors is closing its doors, and over 400 people are being thrown out of work. We need to retrain those people. We need to retrain them for the new kind of economy we have. The bill before us cuts adult job training to less than what we had last year. It is the wrong way to go.

Youth opportunity grants, community service jobs for senior citizens are cut below last year's level. Family planning, AIDS prevention, substance abuse block grants, child welfare and child abuse programs are all cut to less than what we had last year. This is not a cut in the increase, this is a cut below what we had last year.

Teacher training: I met with some educators in my office yesterday who were here from Irving School in Dubuque. They were getting an award as one of the blue-ribbon schools of America, a great award. I mentioned the teacher training program was being cut to less than last year. They said: How could this possibly be? This is the program, the Eisenhower math and science program, that keeps our teachers up to par with what is happening so they can better teach their students. You can vote for this bill if you want, Mr. President, but if you do, you are voting to cut teacher training programs for Goals 2000, the literacy programs.

Mr. President, I ask unanimous consent this list of cuts that I have just enunciated be printed in the RECORD in tabular form.

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

*Sample of Programs Cut Below a Hard Freeze Under Conference Agreement[1]—Compares Labor-HHS Items From Fiscal Year 1999 Level to Fiscal Year 2000 Level*

| *Program* | *Total cut in millions* |
|---|---|
| Department of Labor: | |
| Adult Job Training | $7.38 |
| Youth Job Training | 10.01 |
| Youth Opportunity Grants | 2.50 |
| Comm. Service Jobs for Seniors | 4.40 |
| Department of Health and Human Services: | |
| Family Planning | 2.14 |
| CDC AIDS Prevention | 1.34 |
| CDC Epidemics Services | 0.85 |
| Substance Abuse Block Grant | 15.34 |
| Medicare Contractors | 33.52 |
| Child Welfare/Child Abuse | 2.82 |
| Department of Education: | |
| Goals 2000 | 4.91 |
| Teacher Training (Eisenhower) | 3.35 |
| Literacy | 0.65 |

[1] Includes 1 percent across-the-board cut.

Mr. HARKIN. Mr. President, the House Republican leadership and others have argued this across-the-board cut was needed to protect Social Security. We all agree we want to protect the Social Security surplus. But the Congressional Budget Office says even with the across-the-board cut, they are going to have to tap Social Security by $17 billion. So leaving that aside, an across-the-board cut is not the answer. Let's protect Social Security. Let's do it in the right way. Let's make the tough decisions, not hide behind an across-the-board cut.

Frankly, there are other offsets we could use. I say we should impose a penalty on tobacco companies that fail

to meet targets for reducing youth smoking. In fact, I have in my hand a specific proposal to do just that, to set a goal of reducing teen smoking by 15 percent. That is a modest goal. If they fail to meet that modest goal, they would have to pay a penalty. The Congressional Budget Office estimates that this proposal would raise almost $6 billion in fiscal year 2000.

That is $2.8 billion more than is saved by this across-the-board cut. It would have the added benefit of protecting our kids from the deadly addiction of tobacco.

I want to be very clear—my esteemed friend from Illinois is sitting here—this is not a new idea. We have voted on this before. In fact, this was part of a proposal the Senator from Illinois and the Senator from Ohio proposed and which actually passed this body. So why don't we do this rather than having an across-the-board cut in teacher training, the substance abuse block grant, health programs, AIDS prevention programs. Let's do something we already said we ought to do—cut teen smoking. And if the tobacco companies cannot meet it, they pay a penalty. Unfortunately, the conference report we have before us does not take this path.

With all the respect, admiration, and friendship I have for Senator SPECTER—and he has worked doggedly on this bill; he has worked hard to protect education and health and research programs; he and his staff have worked openly with me and my staff—reluctantly I will have to vote against this conference agreement.

The poison pill across-the-board cut did it. I do so with reluctance because I believe we crafted a good bill in the Senate, and it would have avoided all kinds of political maneuvering if we had the bill we passed in the Senate. If we followed that bipartisan path Senator SPECTER and I worked on and set up in the Senate that was reflected in a strong bipartisan vote in the Senate, we would have had a much different result.

It is very clear to everyone, if this conference agreement is passed by the Senate, it will be vetoed by the President, and that veto will not be overridden. When that happens, I plan to work very hard with my chairman, Senator SPECTER, and will be sitting at that table to help craft a bill with our House colleagues and, of course, with the White House, that reflects congressional priorities but does not make these inordinate, mindless across-the-board cuts and that has offsets that truly do reduce teen smoking and help us meet our goals of not invading the Social Security trust funds.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I would like to make a unanimous consent request because I have been waiting to make a statement on the floor. Several of my colleagues have come to the floor with requests for short periods of time. If there is no objection, I ask that the Senator from Washington be allowed to speak for 10 minutes, as in morning business, followed by the Senator from West Virginia for 10 minutes, and then that I be given the floor at that moment in time for 15 minutes to address the bill that is pending before us.

Mr. GORTON. Reserving the right to object, I am not speaking in morning business; I am speaking on the bill.

Mr. DURBIN. Sorry.

Mr. GORTON. While I think it would be about 10 minutes, I do not want to be called down if I go over 30 seconds.

Mr. DURBIN. I would be happy to amend the unanimous consent request to accommodate whatever time the Senator would like, if he would specify a time.

Is there a time the Senator would like to set?

Mr. GORTON. It will be approximately 10 minutes. It will be on the bill. If the unanimous consent request is amended in that form, I am perfectly happy with that.

Mr. DURBIN. I want to give the Senator from Washington every opportunity to speak on this bill. I misunderstood when I spoke with him. But I would be happy to yield to him. As part of the unanimous consent request, I ask unanimous consent that the Senator from Washington be recognized on the bill for up to 15 minutes.

Mr. GORTON. Fine.

Mr. DURBIN. Then the Senator from West Virginia be recognized for up to 10 minutes in morning business, and then I be recognized for 15 minutes on the bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Washington.

Mr. GORTON. Mr. President, this is a landmark Labor, Education, and Health appropriations bill. It is a landmark in more than one respect. From my perspective, however, it is especially notable for two features relating to our assistance to the education that is being provided to children all across the United States of America.

The first is this bill, in reaction to the President's budget message of much earlier this year, ends any dispute about the generosity of support for education on the part of either the President or the congressional majority. In fact, this bill includes some $300 million more for education purposes than did the President's budget message earlier this year; $2 billion more than last year—$35 billion in total.

Mr. President, $35 billion is not an inconsiderable sum. But of that portion that goes to our common schools from kindergarten through 12th grade, it still will represent only about 7 percent of the number of dollars that go into providing an education for future generations of Americans. But there is not a dispute in this bill over whether or not we should fund education with this relative degree of generosity. In that respect, this is a landmark bill.

But as we deal with the question of education, I believe it to be a landmark in more than just that respect. This bill, in its present form, represents the first modest turn from a direction that we have taken for three decades or more. During the last 30 or 35 years, the Congress and Presidents of both parties have piled one categorical aid program for education on top of another. Each of those programs has its own rules for eligibility. Each has its own rules as to how money should be spent. Each carries with it its forms to be filled out and its audits to be performed and to be examined after the fact.

The President's proposed budget added a number of new categorical aid programs to those already in existence and, I believe, shortchanged a number of the most vital educational programs that have been a part of our system literally for decades. As a consequence, this bill provides considerably more money for impact schools than the President's budget called for. Impact schools, of course, are those schools on or near military reservations, Indian reservations, or other Federal property in which a peculiar and unique burden is placed by the fact that the Federal Government has employees or beneficiaries in the immediate vicinity while at the same time owning tax-exempt property that does not, as property, pay its fair share or any share of the cost of operating those schools.

Most national administrations, most Presidents of the United States, have not much liked impact aid. It took me some time to determine in my own mind why that was. I think it is because once the formula distributes so many dollars to a school district in impact aid, the school district decides how the money is going to be spent to advance the education of its students. There aren't any rules and regulations from the U.S. Department of Education telling school districts how they must use that impact aid. As a consequence, it has never had much of a lobby in the Department of Education or in administrations either Republican or Democratic.

A second area in which this bill includes more money for education than did the President's original request is for IDEA, the education for the disabled. This body proudly reauthorized IDEA just 2 years ago, including in it a provision that we would come up with 40 percent of the costs that that bill, for the education of the disabled, imposed on school districts all across the country—40 percent of those costs. This bill, more generous than the President's budget, actually funds about 9 percent of those costs. Members of the Congress and the President got to congratulate themselves on passing a bill mandating education for the disabled. They got to congratulate themselves on a promise that, very bluntly, I think, neither side had any intention of keeping. We do not, in this bill, come close to that 40-percent requirement, but we do better than the President of the United States did in his budget submission.

From my perspective, however, the most important change takes place in connection with a program that began last year designed to put more teachers in the classroom, especially more teachers in the classroom up through the third grade, a proposal that, for all practical purposes, could be used only for that purpose, whether more teachers in those primary grades was the primary need for each and every one of the 17,000 school districts in the United States or not.

I don't believe my State is different from many others. My great friend and frequent ally, the Senator from West Virginia, is on the floor. I suspect he has a greater percentage of school districts in his State than does Washington State that don't receive enough money under this program to hire one teacher because they are simply too small. So this bill, after an extended debate between the two sides in which one side said we have to continue the program entirely unchanged, whatever those school districts' priorities are, and our side that says we have to trust the school districts to spend that money for any educational purpose they desire—two rather dramatically opposed points of view—takes a halfway position between the two.

It states that the primary goal of this $1.2 billion is to put more teachers in the classroom but that if school districts have other priorities or if they don't get enough money to do that for even one teacher, they can, in fact, use it for improving the quality of teachers they already have through more training or for some other educational purpose they believe is more significant than the top-down mandate in this bill.

I hope that will be appealing to the President of the United States. It does express at least a qualified degree of trust on the part of the Congress in the dedication and intelligence and knowledge of the men and women who run our schools, either as elected members of school boards or as full-time superintendents, principals, and teachers, to make decisions that will improve the quality of education of their children.

I have never been quite certain why it is that Members of the Senate think they know more about the needs of schools all across the country than do the people who make their entire careers out of providing that education, but that has been the net result of what we have done. This is a modest move in the other direction, a reflection of the fact that early next year, when we debate the Elementary and Secondary Education Act, we will debate exactly that kind of issue: Who knows best what our young people need, we in Washington, DC, or those who run the hundreds of thousands of schools in the United States of America.

This bill also begins to keep a promise we made a relatively short time ago significantly to increase funding for health research through the National Institutes of Health.

This bill is a landmark in one other vitally important respect. As generous as this bill is to education, as generous as it is to health programs and to other programs included within it, it is a part of a pattern of 13 appropriations bills that spend almost $600 billion in discretionary money in the course of the next year but do not touch the Social Security trust fund. Last year, for the first time in decades, we ended up with a budget that was not only balanced but in surplus to the tune of $1 billion without touching a dime in the Social Security trust fund. We are absolutely convinced, I think most of us, that we should make the year 2000 the second consecutive year in which that takes place and keep on following exactly those same policies.

We can pass this bill and the other appropriations bills still unresolved without dipping into the Social Security surplus and without increasing taxes on the American people. That truly is a landmark. We thought when we passed the Balanced Budget Act of 1997, we might get to this point in 2002 or 2003. We got to it in fiscal year 1999.

This morning's newspapers printed excerpts of a speech by Alan Greenspan on the nature of our economy and on the fact that it has actually been growing more rapidly and is more robust than most of our statistics had indicated. Chairman Greenspan has made it very clear that actually balancing the budget and paying down the debt is a key factor in keeping the economy of this Nation moving forward.

We have a bill that I commend enthusiastically to all of the Members of this body. It is generous with education dollars, as it ought to be for one of the highest of all priorities in any society, the education of its future generation; it provides at least a modestly greater degree of trust in our professional educators and in our elected school board members with respect to how to spend that education money; it deals generously with our need for health research; and it is a part of a pattern that will continue the 1-year precedent of balancing the budget without invading the Social Security trust fund, without breaking the promises we have made not only to those who are retired today but those who are working today but will depend on Social Security in the future, that the money they pay into Social Security is for that purpose and that purpose only. For that reason, I highly commend this bill to the Senate of the United States and hope it is passed and approved by the President of the United States.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

## THE PHONE BILL FAIRNESS ACT

Mr. ROCKEFELLER. Mr. President, yesterday, I introduced the Phone Bill Fairness Act. Consumers across this country have to deal on a regular basis with telephone bills, and one thing they do understand is that telephone bills are very complicated and frustrating. But what they may not know is that telephone bills are, to them, more than just an annoyance—they may be costing them quite a lot of money. I want to address that issue very briefly.

When the average consumer receives their phone bill, they don't get a sheet of paper; they get dozens of pages, with very small type, filled with confusing acronyms, complicated payment schemes, and sometimes even services they have not signed up for at all but for which they are being asked to pay. I imagine most consumers not only don't understand everything they have received, but after reading a few pages into their bill—if they do that—they give up and just hope, so-to-speak, they are getting what they want.

Now, the Telecommunications Act of 1996 was based on the idea competition and market forces would lead to lower prices and better service. We have begun to see the benefits of that act in certain respects. New companies and newly competitive incumbents have begun to reduce rates and offer innovative new services. That is to the good. The main beneficiaries of these improvements, however, have been business consumers. They have the expertise to analyze the bewilderingly complicated telecommunications market and to find out what are the best deals for them. That is exactly what they wanted because they have the size and scope to figure out what is going on and proceed to do what is in their best interest.

But your average phone user does not have a team of lawyers or accountants who can pour over his or her phone bill to determine the plan or the company that will save them the most money, which is what competition is about; thus, they cannot use the market system to their financial advantage. Unfortunately, phone bills become so complicated, and the array of services and phone plans so bewildering, that it really does take lawyers and accountants to understand and maximize the benefits that are intended.

So, on the one hand, the Telecommunications Act is working because it has created the opportunity for consumers to get lower rates and better service, but it is not working because it requires consumers to walk through a complicated and highly uncertain maze to finally get to that opportunity.

Once simple choices about telephone service have become so complicated that even the Chairman of the FCC, Bill Kennard, who was our foremost expert on telecommunications matters, himself has expressed frustration over reading his own phone bill, I think we have something we need to consider.

We may not be able to reduce the complicated nature of telecommunications competition, but at the very least we can provide residential consumers with a roadmap that leads

them through the maze of telecommunications. We must give consumers help, guidance, and be helpful to them in making sure they can understand their telephone bills and the options they have in telephone service so they can take advantage of the benefits of competition in the telecommunications world, just as businesses can do on a very regular basis.

Therefore, the Phone Bill Fairness Act tries to do this by the following:

First, we require all telephone companies to accurately describe charges that appear on bills. No one should be able to misidentify so-called line items, especially by claiming they are ''federally mandated'' when they are not federally mandated.

Secondly, our bill would require all telephone companies to tell their customers exactly what their average per-minute rate is for a month, so they can compare it to the rates of other companies. Is that so strange? Not at all. When a customer goes to a supermarket, they can look at unit prices for groceries and, thus, they can shop and compare. That allows them to buy what is best for them in terms of what they want, in terms of price and quality, and that is competition. Why can't we do this for telephone customers? The answer is, of course, we can.

Thirdly, we would require that all telephone companies inform customers of their calling patterns in an understandable way. If customers know what they are paying and know what types of calls are most frequent, they will then be able to compare all of the different company plans and find the one that is right for them. Again, the Telecommunications Act of 1996 was about competition. This bill is about competition.

Finally, the bill gives the Federal Communications Commission and the Federal Trade Commission the power to explore how to make phone bills easier to read so that we don't do it here in Congress, and to determine whether any telephone companies are committing fraud in their billing practices. I don't mean to suggest this is the common practice, but there are some small phone companies that do something called ''slamming,'' and that is fraud. They charge people for things they have not, in fact, signed up for. That is fraud. The best defense against fraud is an informed consumer. Consumers cannot be well-informed if they do not understand their phone bills. So this is all fairly logical and straightforward and, I think, in the interest of the Telecommunications Act and, more important, of the American people.

Consumers are terribly frustrated with how confusing phone bills are today. When consumers get frustrated, they assume the worst. I believe we have an obligation to try to do something about all of this, and I believe we can. I still very much believe in the Telecommunications Act. I voted for it and participated in shaping it. I believe in the benefits of competition, but we need to make sure the benefits of competition reach everybody in the country—business consumers, residential consumers, and everybody. The first step to achieving this goal is making sure every consumer not only has the opportunity to get better rates and services but that they also have the knowledge and the power to actually get what they want at the lowest price.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

The Senator from South Dakota is recognized.

Mr. DASCHLE. I thank the Chair.

## STRENGTHEN SOCIAL SECURITY AND MEDICARE ACT OF 1999

Mr. DASCHLE. Mr. President, today I am introducing the President's new proposal entitled the Strengthen Social Security and Medicare Act of 1999.

I send it to the desk.

It lays out steps we need to take to protect Social Security and Medicare for future generations. It has a number of key provisions that I will enumerate.

I look forward to the time in the not too distant future when I will come back with a number of our colleagues to talk at greater length about the importance of this bill and what it includes. It devotes the entire Social Security surplus to debt reduction. That is one of the most important features of the bill.

We recognize how critical it is that we ensure the viability of the trust fund for as long as we can. We also recognize it isn't mutually exclusive to want to extend the viability of the trust fund and pay off the public debt at the same time.

Therefore, what this legislation will do is first pay off all of the public debt. It will eliminate the publicly held debt by the year 2015, reducing the debt by $3.1 trillion over the next 15 years.

It then devotes the entire savings, which otherwise would have been spent on the interest on that debt, to the Social Security trust funds. The real savings generated in the year 2011 alone, according to the Office of Management and Budget, will be $107 billion.

This is a remarkable bill and one of which I am very excited to introduce. First, we pay off the debt; second, we dedicate to Social Security the interest that would otherwise have been going to pay interest on the debt. We not only have eliminated the public debt, we have lengthened the viability of the trust fund.

The President's plan extends the life of the trust fund in this manner by almost 20 additional years, to the year 2050. This extension of solvency is not conjecture. It is not something we wish will happen under this plan. Independent Social Security actuaries have confirmed this plan extends the solvency of the Social Security trust fund until the year 2050.

What a remarkable accomplishment. First, we will have paid off the publicly held debt; second, we will have extended solvency by 16 years.

We also do something else with this legislation. Obviously, it is important to extend solvency. But if the program is not reformed, we have not done enough. There are things we can do to strengthen and modernize another aspect of the entire retirement infrastructure we have in place today. That infrastructure has three legs: Social Security, Medicare, and private insurance, or retirement plans.

We will address private retirement issues in other legislation.

This bill addresses the two main governmental pillars of Social Security retirement: Social Security and Medicare.

It creates a real lockbox to further protect the trust funds both for Social Security and Medicare by extending the budget enforcement rules, including pay-as-you-go budget requirements from here on out.

There have been a number of debates on the Senate floor, and we talked in recent weeks about whether or not we are ever going to enact a lockbox. Unfortunately, the majority leader has chosen to fill the amendment tree—that is to preclude Democratic amendments in the debate on the lockbox; that has precluded our ability entirely to offer an amendment which says we ought not only lock up the Social Security trust fund, we ought to lock up the Medicare trust fund, too, because it, too, is a trust fund upon which our seniors depend.

This legislation includes a long-supported lockbox, but it also contains no trap door. The Republican version contained a trap door that allowed Social Security surpluses to be used for any purpose, including tax cuts, that could be labeled as Social Security reform.

There it is. In addition to ensuring we pay down the debt, in addition to ensuring we provide for 16 additional years of solvency, this bill provides a real lockbox without a trap door for Social Security and for Medicare.

I think it is important we set the record straight when it comes to this proposal. This has been the product of an extraordinary amount of work within the White House, within the administration, working with Democrats in Congress.

Republicans claim they have found religion when it comes to Social Security. The CBO clarified what is happening right now on Social Security with the letter provided yesterday. They said if the budget and the appropriations bills pass as are now contemplated and as are now drafted, we

will be using $17.1 billion of Social Security trust funds. Those aren't our words; those are the words of the Congressional Budget Office. They said if we were going to offset the need to use Social Security trust funds, we would have to cut across the board 4.8 percent to accommodate the increases in investments and spending across the board in the 13 appropriations bills.

There shouldn't be any doubt about who it is that is drawing down the Social Security trust fund this year before we even have a lockbox, before we even have real Social Security and Medicare reform. That is why this legislation is necessary. We have a rare opportunity to extend the life and the solvency of Social Security and Medicare, to pay off the publicly held debt in 15 years, and to provide meaningful reform to both Social Security and Medicare in a way that will absolutely guarantee that baby boomers, when they retire, will be able to count on Social Security and on Medicare in a debt-free country.

It doesn't get much better than that as a goal, as a set of proposals. I am hopeful in this Congress before the adjournment date next session this legislation will become the focus of a good debate. This legislation will be not only considered but given an opportunity for a good vote, an opportunity for careful consideration. Let it be amended if it be the will of the Senate, but let's debate it. Let's get on with it. Let's commit it to law. Let's send a clear message to the American people, we as Republicans and Democrats, and support eliminating the public debt. We support extending the solvency and the viability of both the Social Security and Medicare trust funds. We can do that with the bill we are introducing today, and I hope it is done.

Mr. REID. Will the leader yield for a brief question?

Mr. DASCHLE. I am happy to yield to the assistant Democratic leader.

Mr. REID. I listened intently to the leader's statement. I ask the leader if it is somewhat startling, amusing—whatever word we want to use—that the majority, the Republicans, did not support Social Security when it was adopted in the 1930s; the Senator is aware of that?

Mr. DASCHLE. The Senator from Nevada is correct. To my knowledge, it was not supported by Republicans—I don't know if I am in a position to say unanimously, but overwhelmingly.

Mr. REID. We do know they filed in this body the motion to recommit, saying they wanted to get rid of it once and for all.

Mr. DASCHLE. The Senator is correct.

Mr. REID. It is also true when Medicare was adopted, that was a Democratic program. There was some support from the Republicans, but not very much?

Mr. DASCHLE. The Senator is correct.

Mr. REID. The Senator is also aware in recent years, under the leadership of Newt Gingrich, the House Republican leadership spoke out in opposition to Medicare and Social Security? Is the Senator aware of that?

Mr. DASCHLE. The Senator from Nevada is correct. I think the words were, ''We want to see it wither on the vine.''

Mr. REID. And the present majority leader of the House said he thought Social Security was a ''rotten idea.'' Is the Senator aware of that?

Mr. DASCHLE. That is how he has been quoted. That is correct.

Mr. REID. I further say it was just a few years ago when the Senator from South Dakota joined a number of us on the floor in opposing a constitutional amendment to balance the budget which used Social Security surpluses to balance that budget. Is the Senator aware of that?

Mr. DASCHLE. The Senator is right. In fact, he was a very important part of that whole effort.

Mr. REID. In short, I say to the Senator, and I think the Senator would agree, it is great, now that the Republicans, the majority, who have been opposed to Social Security, opposed to Medicare in years gone by, suddenly, in effect, have found religion and now they want to do something to support Medicare and to extend the solvency of Social Security; isn't it good?

I know you would agree with that. But I say to the Senator from South Dakota, I think it is important that you, in effect, have challenged them to come forward in a bipartisan fashion to debate these proposals the Senator has outlined for the good of the country, to extend Social Security and preserve Medicare. Is that, in effect, what the Senator is saying?

Mr. DASCHLE. That is exactly what I am saying. I think it is important for us to depoliticize the issue to ensure we find ways to address meaningful reform that will pass and will be signed into law.

I am concerned. The Senator from Nevada mentioned ''getting religion.'' I am concerned that, while it is important to have religion, it is important to follow the practices of religion—if this is how we are going to characterize this new-found sensitivity to Social Security and Medicare—the facts do not comport with the current expressions of devotion to Social Security. The facts are, the Republican budget raids the Social Security trust fund by $17 billion, as was indicated, again, yesterday in the letter from the Congressional Budget Office.

The facts indicate that there is a trap door in the lockbox proposed by Republicans that would actually allow any proposal to draw on the Social Security surplus, so long as you call it Social Security reform. You could call a tax cut Social Security reform, and it would qualify under the lockbox proposal made by our Republican colleagues. Call it reform and it opens the lockbox. That is the key.

We used to have skeleton keys when I was young. The Republican lockbox has a skeleton key that would fit in any door. We need to get rid of these skeleton keys. We need to get on with real lockbox reform. We need to lock up Medicare as well; we need to make sure we are not going to use the $17 billion of trust fund money currently included in this budget. We need to do that and that is what this proposal will do today.

Mr. REID. Will the Senator yield for one brief question, based on the statement the Senator just made?

We had, yesterday, a number of Senators from the minority making the case we were unable to bring matters to the floor—Patients' Bill of Rights, minimum wage—all the things we have talked about in the last several months and have not had the opportunity to, in effect, debate. The junior Senator from Illinois came forward and said he thought it was too bad the minority would not allow a vote on the lockbox.

I say to the Democratic leader, isn't it true that we were happy to have a vote on the lockbox; all we wanted was to have our lockbox and their lockbox and vote on both of them? Isn't that what it was all about?

Mr. DASCHLE. The Senator makes a very important point for the record, and we ought to make it daily. They are turning facts on their head. The accusation is the Democrats won't allow a vote on the lockbox. What is really true is we are not allowed a vote on our own amendment when it comes to the lockbox. Our view is, it is important if we are going to have a debate on the lockbox that we all have the opportunity to offer amendments. You cannot have a meaningful debate without a meaningful opportunity to offer amendments. That is all we are protesting. Certainly, the Republican majority can understand that.

Mr. REID. I thank my colleague.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. DASCHLE. I thank the Chair.

## ENERGY SECURITY TAX ACT OF 1999

Mr. DASCHLE. Mr. President, for the last 2 years I have been working closely with a number of my colleagues to develop a package of tax incentives to foster domestic energy alternatives and thus help reduce our growing dependence on imported oil. Along with those colleagues, I am pleased today to introduce the Energy Security Tax Act of 1999, and I am hopeful that Congress will enact this legislation in the near future.

Despite periodic efforts by Congress to address this problem, since the oil price shocks of the 1970s, we have seen our dependence on foreign oil continue to grow. Today, our Nation's energy supply is more vulnerable than ever to events taking place in countries far from our shores. Solving this problem will require the collective efforts of all our Nation's energy producers.

The legislation we have developed is correspondingly ambitious in its scope.

It encompasses a broad range of technologies, representing the diverse regions and resources of the country. Farmers will benefit from the provisions modifying the existing tax incentive for small ethanol producers, so that farmer-owned cooperatives can utilize it, and by the establishment of tax credits for efficient irrigation equipment, conservation tillage expenses, and anaerobic digesters that convert manure and crop waste into useful gas. The legislation will encourage the development of biomass-based electric power industries, which will provide a market for wide range of biomass, including switchgrass, crops and crop residues, and wood waste.

We are proposing to extend the wind energy tax credit, so that we can more fully develop the wind power potential of States from California to the Dakotas to New England. Coal miners from West Virginia to Montana will benefit as a result of the tax incentives for repowering or replacing older coal-fired power plants with more efficient technology. Steelmakers will become more competitive through the use of tax incentives for more energy-efficient processes and for the production of energy from cogeneration. Hawaiian ethanol producers will be encouraged to utilize bagasse—a sugar cane residue—thereby converting a potential waste into a useful fuel.

Oil and gas producers in States like New Mexico, Texas, and Oklahoma will benefit from incentives for greater domestic production. Business owners will be able to use the new incentives to make investments in energy-efficient property, thereby reducing energy costs and improving competitiveness. Homeowners throughout the country will benefit from new incentives designed to encourage the installation of renewable and more efficient energy technologies, and by the construction of energy-efficient homes. Americans from all parts of the nation will be encouraged to use environmentally friendly electric and hybrid vehicles.

There is an old saying: The time to fix the roof is when the sun is shining. While we are fortunate now to have adequate supplies of oil, our dependence on foreign nations continues to grow. It is incumbent on U.S. policymakers today to recognize the risks associated with this trend and to prepare the nation for a more secure future. As part of that effort, we should take the first opportunity that presents itself to enact the tax policies necessary to encourage the development of a more diverse and robust domestic energy portfolio, one that will reduce our vulnerability to future oil price shocks and supply shortages. This effort not only will result in greater energy security, it will reduce our balance-of-trade deficit, create domestic jobs, improve air quality, and help limit the emission of greenhouse gases.

I hope that all of my colleagues will consider cosponsoring this important legislation and will support its timely enactment.

Mr. BYRD. Mr. President, I join with the distinguished Democratic leader and other colleagues in cosponsoring the Energy Security Tax Act of 1999.

I thank Senator DASCHLE for his leadership in crafting this targeted tax proposal that offers incentives for the more efficient use of a broad range of energy sources vital to the American economy. This targeted proposal has a multiplicity of economic and environmental benefits.

I have long been an advocate of programs that encourage the more efficient use of energy. This proposal does exactly that. The United States is a highly energy-intensive nation, and it depends heavily on energy for manufacturing, communications, transportation, and many other purposes. While the United States is currently enjoying the benefits of an expanding economy, that economy demands even more energy. The United States has already invested heavily in the research and development of many innovative clean and efficient technologies that will allow our Nation to help meet these demands, and we must continue exploring these opportunities.

This bill provides key incentives to demonstrate and to deploy these technologies, including clean coal technologies, a program that I have long supported. Now that we are at the threshold of a new millennium that begins the year after next—not next year; next year completes the current second millennium. Next year completes the 20th century. It is not the beginning of the 21st. So much for that.

Now that we are at the threshold, just a little over a year away, of a new millennium, Congress can and Congress should help to prepare a pathway for the new era of energy and resource use. New technologies should be part of that path. For example, with the use of clean coal technologies, it remains economically feasible to produce electricity in coal-fired powerplants while also improving environmental quality.

By demonstrating and deploying these technologies, coal continues to be a viable ''cleaner and greener'' fuel for power generation. Clean coal technologies are American-made technologies that provide a variety of positive benefits for the U.S. as well as other developing nations with large coal reserves.

Coal currently provides the energy to generate more than fifty percent of the electricity consumed in the U.S. The Energy Information Administration, an arm of the Department of Energy (DOE), projects that coal will continue to provide our nation with the energy needed to generate more than one-half of its electricity needs in 2020. Equally as important, the International Energy Agency has projected that coal will provide forty-six percent of the world's electricity in 2020. Significant growth in coal use to generate electricity is expected to take place in developing countries like China and India. The challenge associated with the continued use of coal, the nation's most cost competitive and abundant energy resource, is to preserve our nation's energy security while also meeting important environmental goals. There has to be a balance. Also, the opportunity exists to use better, more advanced technologies in those developing countries that will experience increases in the use of coal.

The current Clean Coal Technology Program has demonstrated a number of first-of-a-kind technologies that increase efficiency and reduce greenhouse gases and other emissions from coal combustion. As a result, a number of emerging clean coal technologies are ready to be deployed commercially. However, full commercial penetration first requires constructing and operating several early commercial-scale applications. In order to install these early commercial applications, all stakeholders including the designer, manufacturer, financier, and owner will have to face both the technological and economic risk associated with the ''not yet fully commercial'' technology.

Development of these early commercial clean coal technology applications will require a new program of limited tax and financial incentives to overcome the associated technological and economic risks that will complement continued research and development (R&D) funding. The required R&D funding has come under the DOE's Fossil Energy Program. The associated tax and financial incentives program proposed here would be limited in scope and timing and the proposed technologies would be required to meet ever-increasing performance levels to qualify for the tax incentives. The U.S. tax code would be amended to provide for: (1) a ten percent investment tax credit; and (2) a production tax credit. In addition, annual appropriations would be provided for a risk pool to offset costs, if any, for modifications resulting from the technology's need to reassess its design performance during start-up and initial operation.

Mr. President, another section of this bill provides tax incentives to encourage newer, more innovative steelmaking technologies. Although threatened by a flood of cheap, even illegal, foreign steel imports, the U.S. steel industry still employs some 160,000 workers and forms an important element in overall U.S. industrial strength. It is in the U.S. national and security interests, I believe, to ensure that U.S. steelmakers have the ability and encouragement to remain energy efficient, environmentally sound, and economically healthy.

By continuing to make investments in the steel industry through tax incentives, we will be helping to preserve high-paying manufacturing jobs in the United States. Of course the obvious other benefit is its effect on our environment and the preservation of our

natural resources. The steelmaking provisions would provide incentives for investment in cutting-edge steelmaking technologies and allow the steel industry to work with other sectors in the production of more efficient energy through co-generation.

In conclusion, I strongly support this targeted tax incentive package. This legislation embraces the belief that the U.S. is a leader in developing energy efficient technologies as well as stressing the importance of fuel diversity. I support the adoption of these tax incentives, which demonstrate that economic growth and environmental protection can go hand-in-hand.

Again, I thank the distinguished Democratic leader.

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

Mr. BYRD. Yes.

Mr. REID. Is the Senator aware that about 12 or 15 miles outside Reno, NV, the newest generation facility in Nevada is clean coal technology?

Mr. BYRD. Well, I am certainly aware of it now. I am heartened by this information.

Mr. REID. The only reason I mention that to the Senator from West Virginia is that these things actually happen. Clean coal technology actually exists, and it exists in a place such as Nevada.

Mr. BYRD. Yes. I thank the distinguished Senator. I am proud to say I have been fighting this fight for clean coal technology now for years. I was in the position to do it during the time I was the Senate Democratic leader. It may have been back when I was the whip. I was able to put money in appropriations bills for clean coal technology. I also thank the distinguished Democratic leader for his kindness and courtesy in allowing me to introduce this bill. I thank him for his drafting of the legislation, and I thank him for his leadership. I thank him for allowing me to be a cosponsor.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, let me begin by complimenting the distinguished Senator from West Virginia for his eloquence and his statement and for his willingness to take the leadership and to provide his name on this legislation. I can think of no one I would rather have in support of legislation of this kind than the senior Senator from West Virginia.

As has been noted, he is ''the'' leader, not just ''a'' leader, on coal and on clean coal technology. No one has committed more time, effort, and leadership to the issue than he has. So it was with that appreciation that I asked the distinguished Senator from West Virginia about his willingness to honor me as he did this afternoon.

It troubles me, as I know it does him, that this country continues to depend on foreign sources for energy to a far greater degree than it is in our Nation's best interest. If we are ever going to deal with that real dilemma, it seems to me we have to continue to find ways in which to utilize more effectively our own resources. That has been the argument made so passionately and so ably by the Senator from West Virginia now for so long.

This legislation would allow us to move closer to the goal that one day we can be more energy self-sufficient, and that we can do so with the recognition of the importance of the environment. It combines two national goals: a clean environment and energy independent. I am hopeful we can see careful consideration of this legislation, and other ideas that we offer in good faith with the expectation that the Senate recognize the importance of these goals and this contribution to those goals.

Again, let me thank the distinguished Senator for his kindness, for his leadership, and for the commitment he has made with this legislation.

I yield the floor.

Mr. BYRD. Mr. President, will the distinguished minority leader yield?

Mr. DASCHLE. I am happy to yield.

Mr. BYRD. I thank the Senator.

Clean coal technology also provides a very important key to the problem of global warming. I hope that we can interest other countries, such as China. China is in the process of constructing many new powerplants. They are new in the sense that they are newly constructed. But they are old in the sense that they use the old technology, if I may use that word. They depend on the burning of coal in ways that contribute to the deterioration of the environment.

I hope these countries such as China and Brazil and India will join with the developed countries of the world in the attempt to do something about global warming.

I have lived a long time—82 years, Saturday 3 weeks from tomorrow. And I have seen changes in climate. I don't know much about the science and global warming, but I know that I have seen changes in the climate. When I was a young man, when I was a man in my middle ages, I never saw storms of the frequency and the intensity, floods and droughts that we are seeing today, and seemingly increasingly. There is something going on out there.

As I say, I am not a scientist. But there is something going on, and I am concerned about it. But whatever it is, whatever the part may be that it is manmade, can be limited considerably if the developing countries would utilize the technologies that our country through its research and demonstration projects, through the millions—yea, billions—of dollars that this country has spent on research, if those countries would utilize these technologies in the building of their powerplants, they would diminish the emissions of carbon dioxide and the other gases that I think are having some considerable impact upon climate worldwide.

I congratulate the leader for this legislation. I hope that we can continue to do research on clean coal technology. I hope, as I say, when countries meet in various places, such as Bonn and Buenos Aires, to discuss global warming, that they will somehow be able to persuade the developing countries in the world to use our technology, because while we are plugging the holes in the front of the boat that we have helped to create through two world wars—by defeating Hitler, and the German Kaiser, and others in the interest of the freedoms that these developing countries enjoy to some extent—I hope that the developing countries would not be in the back of the boat drilling more holes, and thus increasing emissions which affect all of us. It is not a boat only part of which will sink. The entire boat will sink.

We need the cooperation of the developing countries. We can help them through clean coal technology and other technologies.

I thank the distinguished leader.

Mr. DASCHLE. Mr. President, I thank the Senator from West Virginia for his very important additional comments.

We talk a lot about globalization, a globalized economy. We have a globalized diplomatic infrastructure today due to the fact the cold war ended. We have had a globalized environment from the very first day of creation. A globalized environment means that what happens in China, what happens in Asia, what happens in Europe, or Africa, or Latin America, has an effect on what happens here, and vice versa.

The Senator from West Virginia makes a very important point. If we are, indeed, globalized, then it seems to me that we ought to share our technology with those countries that may be contributing both favorably and unfavorably to that globalized environment. We ought to provide leadership. They ought to recognize the importance of involvement. He has made that point for some time. I have heard some of his excellent speeches to that effect on the Senate floor.

Let us hope we can continue to make progress, and let us hope that maybe this legislation will help us do so even more successfully.

Again, I yield the floor.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Illinois.

Mr. DURBIN. Thank you, Mr. President.

Let me join a chorus thanking Senator BYRD and Senator DASCHLE for their leadership. Illinois has a history of being a great coal-producing State. Environmental standards have changed, and I hope we can find ways to develop technology so that this almost infinite energy resource can be tapped that now sits in the ground. Many unemployed coal miners drive over it every day asking policy leaders in Washington what they are doing. The legislation Senator BYRD is proposing is a step in the direction of finding new technology to use this domestic energy resource to create jobs in

America, to be responsible to the environment, and to lessen our dependence on foreign fuel.

As always, I salute Senator BYRD for his leadership on this.

Mr. DASCHLE. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The distinguished majority leader.

Mr. LOTT. Will the Senator from Arkansas allow me to proceed briefly with a unanimous consent request?

Mrs. LINCOLN. Certainly.

## AFRICAN GROWTH AND OPPORTUNITY ACT—Continued

Mr. LOTT. I call for regular order with regard to the trade bill.

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative assistant read as follows:

A bill (H.R. 434) to authorize a new trade and investment policy for sub-Sahara Africa.

Mr. LOTT. Mr. President, having witnessed the vote earlier today, I am very concerned about our ability to complete action on the African and Caribbean Basin Initiative free trade legislation. This is important legislation. I believe it is good for the United States. It will be good for Central America, the Caribbean, and Africa. This bill is supported by Senators on both sides of the aisle and by the President.

I understand that maybe some Senator or Senators have gotten the idea, since we did not get cloture today, that was the end of it and this bill would just be set aside permanently. We are still very hopeful we can find a way to get this job done. We have a problem in that it takes a lot of time to get through the cloture motions and complete it, but I have not given up yet.

I am going to file cloture on the pending substitute, and if cloture is not invoked on Tuesday, we will have to move on to other issues. I emphasize I am filing two cloture motions, so we can hopefully get cloture on the substitute and on the bill itself and allow us to get to the substance, have amendments that are important, and bring it to a conclusion.

As a part of all this, I emphasize that Senator DASCHLE and I are working on an apparently unrelated issue but one that is related in fact, and that is an agreement as to how we can handle the bankruptcy bill and allow amendments, amendments that relate to bankruptcy, the credit cards issue, but also would have a number of agreed-to, nonrelevant amendments that would be in order.

I hope we can get that worked out. We are getting very close. That would relieve some of the pressure in opposition, and if we can get both bills done, it will be a monumental achievement, if we can go out this session having done the free trade bill for the Caribbean Basin Initiative and Africa and a bankruptcy bill that allows votes on which the Senate has indicated it wants to vote.

CLOTURE MOTION

Mr. LOTT. Mr. President, I send a cloture motion to the pending substitute to the desk.

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

The legislative assistant read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the substitute amendment to Calendar No. 215, H.R. 434, an act to authorize a new trade and investment policy for sub-Sahara Africa:

Trent Lott, Bill Roth, Mike DeWine, Rod Grams, Mitch McConnell, Judd Gregg, Larry E. Craig, Chuck Hagel, Chuck Grassley, Pete Domenici, Don Nickles, Connie Mack, Paul Coverdell, Phil Gramm, R.F. Bennett, Richard G. Lugar.

CLOTURE MOTION

Mr. LOTT. Mr. President, I send a second cloture motion to the desk.

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

The legislative assistant read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 215, H.R. 434, an act to authorize a new trade and investment policy for sub-Sahara Africa:

Trent Lott, Bill Roth, Mike DeWine, Rod Grams, Mitch McConnell, Judd Gregg, Larry E. Craig, Chuck Hagel, Chuck Grassley, Pete Domenici, Don Nickles, Connie Mack, Paul Coverdell, Phil Gramm, R.F. Bennett, Richard G. Lugar.

Mr. LOTT. Mr. President, these cloture votes will occur on Tuesday, November 2. I will notify Members of the exact time after I have had an opportunity to consult with the Democratic leader about the appropriate time for that.

In the meantime, I ask unanimous consent that both quorums which are mandatory under rule XXII be waived and the previously scheduled vote regarding the D.C./Labor-HHS legislation occur notwithstanding rule XXII.

Mr. DASCHLE. Mr. President, reserving the right to object, if I may ask the majority leader, he is announcing there will not be any votes on Monday; is that correct?

Mr. LOTT. If we get these agreements worked out and in order to accommodate the time that has been requested for the D.C./Labor-HHS appropriations bill, then there will not be any recorded votes on Monday. The next recorded vote will be, I presume, at 10 o'clock on Tuesday, which is the D.C./Labor-HHS-Education appropriations bill, and then hopefully sometime in short order after that, we go to votes on the two cloture motions.

Mr. DASCHLE. Mr. President, if I may further reserve the right to object—and I will not object, obviously—I wonder if the majority leader is able to tell me something at this time? I have given him a proposal on bankruptcy—we have cleared it on our side—having to do with the nonrelevant amendments and then the clarification of relevant amendments to the bankruptcy bill. Has the majority leader been able to determine whether that is acceptable and whether he has been able to clear it on his side?

Mr. LOTT. I believe it is going to be acceptable. I have not cleared it completely on our side. I just had an opportunity to read over it in the form on which our staffs worked. I see a couple of little problems that are really clerical in terms of how the three amendments would be handled. The way I read it, it looks as if there could be as many as 12 amendments, but really what we are talking about is 3 and 3, side by side. Once that is clarified, unless there is something else I see that is a problem, I think we can get this done.

Mr. DASCHLE. So the majority leader is saying there would be three Republican nonrelevant amendments.

Mr. LOTT. Right.

Mr. DASCHLE. Has the Republican caucus made that decision as to what are the relevant amendments?

Mr. LOTT. Obviously, I have to know what the three are on the other side. I know one would have to do with education, one of them would be the counterpart to minimum wage, and I am not now sure of the third one. Obviously, before we do get a final agreement on this, we will get that information to you. If there is a problem, obviously, we will have to work through that. I do not think it will be a problem. We will definitely get that to you; hopefully this afternoon, if the Senator is going to be around a little while. We are working on it, and I think we are very close.

Mr. DASCHLE. Mr. President, assuming we then would be in a position to get agreement on moving to bankruptcy, would it be the intention of the majority leader to move to bankruptcy on Tuesday?

Mr. LOTT. It was my thinking that—I believe the way this is set up—we would complete trade and then we would go to bankruptcy when we complete the trade bill.

We are also hoping we can get some way to consider the nuclear waste bill, but it is my plan and my hope—we will have to get agreement, obviously, to do all these—to complete the trade bill and do bankruptcy and try to do the nuclear waste bill before we go out. Obviously, we have some hoops through which we have to jump in order to achieve that.

It is my thinking at this time we will complete the trade bill if we get the cloture. We can enter into a UC on bankruptcy before we do that. We will talk to you about that, exactly when

we need to do it, and we can go to bankruptcy before we go out. My intent would be to go to it next, after consultation with both sides.

Mr. DASCHLE. I appreciate the indulgence of the majority leader and his answers to my questions. I have one other question relating to the trade bills.

Obviously, we have attempted to discuss how to proceed for some time. I have made an offer to the majority leader that he has been kind enough to consider; that is, he and I would table amendments that were not relevant to trade but certainly allow for at least a period of time so Senators can offer these amendments, with the idea that they will be debated and tabled shortly after the time they are offered, I am certainly prepared to renew that offer to the majority leader. As he knows, he has made the situation, again, one which would require a procedural vote on cloture rather than a substantive vote on cloture, thereby, again, undermining our ability to finish the bill.

I wonder if the majority leader has given any more thought to this suggestion that he and I table these amendments and then move to final passage on trade, as I think we could have done even this week.

Mr. LOTT. In response to his question, I was in the hopes that if we could get agreement on the bankruptcy bill and the unrelated amendments that would be made in order under the agreement, that would help resolve the problem.

The difficulty is, in going through this process where we would in fact both vote to table, first of all, there is a lot of opportunity for mischief in terms of what amendments are offered, objections to time agreements, and how long would it take. That is one thing that worries me. If we do not get cloture and we go through a series of amendments where we have to vote to table them, I worry about the image of us voting to table, even if we could explain it procedurally. But if you vote to table fast track or vote to table agricultural sanctions or you vote to table some of these other things, I would prefer that the Senate not be recorded as having defeated or tabling some of these issues.

But the further problem is, if we go through and hold a number of these on this bill, how do we get it done in somewhat of a foreseeable period of time and then be able to get to bankruptcy? I am also worried about what in fact happens if we move to table or try to table or not table. I think the Senator has been right in saying that is where leadership has to weigh in and we have to make sure we get it done.

I think one of the issues that would have been the greatest problem would have been minimum wage, but I believe we are going to address the minimum wage on bankruptcy, therefore relieving the pressure, the need to put it on this particular bill.

So that is what we are up against. I have learned around here you never say never. I am just worried about being able to get this job done. Also, I have not been able to clear on our side an arrangement that would go through a repeated number of votes on trade. We have had this discussion privately. I think it is appropriate that we have it publicly, too.

Mr. DASCHLE. Mr. President, just in further clarification, I am wondering—there are really two issues. The majority leader has appropriately articulated one of the concerns he has with regard to finishing the bill. Cloture will do that, if cloture is invoked.

I am wondering if the majority leader would entertain tearing the tree down to allow Senators to offer amendments during the time the legislation is pending, thereby at least giving Senators the right to offer amendments, because he would still have the assurance, of course, that the bill—if cloture is invoked—would ripen and would ultimately terminate debate, but he then would cease to make the issue a procedural one. Then it would be one upon substance, which I think would be advantageous for both the majority leader and many of us who work with the administration to see this legislation pass.

Mr. LOTT. Are you talking about doing it during the period of time when we may be discussing, as on Monday, the Labor-HHS bill? Are you talking about postcloture? Also, what do we do in terms of getting time agreements if the Senator from South Carolina objects to that? Maybe we will just have to—that is a lot of ifs—what if, what if. We will have to work through that. It would take a lot of delicacy in trying to get it to a conclusion. But that is my concern.

Are you talking about trying to do it Monday, or are you talking about trying to do it during the day Tuesday or Wednesday? And how do we, in terms of time—even postcloture, a lot of amendments are in order.

Mr. DASCHLE. The majority leader points out a very important problem. If we invoke cloture, there are many important relevant amendments, that I think he and I would probably both support, that are not going to be in order on this legislation. I do not know how we are going to deal with that. I doubt he would be able to get unanimous consent to be able to offer it. I know amendments having to do with Africa, in particular, are in peril if cloture is invoked. So we have compounded the problem both from a relevancy point of view as well as from this procedural problem that we are attempting to work through.

You asked the question, When would this occur? I guess I am thinking, under the current circumstances, there would not be any time for it to occur because the vote on cloture would occur as early as Tuesday because that is when the cloture motion ripens. I would be willing to work with the majority leader on an acceptable schedule for such amendments and the filing of cloture were he willing to work to accommodate at least some amendments and the opportunity to deal with this relevancy question that I think, regardless of the circumstances, he would deal with.

Mr. LOTT. An interesting sidelight, if the Senator will yield.

Mr. DASCHLE. Yes.

Mr. LOTT. Postcloture, for instance, there might be some amendments with regard to African trade. I wonder if there might be some way we could get an agreement. I worry about it getting agreed to, because I am not sure the Senator from South Carolina would agree to it, where some of those amendments, while they are not germane, would not be in order postcloture, they certainly relate to what we are trying to do. I would certainly like to have some way found for amendments such as that, if they exist. I could think of a couple I have heard of that ought to be offered.

I will be glad to work with the Senator to try to find a way to see if we can at least do that and get it cleared. But we do have a problem with objections. We can see if we can get it agreed to, and we can try to get it agreed to, if we can get something worked out that we can offer. Then if it is objected to, we just have to deal with that.

Mr. DASCHLE. I know there are other colleagues who are waiting to do other business. I think we might talk more privately about this and proceed. But I look forward to working with the majority leader to see if we can find a way to deal with it.

Mr. LOTT. Thank you.

Mr. MURKOWSKI. If the leader would yield?

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

Mr. LOTT. There was no objection to that last request?

The PRESIDING OFFICER. There was no objection to the last request.

Mr. LOTT. I do have one more request I know the Senator from Alaska is interested in. If the Senator would like to make that request——

Mr. MURKOWSKI. Please proceed.

## UNANIMOUS CONSENT REQUEST—S. 1287

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to S. 1287, the nuclear waste bill.

Mr. DASCHLE. Objection.

Mr. REID. Objection.

Mr. BRYAN. Objection.

The PRESIDING OFFICER. Objection is heard.

Several Senators addressed the Chair.

Mr. LOTT. There was an objection. I believe I still have the floor.

I would be glad to yield for a question or comment.

Mr. MURKOWSKI. It is my understanding, Mr. President, there are a number of Senators who are seeking recognition for items they would like

to bring up in morning business. I obviously would like to accommodate them. But I wonder if we could get some idea of who and how many, because obviously I am prepared to start the debate on the nuclear waste bill and want to accommodate Members.

Mr. LOTT. Mr. President, I yield to Senator REID, if he would like to comment.

Mr. REID. I say, through the majority leader, to the Senator from Alaska, Senator DURBIN wishes to speak for 15 minutes and the Senator from Arkansas for 5 minutes. That is all we have until we turn to the matter of the Senator from Alaska.

I ask the Senator from Alaska, in relation to his opening statement, does he have any idea how long he is going to take?

Mr. MURKOWSKI. I have no idea, Mr. President, how long the leadership wants to go today. But I am prepared to accommodate the interests of the Senate and am also prepared to go at great length. So it might be appropriate if we had some indication of how long the leadership wants this matter debated today because I understand we are going to be going off of it and then back on it.

Mr. LOTT. If I could respond, Mr. President, we do not have a certain time set. I would not want in any way to preclude the Senator from using as much time as he needs.

It sounded to me as if you have about 15 minutes on the other side. You could take the time you need, and when that is completed—I see Senator BYRD may be here and want to speak, too. So as long as Senators are here and wanting to speak, we will continue this afternoon. But if I could——

Mr. REID addressed the Chair.

Mr. LOTT. I will be glad to yield to Senator REID.

Mr. REID. I say, through the leader, Senator BYRD is on the floor and he needs 20 minutes, just so the Senator from Alaska would have some idea. And I would think Senator BYRD would speak before Senator DURBIN.

Mr. DURBIN. That is a good idea.

Mr. REID. Although the Senator from Arkansas has agreed to how much time? Five minutes.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

## MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak for up to 10 minutes each, with the exception of the Senator from Arkansas—I believe she wanted 5 minutes—Senator DURBIN for 15 minutes, Senator BYRD for 20 minutes, and then the Senator from Alaska be recognized after that to discuss the nuclear waste legislation.

Mr. REID. I say to the leader, then after the Senator from Alaska speaks, the two Senators from Nevada may have a couple words to say.

Mr. LOTT. Under this request, they would have 10 minutes. If they need additional time, I don't think anybody is going to object.

The PRESIDING OFFICER. Is there objection?

Mr. BRYAN. Will the majority leader yield for a question?

Mr. LOTT. I am glad to yield.

Mr. BRYAN. May the Senator from Nevada inquire as to the majority leader's intent? In light of the objection, does the majority leader intend to file a motion to proceed?

Mr. LOTT. Not at this time, although it is my intent, before we go out, to take whatever action is necessary to try to get on to the substance of this bill. But in view of the other things that are pending, Labor-HHS Appropriations conference report, the trade bill, and, hopefully, bankruptcy, I am not going to file that today.

Mr. BRYAN. I thank the majority leader.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Reserving the right to object, only to make this point, in the sequence here, if I could amend the unanimous-consent request so the Senator from Arkansas could go first, followed by the Senator from West Virginia. I am happy to be third in the sequence.

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

The Senator from Arkansas is recognized.

## INEFFECTIVENESS OF THE SENATE

Mrs. LINCOLN. Mr. President, I rise on behalf of the people of Arkansas to express my extreme disappointment, frustration, and bewilderment with our ineffectiveness in the manipulation of the Senate. Today, I was supposed to be touring the former Eaker Air Force Base site in Blytheville, AR, with numerous officials from the National Park Service as well as other State and local leaders. This is a meeting we have worked on for months to arrange, understanding there might be legislative business today.

The community is united in its effort to have this former military base converted into a Mississippi Valley archeological facility and research center. The benefits this project will bring to northeastern Arkansas are enormous, and I had hoped to be there today to again demonstrate my support to the entire community and the Park Service and to urge a favorable decision by the Park Service.

I also had several other appointments scheduled with various constituents in the State, but I had to cancel all these meetings to be here for scheduled votes. I thought we might vote on key trade initiatives and might even get to an appropriations bill. But these votes are, once again, delayed and may never occur. This is not the first time I have had to cancel meetings or events on critical issues with large groups of constituents in Arkansas to stay in Washington for votes, votes and work that never happened or were simply procedural or partisan. My constituents understand when I have to be in Washington to vote, but what they do not understand and what frustrates me is when I stay in Washington for votes and work that never occur.

I would understand, and would encourage a great deal, if we were delaying debate so Members could travel to Rhode Island to pay tribute to our distinguished former colleague, John Chafee, a man whose presence in the Senate made this entire body a more respectful and enjoyable place, a truly bipartisan, wonderful colleague I enjoyed working with so very much and a great leader, one who I think would be proud to see us working to come to conclusion and bring about results on behalf of the American people. But this is not the case. There is no reason we should not be working and voting today.

October 29, today, was our target adjournment day. We could be and should be done. We have just voted our third continuing resolution. We could have been working in the Senate to come to conclusion. Five spending bills still remain, including funding for education and health care, which I think should have been our very first priority in the Senate. It is clear to everyone involved why this mess keeps happening, why we are not getting anywhere. The majority is trying to override the true design of the Senate. They are limiting debate. They are refusing amendments and pulling legislation off the floor to mute the voices of the minority. I have great concern with that.

I was elected to this body in November of 1998. I came to serve in 1999, during a historical situation that caused each of us to research and understand what the constitutional responsibilities of this body are about, to understand the design of this body. I was a Member of the House of Representatives. The Senate is called the upper Chamber, the deliberative body, for a very good reason. We are supposed to be above all of this. We are not the House. We should not operate as the House. We should be operating as a deliberative body, debating the issues, bringing out the concerns of each individual in this body, especially since just last night the House voted to gut Social Security by $17 billion. What an important issue to the people of America.

We have a lot of difficult decisions before us, decisions we should be debating, we should be making, and not postponing. I call on the leadership and on my colleagues in the Senate, again, let us roll up our sleeves and get down to work. The American people deserve no less.

The PRESIDING OFFICER. The Senator from West Virginia.

(The remarks of Mr. BYRD and Mr. DASCHLE pertaining to the introduction of S. 1833 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

## DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2000—CONFERENCE REPORT

Mr. DURBIN. Mr. President, earlier we were discussing the District of Columbia appropriations bill. It is a bill that I have taken an interest in as the ranking Democrat on the subcommittee. One of the smaller spending bills, it has now become one of the largest. You might wonder what has happened.

It turns out that the District of Columbia appropriations bill has become a vehicle in the closing hours of this session for a lot of legislative attempts at spending. In fact, the largest nondefense budget to be considered by the Congress each year is for the Departments of Labor, Health and Human Services, Education, and related agencies. It is the largest bill. It passed the Senate in one form a few weeks ago. But the bill in its original form never has passed the House of Representatives. In fact, they went the entire session debating about whether or not there would be enough money to fund critical programs for education and health. The House could not muster a majority to pass that bill during its regular session. It had to wait for a conference committee which involved the District of Columbia to finally bring it to the floor just a few hours ago where it passed with a very close vote. It now is headed to the President's desk for his consideration after we vote on Tuesday. It is my guess that the rollcall will be by and large a partisan rollcall, but that the bill will pass the Senate and head down to the White House.

It is also fairly certain that bill will be vetoed by the President. In fact, the D.C. appropriations bill, as I mentioned earlier, has bought a ticket on the Titanic. This bill is going to sink, as it should, and let me tell you why it should.

I can't understand why we wait until the closing days of the session to address the issue of education. It is the last priority in Federal spending from the congressional perspective. It is the first priority of every American family. We just don't get it. We don't connect with people who time and time again, when asked in opinion polls for the major concern we face as a nation, identify education.

Yet in this congressional session it is an afterthought. We have done everything else; now let's look at education. I don't think the American people expect that kind of conduct from Congress. They don't expect Members in the closing hours of any session to finally get around to talking about schools, kids, and education. That is exactly what we have done.

This bill, which the President should veto and send back to Congress to work on more, guts the class size reduction initiative, an initiative which allows hiring more than 100,000 teachers nationwide so that first and second grade classrooms have fewer kids. Every teacher and parent knows the wisdom of that decision. Yet the Republican majority resists. They voted for it last year; now they don't want it.

They ought to come to Wheaton, IL, and the schools I visited there. This is considered to be a fairly conservative area politically. They are for the President's initiative. They have seen it work. Why this bill wants to kill that initiative, I don't know. They are not listening to teachers or parents when the Republican majority insists on that. The Republican bill funds 3,400 fewer afterschool centers. Almost a million kids in America are denied afterschool programs, a million who would have received it if the President's request had gone through. The kids will be out of school at 3 in the afternoon with little or no adult supervision and nothing constructive to do. The Republican majority says that's fine; that is the way it has to be. I don't think so. I think our vision of America should be broader. We know kids going home to an empty house or hanging around a mall or street corner are not engaging themselves in learning. I think the President's proposal was far better.

There are many other areas of concern, including denying title I reading and math teachers. Think about that. At a time when we need more scientists and computer engineers, we are going to eliminate 5,400 title I teachers who would have been included in the President's budget to teach reading and mathematics. Cut reading instruction for 100,000 kids, and they fall behind in their classes.

Is this the kind of bill we want to kick off the new century? Does this define our priority in education? I think not. I think it is a bad political decision. I hope the President wastes no time in vetoing it and sending it back to the Republican majority to address.

The worst part of the bill, if that isn't bad enough, has to do with medical research. Every administration tries in some way, shape, or form to find something to do legally with the budget which will allow them to get away from some tough decisions. Democrats have done it; the Republicans have done it. What we have done with the National Institutes of Health is tragic. The National Institutes of Health—and I am sure most Americans are familiar with that name—is the agency we assign the responsibility of finding cures for the diseases that plague Americans and people across the world.

When one of my former colleagues in the House of Representatives, Bill Natcher of Kentucky, who passed away several years ago, used to bring this bill to the floor, he would say: This is the people's bill, the one that everyone can identify with because we are all interested in schools, education, and safety in the workplace.

The people's bill isn't being treated very well when it comes to medical research. I had a chance to look at comments made in the House of Representatives during this debate by my friend and former colleague, Congresswoman NANCY PELOSI of San Francisco, CA. I think she hit the nail on the head when she said our former Speaker, Tip O'Neill, said all politics is local. But in this bill all politics is personal. It is as personal as the woman with breast cancer, the man with prostate cancer, or people with AIDS who look to us for hope.

As a Senator, one of the more emotional things I have to go through each year is a visit from different groups interested in the National Institutes of Health funding. They come to me in desperation. They are the mothers and fathers of children with juvenile diabetes; they are the mothers and fathers of autistic children; they are people who are suffering from cancer and heart disease and rare diseases with names that one might never have heard. They say: Senator, do something; make sure the National Institutes of Health have the money they need to look into medical research to save our children's lives and to give them some hope.

That is a tough responsibility for anyone to face. Doctors face it every day, but politicians and Senators face it rarely. When we do, it is not a comfortable situation. I always assure them I will do everything I can, I will pass every bill I can to put money in medical research.

For the last several years, we have increased the amount of medical research. That is good. My colleague in the House, JOHN PORTER, a Republican from Illinois, has been a leader in that. I salute him for that. I think we should continue on that track. This bill, unfortunately, takes a giant step backwards because this bill, as it is drafted and being sent to the President, says the National Institutes of Health must postpone the awarding of medical research grants until the closing weeks of next year. It means that universities and medical researchers all across America are put on hold. They won't be given the money to research diabetes, cancer, heart disease, AIDS and all the other things we are concerned about. They have to wait.

What do their official organizations say about that? The American Council on Education says of this approach in the Republican bill to delay medical research in America:

> . . . research programs cannot be stopped and started up again without considerable, often irretrievable loss to research progress.

The Association of American Medical Colleges says of this Republican idea:

> The cumulative impact of these effects will slow the overall pace of research.

The Coalition for Health Funding says:

The net effect would be a significant slowing of biomedical research endeavors.

This isn't just a budget gimmick. This isn't a way to save face. This is, frankly, something that should alarm every American family. If there is not someone in your household who is ill, you are blessed, but tomorrow that can change.

For those who sit patiently in doctors' waiting rooms, in hospitals, praying for a miracle for help from Washington when it comes to medical research, this bill is no hope at all. This bill takes a step backwards. The President should veto this bill. Basically, it says to the National Institutes of Health, we will give you more money but wait 8 months. Let's let medical research stand on hold for 8 months. Mr. President, 40 percent of their spending, 60 percent of their grants will be delayed until the closing days of the next fiscal year. This is beyond budget gimmickry. This is unfair. It is inhumane. If for no other reason, President Clinton should veto this bill.

What it does to the Centers for Disease Control is also awful.

Mr. REID. Will the Senator yield?

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

Mr. REID. Isn't it true that in addition to the so-called forward-funding, they are also talking about an across-the-board cut that would also affect the programs at the National Institutes of Health in addition to what the Senator has spoken about?

Mr. DURBIN. That is true. I concede the overall spending is moving up, but they are slicing it back as part of the 1-percent, across-the-board cut.

As we learned from the Congressional Budget Office yesterday, if the Republican leadership is to keep their hands out of the Social Security trust fund to accomplish this, 1 percent won't be enough. They will need to cut back 5.8 percent, which means less money for medical research than otherwise would have been there.

By failing to make the necessary, tough, hard choices about where to spend money and where not to respond, they have tried to spread this. And by doing so, they have hit areas such as medical research.

Mr. REID. Isn't it true, also, when they talk about 1 percent—which we know has to be 6 percent—isn't there that much waste in government? The Senator knows they are talking not about looking at pockets of waste, fraud, and abuse. But these are indiscriminate, across-the-board cuts; is that not true?

Mr. DURBIN. The Senator is correct. As a member of the Appropriations Committee, he has had the responsibility of putting together a budget. We are supposed to make choices. Some programs are worth investing in and some are not. Instead of making the choice, the Republican leadership says let's take a cut across-the-board on all of these projects and programs.

I am not going to stand here and say there is waste, fraud, and abuse when it comes to medical research. We fund at the current time fewer than half of the requests. People come to NIH and say: We have an idea for a cure for diabetes, or something to do with asthma, arthritis. These people are vetted, the professionals look at them, the money is given.

This approach is not only going to cut a percentage off the money for medical research, it is going to delay 40 percent of the funds until the closing days of the year. So all the researchers are put on hold, and all the people out in America, worried about these medical conditions for themselves and their families, frankly, are going to be faced with that same delay.

Mr. REID. I ask one last question to the Senator from Illinois. I think the Senator has done a good job of indicating these cuts are related to real people, people who get sick. They are not numbers. They are not statistics.

It was a few months ago at the West Front of the Capitol that I was here with Miss America. There has been a new Miss America in the last few weeks. The 1998 Miss America is a diabetic. She was out there because she has hope that what we are doing at the National Institutes of Health will allow her and the millions of other people who are diabetic to be cured.

This will slow up the grants to these people who, we are told, are on the verge of a breakthrough so children and others with diabetes can look forward to the date when they will no longer have to take the insulin shots, sometimes three times a day. Isn't that right?

Mr. DURBIN. The Senator from Nevada is right. Again, let me remind you, this is a budget gimmick. If you delay the spending in an agency until the closing weeks of the year and then when you calculate how much it is going to cost, it won't come out to the same dollar amount. In order to meet some budget guidelines and conform with some regulations and rules, they make this decision to make an across-the-board cut and delay the spending.

If somebody came to the floor and said, I have a great idea, let's delay paying Members of Congress until the last few weeks of the year, I think we might have some resistance here. I think some of my colleagues and my wife and I might see that a little differently. When it comes to medical research, we are prepared to do that. How can you say that to the families you have met and I have met who come and expect us to do our very best to encourage medical research?

Let me tell you another area. The Centers for Disease Control gets $2.8 billion. What do they do? They try, across the United States, to do things such as reduce the incidence of HIV and AIDS, try to reduce tuberculosis, immunization programs for kids, things that make America healthier. This appropriation the Republicans have brought to us delays until the very end of the fiscal year a third of that money. Slow down your effort to try to stop the spread of AIDS, this appropriation bill says. I think that is irresponsible.

If there is any reason for the President to veto this bill, it is in the area of health research and disease prevention. I hope the President vetoes it, sends it back up in a hurry, and says to the Republican leadership: Roll up your sleeves and get serious. If you are going to make cuts in order to achieve some budget goals, don't start with medical research, don't start with children who are suffering from diseases where we might find a cure, don't go to the Centers for Disease Control which has an important mission for all Americans to make this a healthier nation. No, go somewhere else.

I have been elected to the Congress, the Senate, now, for 17 years. There are some areas that are really worth a fight. We can talk about roads and bridges. They mean a lot to a lot of people. But when it comes to education and health, I think that is worth a fight. I invite the President's veto as quickly as possible. Send this bill back up here and say to the leadership, on both sides of the Rotunda, that they have a lot more to do. Balancing this budget on the backs of kids who need special tutorial help to learn to deal with reading and math is unconscionable. Balancing this budget on the backs of thousands who receive assistance from the Women, Infants, and Children Program for nutritional assistance, so babies are born healthy, that is unconscionable.

For those of us who next year again will face a steady stream of people—from Illinois, in my case, Nevada in the case of Senator REID—who come to our office and beg us, please do something about medical research so my child might live, I want to be able to look them in the eye and say: We did the right thing. We encouraged the President to veto an irresponsible bill, a bill which would have delayed medical research for a lot of people across America who are depending on it for their survival.

When it comes down to the closing hours of the session, sometimes things move through quickly and people are anxious to get home. I know I speak for myself and I probably do for many others when I say I am prepared to stay as long as it takes to see that the National Institutes of Health and all their medical research responsibilities do not become part of the political gamesmanship of the end of this session.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MEASURE READ THE FIRST TIME—S. 1832

Mr. REID. Mr. President, I understand that S. 1832 introduced earlier by Senator KENNEDY is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 1832) to amend the Fair Labor Standards Act of 1978 to increase the Federal minimum wage.

Mr. REID. Mr. President, I now ask for its second reading and, in addition thereto, object on behalf of the majority.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Mr. President, I understand this bill will be read the second time on the next legislative day?

The PRESIDING OFFICER. That is correct.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

Mr. WARNER. The Senator from Virginia understands the parliamentary situation is I can offer a resolution, a sense of the Senate, in morning business.

The PRESIDING OFFICER. The Senate is in morning business.

The Senator from Virginia is recognized.

Mr. WARNER. I thank the Chair.

(The remarks of Mr. WARNER pertaining to the introduction of S. Res. 211 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER (Mrs. HUTCHISON). The Senator from Alaska.

NUCLEAR WASTE POLICY AMENDMENTS ACT OF 1999

Mr. MURKOWSKI. Madam President, it is my understanding that it was the leader's intention to lay down the nuclear waste bill, but there has been an objection raised. As a consequence, it is my understanding that we will be discussing the bill, recognizing that there may be procedural action by the leadership at a later date regarding the disposition of this legislation.

It is my intention to simply discuss the merits of the bill for a period that would accommodate the President, as well as my colleagues, recognizing it is Friday afternoon and there are Members who perhaps have other plans.

While it is not my intention to communicate to this body every thought concerning this matter that I have. I do have, through the cooperation of my staff, probably enough material to take 6 or 7 days. Hopefully, it will not take that long to convince my colleagues that we have a problem in this country with our high-level nuclear waste program.

It is no secret there are not a number of States that are standing in line to take this waste. The fact is, most Members would wish for some type of a magic trick that would make this waste disappear. But the facts are, this waste is with us. It was created by an industry which contributes some 20 to 22 percent of the total electric energy produced in the United States. So it is our obligation to address how we are going to handle that waste.

We have, I think, like the ostrich, put our head in the sand regarding advanced technology addressing high-level nuclear waste that has advanced in other countries, particularly in France, and to a degree Great Britain and Asia.

The technology varies, but the basic premise is that spent fuel coming from our depleted cores within the reactors are taken, and through a chemical process, the plutonium is recovered and returned to the reactors as fuel. This is an oversimplification of the process, but, as a consequence, the proliferation threat of the plutonium is reduced dramatically because it is burned in the reactors. Not every existing reactor can utilize this technology, but technology is clearly available.

What is done with the rest of the waste? It is vitrified. That means the remaining waste is turned into a glass. The lifetime of that material has been reduced dramatically. It still must be stored, but it has a lesser radioactive life.

What we have here is a situation where my good friends on the other side have objected to consideration of this bill.

That objection suggests that they might have some other alternative other than simply delaying a resolution of this problem. If there is another alternative other than delay, I would hope my friends on the other side would bring that to my attention.

For the sake of full disclosure, as the junior Senator from Alaska, I do not have a constituency in my State on this issue. My hands, so to speak, from a self-interest point of view, are pretty clean. Oftentimes we have Members who are trying to foster a particular policy based on an interest in their State. We don't have high-level nuclear waste in Alaska. We have never had a nuclear power reactor, with the exception of a small program back in the early 1960s on one of our military bases. That facility has since been removed. The point is, the obligation I have is one as chairman of the Energy and Natural Resources Committee to try to get my colleagues to recognize that we collectively have a responsibility as to what we are going to do with this waste.

The industry is strangling on its waste. If we don't address it in a responsible way, the industry will decline. It will decline for a couple of reasons. The storage at many reactors is at, or almost at, the maximum limit allowed by their licenses. That means that each reactor is licensed for the amount of waste that can be stored on the site of the reactor. Many of you have been to nuclear reactors. You have seen the blue pools where the spent rods are stored. There is a limit to how much storage is available. As a consequence, we run into a situation where some reactors have reached their maximum limit under the authorization and cannot continue to operate without some relief.

That relief, as I will indicate to my colleagues, was to have been provided by the Federal Government. The Federal Government contracted with the nuclear power industry in the United States to take this waste beginning in 1998. As often is the case, the Government doesn't seem to honor the sanctity of contractual commitments to the level the private sector does. The Government was unprepared to take this waste in 1998, even though there had been a continuing effort to meet the Government's obligation by opening a facility at Yucca Mountain, in Nevada, for the permanent placement of high-level nuclear waste. To date there has been almost $7 billion expended in that process. That facility is not ready.

So what we have before us is a situation where the Government has violated its contractual commitments. The damages associated with that currently are estimated to be $40 to $80 billion. The U.S. taxpayer is going to have to accept the responsibility for these damages as a consequence of the Government's failure to initiate taking of the waste in 1998.

When you look at $40 to $80 billion, you must recognize that this obligation arises as a consequence of DOE's failure to perform the contract. This is basically damages. So we have a situation where nobody wants the waste, including the Federal Government that is contracted to take the waste as of 1998. We have a stalemate. We have an effort to ignore this waste as though it didn't exist, that it will go away. Some would even make the generalization that the Clinton administration simply does not want to address this issue on their watch.

There are all kinds of interests here. There are some of the environmental groups that don't want to see this issue resolved. They want to kill the nuclear power industry in this country. They certainly don't want to see it grow. There has not been a new reactor ordered in the United States since 1979. So we are not advancing, and we are not standing still; we are stepping back.

The consequences of this are: What are we going to do? How do we meet our obligation to provide power if, indeed, we lose a portion of our nuclear industry? Some suggest we will just reach out and find more natural gas.

We have had hearings in our committee that indicate you just don't plug in if you need more natural gas; you are going to have to depend on an expanded distribution system. That expanded distribution system isn't going to be built unless there is an increase in the price of gas. And to suggest you are going to have cheap gas available is strictly speculation. You will have to go after deeper gas. To give someone the incentive to drill in these more difficult areas, you are going to have to increase the price.

As a consequence, the critics of this legislation fail, I think, to meet their obligation to come up with an alternative as to where this energy is going to come from if we don't address this high-level nuclear waste issue. Leave it where it is?

Where is nuclear waste? Behind me we have a map that shows every Member of this body where it is today. It is stored in about 80 sites in 40 States. If you don't want to do anything about this, you are deciding to leave it where it is. Some of the Governors have indicated they are reluctant to support this legislation because it has been amended to accommodate the administration's proposal that it be authorized to take title to the waste at the site. The governors are fearful the waste will stay there. For the life of me, I can't understand that logic. If we don't do anything, it is going to stay there anyway. So we have to address the problem. Leave it where it is? Now you know where it is.

I am going to go through several States individually this afternoon because I think it is important that the States that depend on nuclear power have a general understanding of how much they have paid into the waste fund, how much they are dependent on nuclear power, and what is going to happen if we don't address this problem.

First is the State of Illinois. As you can see on the chart, the consumers in the State of Illinois have paid $2 billion into the Nuclear Waste Fund. What is the Waste Fund? It is the Government. They paid the Government to take this waste. This started in 1982.

How many units do we have in Illinois? We have the Braidwood 1 and 2, Byron 1 and 2, Clinton, Dresden 2 and 3, LaSalle 1 and 2, Quad Cities 1 and 2. How much waste is stored? We have 5,215 metric tons of waste in the State of Illinois. In addition, the Department of Energy research reactor fuel is stored there, 40 metric tons. If you don't find a place for this, what is going to happen? It is going to stay. Here, where it says ''no vacancies,'' are the reactors by name and when they run out of storage space: Dresden 3, the year 2000; Dresden 2 in the year 2003; Clinton, 2003; 2006; 2006; 2013; 2015; and 2019.

We have a crisis coming up because the earliest, from all estimates, that we can have a facility ready to receive waste is in the year 2007. That is the expedited schedule under S. 1287. We have done extensive work at Yucca Mountain. The tunneling is done. You can wander around in there. It looks very impressive. Why Yucca Mountain? Well, some of the people who make decisions decided that was the best place to put this waste because of the unique geography of the site. Nobody wants this material. Vermont has a lot of granite. It would probably make a good repository, but I am sure if the delegation from Vermont were here today, they would have something to say about it.

But the point is, it has to go somewhere. So they chose a site out in Nevada, a site where we have had nuclear testing for some 50 years. You might say it is polluted. It has been used over a period of time for hundreds of aboveground and underground nuclear explosions. So they decided to put it out there, and they spent almost $7 billion of the taxpayers' money.

Back in Illinois, how significant is nuclear power in the mix? It is 39 percent of Illinois' power. I hope every person in Illinois understands this because it is their lights and pocketbook. You want to get nuclear waste out of here? You want your reactors to continue to be able to produce power? Or do you want your electric rates to go up when these plants close? Are you going to hold the Government responsible for the payment you made in your electric bill to take that waste when you paid them $2 billion? They are in violation of the sanctity of that contractual commitment. So that is the story in one State, the State of Illinois.

But I am not through. We have a lot of charts, and we are going to go through a few.

The State of Michigan. They make a few automobiles out there, as I recall. We don't make automobiles in Alaska. We grow fish and trees in Alaska. The ratepayers paid $696 million into the waste fund so the Federal Government would take their waste in 1998. They have four units: Cook 1 and 2, Fermi 2, and Palisades. The waste stored is 1,493 metric tons. The DOE has research reactor waste there as well. What happens? Palisades says 1992. So they are out of luck. Fermi 2 is down in 2001, and Cook and 2 are down in 2014. Michigan is 24-percent dependent on nuclear power.

The next chart: Arkansas. The ratepayers in Arkansas paid $365 million to the Federal Government for the waste fund. You would think President Clinton, being from Arkansas, would have some interest in solving this problem. No way. They have two units, Arkansas 1 and 2. Waste storage is 690 metric tons. Unit 1, down in 1996; unit 2, down in 1997. What they have done is they took their waste out of the spent fuel pool, and put it on site in casks temporarily. That is where it is. The State allowed them to do that. We don't know if all the States are going to allow that. Now, mind you, that is temporary. ''Temporary'' implies you are going to do something for a permanent solution. Arkansas is 33-percent dependent on nuclear power.

The next chart: The State of Oregon. They paid $108 million into the waste fund. One unit, Trojan. Waste stored, 424 metric tons. It is the location of the Hanford site. Waste stored, 2,133 metric tons. Trojan closed for decommissioning. The waste stays in Oregon. If the Governor doesn't want relief, it is going to stay in Oregon.

Next is Louisiana. Waste fund, $239 million. That is what the ratepayers paid in Louisiana. Two units, River Bend 1 and Waterford 3. Waste stored, 567 metric tons. What is happening? In the year 2002, down goes Waterford 3, and in 2007, down goes River Bend 1. The State of Louisiana is dependent 22 percent.

Georgia. The waste fees that the people in Georgia paid on their rate bills total $529 million. Four units: Hatch 1 and 2 and Vogtle 1 and 2. Waste stored 1,182 metric tons. They have the Savannah River site. Waste stored, 206 metric tons. It is going to stay there. Hatch is out in 1999; Vogtle out in 2008. Georgia is 30-percent dependent on nuclear energy.

The dairy State, Wisconsin. What bothers me here is the fact that Members from these States should be concerned. You have been ripped off by the Federal Government. They are taking your consumers' money, and they haven't taken your waste. Do you want it to stay there? If you do, don't do anything. If you want to move it, you had better get behind some legislation. Three units, Kewaunee and Point Beach 1 and 2. Waste stored, 967 metric tons. Point Beach: They are storing it in casks on the surface at the nuclear reactor. Kewaunee goes down in 2001, and Point Beach goes down in 1995. They are 8-percent dependent on nuclear power.

Connecticut. We haven't had much concern from Connecticut. I can't imagine why. Connecticut is 43-percent dependent on nuclear power. That is the first quarter figures for 1999. The residents, in their utility bills, have paid in $655 million for the Federal Government to take the waste. Two units, Millstone 2 and 3. Waste stored, 1,445 metric tons; DOE defense waste. They build a few nuclear subs in Connecticut. They have for a long time. Do you want us to be able to continue building those submarines? Millstone 2 is up in 2002. Millstone 3 is up in 2003. They are 43-percent nuclear dependent in Connecticut.

Next chart: The State of Washington, moving out near my part of the world. The waste fund contribution is $344 million. Residents paid that amount in Washington in their utility bills. The Government didn't take the waste. One unit, WNP 2. Waste stored, 292 metric tons. No vacancy in 2000. Despite the fact that they have tremendous hydro in the State of Washington, they are 6-percent dependent on nuclear.

Moving on to Massachusetts. The ratepayers there paid $156 million in their electric bills. One unit, Pilgrim 1. Waste stored, 495 metric tons. The State is 12-percent dependent.

That gives you some idea geographically of where this stuff is. It is all over the country.

We are trying to get consideration of the Nuclear Waste Policy Act Amendments of 1999.

This issue has been before this body before. We passed bills by broad bipartisan margins in previous Congresses but couldn't overcome a veto threat by our President from Arkansas. On that last vote there were 65 votes in support of the bill and 34 were opposed to it. Our President is from Arkansas. I guess he wants to leave the waste in Arkansas because he threatened to veto the bill. We didn't quite have a veto-proof vote. We only had 65 votes. That is pretty good around here.

Those bills were a complete substitute for the existing Nuclear Waste Policy Act of 1982. That bill gave the authority to build an interim storage facility for nuclear waste at a temporary above-ground storage pad adjacent to Yucca Mountain. In other words, the relief proposed in that bill was to move the waste into casks that were designed and engineered for transportation and move them out to Yucca Mountain where they could be stored temporarily in above-ground storage until such time as Yucca Mountain was ready to receive the waste.

I have another chart that shows how high-level waste moves around the country in the transportation network. It is important that you understand this high-level waste moves across the United States today. There have been from time to time suggestions made that somehow this can't be moved safely.

When we show you the chart, you will recognize that there is a risk involved in moving anything, including you and I. With proper precautions and with proper engineering, the risks can be reduced dramatically.

That is what has been done. When one considers the risk inherent in leaving this waste where it is, scattered around the country in places where it wasn't designed to be stored, or storing it onsite in casks, one has to question why there is such a concern over moving this waste to one concentrated site as was proposed initially in the previous legislation to establish interim storage at a temporary above-ground storage pad adjacent to the Yucca Mountain site.

Here are 30 years of safe transportation of used-fuel routes that occurred from 1964 to 1997. There were 2,913 shipments. There is the routing. They go from Portland to San Francisco, Los Angeles, Albuquerque, Phoenix, Denver, Cheyenne, Bismark, Minneapolis, Omaha, Des Moines, St. Louis, Oklahoma City, Nashville, Columbia, Raleigh, Richmond, Washington, DC, Philadelphia, New York, Syracuse, Boston, Pittsburgh, Charleston, Cleveland, Detroit, Milwaukee, and St. Paul. They have been moved, and they have been moved safely.

I think there was one accident where somebody ran off the road. No damage was done to the spent fuel cask. The inherent safety of the technology within the casks resulted in no release of radiation. Sure, something could happen. Something could happen by leaving it where it is.

The fact is, with these numbers of shipments over that timeframe, there has never been a fatality. There has never been an injury. There has never been any environmental damage because of carriage of this radioactive cargo. To suggest we should suddenly become excited about the prospects of moving it, fails to recognize that we have been moving it for 30 years.

The previous legislation contained extensive provisions on licensing for Yucca and interim storage facilities, including NEPA radiation protection standards and transportation requirements. History tells us the administration, of course, threatened to veto this legislation because it opposed interim storage, and the justification for that was that they wanted the viability assessment to have been completed regarding the permit repository at Yucca Mountain. The viability assessment has been completed. So that is behind us. That is one roadblock that has been thrown in our way.

We have had, of course, a great deal of objection from our friends from Nevada. I can understand their objection. They don't want it in their State. Where are we going to put it? Are we going to put it in the District of Columbia, which belongs to everybody? We know the practicality of that is unrealistic. We know we have to store it somewhere. If it weren't for my friend from Nevada objecting, it would be my friend from someplace else objecting. But you can't continue to ignore the problem.

There is an anti-nuke movement out there that doesn't want to see any advancement of technology for anything that has anything to do with nuclear power generation. One thing they forget is what the nuclear power industry contributes to air quality. It makes the greatest contribution of any source because there are no air emissions. If you want to clean up the air, and we are concerned about global warming, nuclear is an answer. They won't have that. They want the status quo, which is doing nothing while the waste continues to pile up.

We are trying to accommodate the administration. We are trying to make advances so we can make progress on how we are going to address this problem.

In response to the administration's concern, the bill before us, Senate bill 1287, is a completely different approach. I hope my colleagues and staff who are watching this debate understand what this bill does. It is not a complete substitute for the old act. It is a minimal approach. It does not contain interim storage provisions. We have taken those out because there has been great objection to that. The reason there is great objection is because the fear is that if you put spent fuel in Nevada in interim storage it will become permanent. I do not agree with this position, but I am not going to argue the point. Nevertheless, this legislation is different. It doesn't mandate an interim storage provision. So let's get that out of the debate. It is no longer in the bill.

There are two major things this bill does. First, it gives the Department of Energy the tools it needs to meet its commitment to move spent fuel by opening a permanent repository at Yucca Mountain. That is the policy. That is the objective. Every responsible policy-maker has agreed. We have to have an answer to this. The answer, of course, is the permanent repository at Yucca Mountain. One may not agree that is the correct answer, but we have collected over $15 billion from the ratepayers to put that waste in that hole we dug at a cost of over $7 billion at Yucca Mountain. That is our policy. We have to have some policy. Otherwise, we are going down a million rabbit trails at once.

The second major thing: It provides fair treatment for those who have fulfilled their end of the bargain by paying over $15 billion under the contract, only to have DOE leave them literally holding the bag. This is pursuant to the contract to take the waste in 1998, which the Federal Government failed to do.

Specifically, this legislation, Senate bill 1287, clarifies the existing unconstitutional one House veto for raising the nuclear waste fee. It states, I think, appropriately, that only the Congress can vote to raise the existing one mill per kilowatt fee if necessary to pay the additional expenses anticipated in this program. We are saying only the Congress has that authority.

The bill allows plaintiffs in the lawsuit and the Department of Energy to reach voluntary settlements of DOE's liability for failing to take nuclear waste in 1998. To accommodate Secretary Richardson, with whom I have been working at great length, we have included the administration proposal to take title to the waste at reactor sites.

This offers the industry an alternative. They can do one of two things: They can either let the Government take title to the waste at site or they can choose to proceed to litigate their claim for the Government for failing to take the waste.

There is a radiation standard that has received a lot of consideration. The question is, Who sets the standard? Should it be the Nuclear Regulatory Commission that has the extended, in-depth expertise in nuclear matters and setting standards? Should that agency set the standard that protects the people of Nevada and other States without

imposing unnecessary and counterproductive restrictions?

Some will argue that the regulator ought to be the Environmental Protection Agency. The EPA should regulate and set the standard. Let's be sure we understand one another. That standard has to be reasonable. Otherwise, this whole thing is for naught.

The EPA has a rather curious record. Some suggest there are portions within the administration that don't want to have anything to do with nuclear energy; they are opposed philosophically to it. Are they going to be objective and set a standard that is unattainable on purpose? That is the real risk. This whole thing can be killed on that one issue. That has been known to happen. If they set a standard for groundwater comparable to the drinking water standard, this thing is through. The Government's money is wasted, and the $6 billion in Yucca Mountain is wasted. I know some people would love to have it that way because we wouldn't be putting it in Yucca Mountain or Nevada and we would still have the problem.

Be careful of this one, colleagues. The bill contains a radiation standard set by the Nuclear Regulatory Commission. I am willing to take a look at other proposals as long as it will result in a rational standard.

The fourth issue in this new proposal is to allow the fuel to be accepted when the NRC authorizes construction of a permanent repository in the year 2007. Again, we assume that will be at Yucca Mountain. It allows the Department of Energy to begin moving fuel as soon as possible after Yucca Mountain is licensed in the year 2007.

I appeal to those States and those Governors who are following this debate who say wait, if this proposal goes and the Government takes title, it is still stuck in my State. I remind the Governors, if this bill does not pass, it is still stuck in your State. We have to have a vehicle to move this process along. Everybody is free to come in if they can build a better mousetrap.

Transportation provisions based on those used for the Waste Isolation Pilot Plant, or WIPP, are another provision. Again, I refer to the transportation chart. We move spent fuel all the time in the United States and around the world and have no release of radiation.

This revised bill builds on the existing safety system by adding money for education, emergency responders, local communities, transportation personnel, provisions for routing, allowing the State input, special rules for populated areas, and advanced notification for local government. That is not what is done now by the Federal Government; they just go ahead and move it. This is civilian, government-owned and military waste. The same stuff. It moves to Idaho, moves all over the country; we just don't say anything about it. Now we are saying: OK, public, this is what we will do. Is it any less safe than what we are doing now? It will be safer if we pass S. 1287.

We will have an opportunity for a demonstration. Some folks will come out and have a field day. But they have an obligation, too. What will they do about this waste? Will they stand and block it so it can go back to where it came from? That is irresponsible.

Where is the administration? I am not sure. I talked to the Secretary. We have accommodated the Secretary. It was his proposal that said we would take the waste at site. I explained we are having problems with some of the Governors, particularly in the northeast part of the United States. They want to get this waste out of their area. They had better get behind something that will address a process so the waste can be moved, because if they don't, it will sit there forever.

We have eliminated the source of the administration's opposition to our previous bill on the issue of no interim storage, and on their suggestion relating to the Government taking title of the waste. I am not sure I understand whether the administration still opposes the bill, but I am sure my friends on the other side will enlighten me. They certainly have not come to the table to try to work constructively to resolve this problem which I believe we can no longer ignore.

I think it is the philosophy of the Clinton administration to simply ignore this for the remainder of their watch. As a consequence, it is delayed, delayed, delayed, delayed.

I have gone on for a reasonable period of time. I want to accommodate my colleagues. I see the Senator from Nevada waiting to be recognized, as well as some of my other colleagues.

Madam President has been most accommodating in allowing me this time, but I am inclined to yield the floor. This may be enough for me today, but I have about 680 more pages of material that, hopefully, will convince you, if I have not convinced you already.

With that, Madam President. I temporarily yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Madam President, I thank my colleague for yielding the floor. I wish we were in a position to be discussing how we can protect Social Security, I think that is something the American people are very much concerned about; how we could extend the solvency of Medicare and provide a prescription drug benefit; campaign finance reform; minimum wage. I think those are the things the American people would like to see this Congress act upon. I regret to say this legislation is pure, naked, special interest legislation, and I want to give some historical perspective, since my friend from Alaska recited some of the history itself.

In 1982, the Congress of the United States passed the Nuclear Waste Policy Act. The original concept of that act was an attempt to deal with a difficult issue but in a fair and balanced way. In essence, what the act provided was that different geological formations in the country that might be suitable for waste—granite in the Northeast, salt domes in the Southeast, welded tuff in parts of the West—would be considered and studied; three sites would be referred to the President of the United States after the study, or, as the technical term is used, ''characterization'' is completed, and the President of the United States would select one of those.

The concept was there would be some geographical balance as well. And that is important, it strikes me, for us to understand. That carefully crafted and I think somewhat thoughtful approach was corrupted almost immediately by the political process. No sooner had the bill gone into effect than there was an effort, politically, to exclude certain regions of the country. The Northeast with the granite formations made it very clear, the Department of Energy records reflect, that because of the opposition from that part of the country, the Department of Energy, in effect, withdrew or abandoned any serious efforts to look at that. That had absolutely nothing to do with science or logic or balance or fairness.

Then, shortly thereafter, some of our colleagues from the Southeast raised concerns during the 1984 Presidential campaign, and lo and behold, assurances were given by the top levels of the then-administration that, indeed, the Southeast would be taken off the list.

In the 1982 Act, the Environmental Protection Agency was charged with the responsibility of a permanent repository health and safety standard that would be promulgated by the Environmental Protection Agency, something that was of overarching importance because the high-level nuclear waste we are talking about is not just messy stuff, unpleasant stuff; it is deadly, lethal, for tens and tens of thousands of years. So this is a major public health and safety concern, and the Congress chose the Environmental Protection Agency, created during the Nixon administration, to be, in effect, the agency to set that standard.

My friend from Alaska posed the question, rhetorically: Why Yucca Mountain? Let me respond to that, if I may. In 1987, an infamous piece of legislation known throughout my State as the ''Screw Nevada Bill'' was passed in the Congress. Unlike the 1982 Act, which said we will look across the country and develop three sites and have the President judge—in 1987 the ''Screw Nevada Act'' said we will look only at Yucca Mountain, no other place. That was not science. That was not logic. That was not fairness. That was not balance. That is the sheer force and impact of naked political power inflicted upon a State with a sparse population and a small congressional representation in the Nation's Capitol.

But even in 1987, at the request of the nuclear utility industry, which drives

this debate, there was no attempt to change the health and safety standards. Then, 1992 comes along, the energy bill. There was nothing debated in committee or in the floor amendments—but in conference. As my colleagues fully understand, but our friends who are listening to this at home may not, a conference report cannot be amended. In the conference report there was an attempt—it succeeded—to place a provision that sought to somehow weaken those public health and safety standards, and the National Academy of Sciences was introduced for the first time. They were to look at the public health and safety standards, make some recommendations, and the Environmental Protection Agency would have to conform its decision within the range of standards proposed by the National Academy of Sciences.

Make no mistake, the primary intent of doing that was to weaken health and safety standards. The proposal originated within the highest corporate board rooms in the nuclear power industry in America. I objected, as some of my colleagues did. Nevertheless, it became law.

That brings us to a somewhat contemporary point in time. I am not going to discuss the flaws of the interim storage proposal. When Congress passed this legislation back in 1982, they fully understood if an interim storage was located that would, in fact, become de facto the permanent nuclear waste dump. It makes no sense then. It made no sense when it was proposed in the last Congress. That is why the President of the United States very appropriately and responsibly said: I will veto that if it ever gets to my desk.

I have some sympathy for my friend from Alaska. He, as his predecessors, as chairman of the Energy Committee, has a responsibility to accommodate the requests of the nuclear power industry. My friend began the debate by saying, in effect: Look, we have a decision in which we have a decline in the industry. The industry is struggling. We are out of capacity. What are we going to do with all of this? Long before this Senator from Nevada arrived in the Chamber, those very words were heard by the then-chairman of the Senate Energy Committee, in 1981, when there was a proposal to develop what was then known as an away-from-reactor proposal; that is, move the waste away from the reactor site.

Then, in 1981, it was stated that nuclear plants would have to close down, there would be electrical brownouts in America. That was 18 years ago. No nuclear utility in America has closed down. No brownout has occurred because of the absence of storage issue. There is an answer, and it is the same that those who were our adversaries proposed for us in Nevada; and that is dry cask storage onsite, and many utilities have done that.

It is suggested in the course of this debate there is some need to take urgent action. We have to do something. Let me say, I do not like the idea that Nevada got the shaft in the 1987 legislation. But the current law, if nothing occurs with respect to nuclear waste in this Congress, is that Yucca Mountain is going to be studied. And ultimately, if a determination is made as to suitability—and that determination has not yet been made; let me emphasize, no determination has been made that Yucca Mountain is suitable and there are a host of problems with that site. I will not get into extended comment on that today to keep my remarks somewhat abbreviated—but that process goes forward.

So, what is the circumstance? The circumstance today is that nuclear energy is an energy dinosaur.

There have been no new reactors ordered in America for more than two decades, and I suspect that even the most persuasive and articulate Members of this Chamber would have a very difficult time trying to persuade their community, look, what we need—I see the distinguished occupant of the Chair, perhaps a new city in her State—is a nuclear reactor right next door. It is not going to happen.

Why is it not going to happen? Because people, understandably, are very apprehensive and scared because they have seen some circumstances that have occurred around the world, and they are very much troubled by this.

This is a move by the nuclear utility industry that, in effect, has several flawed provisions I want to discuss ever so briefly.

With respect to the concern raised by my friend from Alaska that the tax ratepayers paid into this nuclear waste trust fund and that, indeed, the 1998 deadlines have not been met, the Senator from Alaska makes a fair point. They have not been met. There are many who say the nuclear utilities in 1982 forced upon the Department of Energy an unrealistic timeframe. Indeed, that has been the history of these various deadlines contained in some of the oversight by the Department of Energy over the intervening years.

I recognize the utilities have incurred additional expense because a permanent repository was not available in 1998 and will not be for some years ahead, even assuming Yucca Mountain. That is a red herring. That is not the issue. This Senator from Nevada and my colleague offered legislation as far back as 1990 saying: Yes, we have to compensate the utilities because there is no site available in that they are going to have to construct, in some instances, onsite storage in dry cast. That cost the ratepayers. We recognize it is fair to reimburse the utility for that expense.

The utilities would have no part of that because that is not their concern, that is not the agenda. They have something much different in mind, and they would like to shift the entire responsibility of this program, in effect, to the American taxpayer and not to the ratepayer.

This legislation proposes to compensate the nuclear utilities. I do not have a problem with that. It proposes the Federal Government take over the title. Whether that is good or bad is an issue on which I do not care to comment.

What it does that violates every sense of public health and safety and fairness and public policy is it moves the public health and safety goalposts in midcourse. Let me point this out.

The Environmental Protection Agency did, in fact, come with its recommendations as to what is an appropriate public health and safety standard. That is not just for Nevadans, but that is for Americans because although my friend from Alaska points out, yes, some nuclear waste has been transported across the country and there have been no major catastrophes, let us go back more than 20 years ago. The nuclear industry in America could say there has been no serious accident with respect to nuclear reactors in this country. But guess what. Three Mile Island occurred.

Nobody can make that contention today. I suppose the old politburo in the Soviet Union could have said at one point a bit more than 10, 15 years ago: Look, we have never had a serious nuclear reactor accident in the Soviet Union. But that was before Chernobyl, one of the biggest environmental disasters of our time. Radiation contaminated vast areas around the nuclear reactor site. Yes, my friend from Alaska suggests reprocessing and mixing this stuff is somehow a new elixir of life. I suppose the Ministry of Energy in Japan might have said a few months ago: We have never had a problem with that. They cannot say that anymore after the very serious accident which occurred in Tokyo and, indeed, tragically—I hope this is not the case—we are likely to see several fatalities as a result of that because of lethal doses.

''It has never happened, it is plenty safe, and do not worry about all this.'' We are talking about tens of thousands of shipments, 77,000 metric tons.

My friend from Nevada, my senior colleague, wants to speak in a moment as well. Should the majority leader bring this up for debate, I assure my colleagues we will have extended debate for a week, if not longer, in which we will explore each of these things in some detail. That would be unfortunate because it would make it impossible for us to consider a whole host of legislation that is pending that many people in the Chamber, myself included, believe has a far greater priority than a special interest piece of legislation in which only the utilities are interested.

Public health and safety ought to be of concern whether you are for nuclear energy, against nuclear energy, or ambivalent. Here is what is involved: The Environmental Protection Agency proposes to establish a 15-millirem-per-year standard. That is the State rate of exposure on an annual basis—15 millirems. That, we are told, is outrageous, as if somehow the standard is

if we cannot build it, then let's reduce health and safety standards. That is fairly outrageous. We are talking about something that kills people. It is deadly, lethal. I would think everybody would say: Look, I have never agreed with you before on some of these things, but when they are trying to screw around with health and safety standards, that affects every American. This is the EPA proposal.

You will recall I talked about how the nuclear utilities thought they were going to game the system with the 1992 Energy bill. They got the National Academy of Sciences involved. The National Academy of Sciences looked at it and said: We recommend the millirem standard—that is the rate of exposure per year—be between 2 millirems and 20 millirems. The EPA standard is right in the middle. The NRC standard—and we know they are friendly with the industry—recommends 25 millirems. The legislation that may be considered goes to 30. That would double it.

Why are they doing that? They are trying to game the system. Remember, if nothing passes, Yucca Mountain continues to be studied and may, indeed, prove to be suitable. I hope not. I think not. But nevertheless, that process is in place.

Let me point out what we are dealing with with other EPA public health and safety standards. Some years ago, when I first came to the Senate, we were debating the WIPP facility, the waste isolation project. We set standards for them that dealt with lifetime cancer risk per 10,000 individuals. That standard was set at 3. That is what the EPA essentially is proposing for us as well.

Look what S. 1287, the bill the Energy Committee has processed, would do. It would be more than triple what we did for WIPP, taking it to 10 lifetime cancer risk per 10,000—a serious erosion of public health and safety.

What possible reason or why would anyone want to suggest that the good folks in Nevada, whether it is your favorite State or not, would not be entitled to the same health and safety protections provided to the good citizens of New Mexico? Why do we do that? It simply makes no sense at all.

One can look at Superfund standards, hazardous air pollutants—all of those are within this range, which is within the National Academy of Sciences' findings. Look how far S. 1287 is outside the envelope or protection that the National Academy of Sciences recommended.

Remember, the nuclear industry fully expected the National Academy of Sciences would have come up with a standard much more favorable to their point of view which, frankly, is minimal health and safety standards. Whatever it takes to get that site built, they could care less, in effect, about the public health and safety of folks who could be impacted by this. Pretty outrageous: 10 versus about 3—pretty outrageous.

So when we are talking about some of the fatal flaws in this legislation, I simply take the time this afternoon in joining my friend from Alaska in debate to point out something about which every American ought to be concerned. This is nuclear waste.

What industry comes to the Congress next year and says, we can't meet the standard that is set for public health and safety? You all, last year, did something for the nuclear power industry. Can you do something for us? In effect, what we would establish is a public policy precedent that would unravel public health and safety standards if the industries that are regulated do not like those standards. That is extraordinarily dangerous.

I say to my colleagues: Don't get stampeded on this piece of legislation. If nothing occurs, the characterization of study of Yucca Mountain—much to my dismay, but it is the law—will continue. This legislation is dangerous. It is enormously bad public policy. It is an incredibly bad precedent. And it is unneeded. To bring it up at this late hour in this session, when we are trying to wrap things up in the next couple of weeks, it seems to me, says something about our priorities here in the Congress.

I hope the distinguished majority leader does not bring this up. But I can assure him—and I do so with great respect—that it will be the only issue we will be discussing for some extended period of time because for Nevada this is a life or death proposition.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, there is going to be ample time in the months to come to debate this issue. As the RECORD is clear, this matter was brought up by the majority leader today, and there were a number of Senators on the floor, including the two Senators from Nevada and the Democratic leader, who all objected to the motion to proceed. The leader did say that he was going to, at some subsequent time, bring this matter forward.

My purpose today is simply to state that the Senator from Alaska, who is the chairman of the committee that is trying to move this piece of legislation, indicated he could speak for 7 or 8 days on the issue. I think the Senator from Alaska is going to have to speak for 7 or 8 days on the issue in an effort to move this matter forward.

The Senators from Nevada, and others who oppose this environmental disaster, would speak for eight times 8 days in an effort to stop this matter from moving forward. This legislation is bad legislation.

The fact that the nuclear power industry gave up on interim storage, what does that mean? It means there was an attempt by the nuclear power industry—this all-powerful entity that has been so powerful in the Congress—for 4 or 5 years to set all environmental laws aside, the laws that are established to protect the public in the characterization at Yucca Mountain. They moved to set all these environmental laws aside, go to the Nevada Test Site, pour a big cement pad on top of the ground, and then haul across the highways and railways across this country nuclear waste, dump it on top of the cement pad, and in effect just leave it there.

Everyone recognized that if this storage took place, this so-called interim storage—which in the minds of the nuclear industry meant permanent—it would be permanent, it would never leave the Nevada Test Site.

The President of the United States said: I think we have to do something to take care of nuclear waste, but I think what is being attempted in the interim storage is wrong. If the Congress sends that to me, I am going to veto it.

We had a couple of test votes here, and it showed that we clearly had enough votes to sustain a Presidential veto on nuclear storage in an interim fashion.

The nuclear power industry has said: We weren't able to do that. And we don't want Yucca Mountain to go forward, as the law now stands. We want to change the law.

How do they want to change the law? They want to, again, set environmental standards on their head, avoid environmental standards. What they want to do is have the Environmental Protection Agency—remember that name, the Environmental Protection Agency—removed from the picture. The most poisonous substance known to man, plutonium, nuclear waste, they want to haul someplace, and the nuclear power industry does not want the Environmental Protection Agency to have anything to do with it.

How in the world could you support legislation such as that? Instead of the Environmental Protection Agency, they want to insert the Nuclear Regulatory Commission. They want to have the fox guarding the hen house, literally.

Again, the President of the United States has stepped forward and publicly said: I am not going to allow that to happen.

All environmental groups in America, and probably in the world—certainly I can speak about America—think this is bad legislation, and they have spoken out accordingly. The President has again said: Go ahead and pass this legislation. But if you do, I am going to veto it.

I do not know why, other than to pacify and satisfy the nuclear power industry, you would bring this legislation forward. This legislation is dead. It has no chance of passing.

If they think they can bring in a subsequent President—that would have to be, I assume, President Bush, if in fact he were lucky enough to be President—that is the only way this will ever pass because President Gore would never support this legislation.

But in fact what they should do, to avoid all this wasted time in the Senate this year and next year, is just wait until the next Presidential election takes place. I think they will find they are probably going to be faced with President GORE. But regardless of that, they should at least wait because in the meantime they are wasting the time of the Congress by playing around with this legislation.

I repeat: To take from the law the protection of the Environmental Protection Agency, it is not only that they are going to remove the Environmental protection Agency from this legislation but at the same time they are changing the standards; they are reducing the standards; they are making it easier to place nuclear waste.

We have always talked around here about the risks, the millirems, the way you measure the poison that comes into your system. We have measured that with adults. What we are going to talk about, at the right time as this legislation proceeds, is what this radiation would do to children.

Children cannot take the same radiation that adults can. We have had this debate on other issues. Lead, lead-based paint, lead in the environment is very harmful to children, not very harmful to adults—harmful to adults, but not nearly as harmful to adults as it is to children.

If you look at the risk to children, you see that the risk to children is very substantial. In fact, the risk to children is six times the maximum risk permitted by the EPA standards. They want to lower that.

The children living in the areas of Yucca Mountain and the areas that are going to transport this stuff will suffer as much as three times what an adult would.

So we are going to have time to talk about this. As I have indicated, we can talk eight times 8 hours on this issue, and we are going to devote at least a couple of hours of that time to the risk to children.

Ground water protection. Things nuclear are very dangerous to water. We have learned at the Nevada Test Site, where we have set off 1,000 nuclear devices either above ground or in the ground, that it is being transported in the water a lot quicker than we ever thought. Scientific proof is now present which shows there is tremendous danger in things nuclear to ground water. What they are trying to do with Yucca Mountain will be very dangerous to water. But what about the water along the highways and railways where it is being transported? Of course, it is dangerous there also.

In addition, earthquakes in the Nevada area of Yucca Mountain are very significant. Yucca Mountain is located in the region with the second highest frequency of earthquakes in the entire country. It is hard to believe, but the Department of Energy selected the second most earthquake-prone place in the United States to site this nuclear repository. There has been a series of earthquakes in this area in the last couple of years—not one, but a series of earthquakes. It is called a cluster area; a clustering of earthquakes occurs in Yucca Mountain naturally. We will have an opportunity to talk about that.

The cost of the program is something the American public needs to hear more about. This program already has cost about $7 billion. We know the public has lost confidence. This is not something we are making up. We can look at what has transpired in Europe where they have tried to move nuclear waste. Last year, they tried to move a few casks of nuclear waste in Europe. They had to call out 30,000 soldiers and police to move it. I think it is clear there is a loss of confidence in being able to transport nuclear waste.

We have talked on the Senate floor—we will have a lot more time to spend on it—about the shipments and where this nuclear waste will travel. We know that at least 50 million people are located in an area within a mile of the highways and railways where it will be transported. We know that there are terrorist threats. It is very easy to develop nuclear weapons. You can go on the Internet. For example, the blast that blew up the Federal Building in Oklahoma, they learned to do that over the Internet, how to mix fertilizer and whatever else you mix to make this huge explosion. It is just as easy, if you have the material, to come up with a nuclear device. That is one thing the transportation of nuclear waste presents to us; how are we going to stop it. How are we going to prevent terrorists from stealing it?

We have had organizations that have followed small shipments of nuclear waste. They said there is no one guarding it. It is easy to follow it. It could be stolen, if someone wanted to.

We know the canisters that have been developed are not safe for transporting. They are safe for storage but not transporting. A collision or a fire breaches the casks. Physicians for Social Responsibility are very concerned about nuclear waste and the dangers of nuclear waste. They testified on October 26, regarding the draft environmental impact statement, that the dangers associated with storing an unprecedented amount of highly radioactive waste is very dangerous, and it is difficult to comprehend how it could be done safely.

Finally, recognizing the day is late and my friend from Alabama wishes to speak, the obvious question people ask, if you are opposed to interim storage and you don't want these standards changed at Yucca Mountain, what should be done with nuclear waste? Easy question to answer. Scientists have determined the best thing to do with nuclear waste is leave it where it is, leave it where it is in dry cask storage containment. It would be safe. To set up one of these sites only costs $5 million. Only? Remember, Yucca Mountain is already approaching $7 billion. So the constant harangue here, ''OK, if you don't want to put it in Nevada, where are you going to put it,'' is easy to answer.

The question wasn't so easy to answer a few years ago, but the scientific community has stepped forward and now, as is done right out here, not far from Washington, DC, at Calvert Cliffs, nuclear waste is stored in dry cask storage containers, and it is stored safely—safe against fire, safe against transportation. And it is easy to secure it because it is in one centralized location. Of course, there would be a number of these locations around the country, but think of how much more safe it is to have these multiple sites than trying to transport this 70,000 tons across the highways and railways of this country.

In closing, we have a lot to talk about on this issue. I express appreciation to the President of the United States who is willing to join with the environmental community in saying: Don't do it because if you do, I will veto it.

The PRESIDING OFFICER (Mr. KYL). The Senator from Alabama.

Mr. REID. Will the gentleman from Alabama yield for a brief question about procedure on the floor?

Mr. SESSIONS. Yes, please.

Mr. REID. I apologize for interrupting. The Senator from Nevada would like to leave. It is my understanding all the Senator from Alabama wishes to do is make a statement on nuclear waste and Senator Chafee. There will be no motions or anything?

Mr. SESSIONS. That is correct. I do have the closing script.

Mr. REID. Which we have reviewed.

Mr. SESSIONS. I do think Senator HUTCHISON wants to talk on another matter.

Mr. REID. But again, I am going to go back to my office. If there is anything further, I would appreciate a call.

Mr. SESSIONS. I understand and respect the Senator's position.

## THE NUCLEAR POWER INDUSTRY

Mr. SESSIONS. Mr. President, for a lot of reasons, I believe the nuclear power industry cannot be a dinosaur, as was suggested earlier.

The world today has 6 billion people on it; 2 billion of those people have no electricity. They are without power. In the next 25 years, we expect another 2 billion people to be added to the world population. Many of the people who do have power today, have it only in very limited quantities.

We know there is an extraordinary expansion of life expectancy and improvement in lifestyle where electricity is present. People can have water pumps. They don't have to go to the well with a bucket or a jug to get water for their families. There is no doubt the quality of people's lives, the length of their lives, some estimate it increases as much as 50 percent, is

greatly improved if they have access to electricity. Think about it.

As a matter of humanity, a human imperative, nothing could be better than expanding the availability of electricity throughout the world. We now know that there will be at least a 50-percent increase in electricity generation by the year 2020, doubling by the year 2050. That is a big increase.

Now at the same time, a number of people—Vice President GORE being one of them—have expressed great concern over global warming and the emission of greenhouse gases into the atmosphere. They tried to commit this country to a massive reduction in the emission of greenhouse gases. In fact, the Kyoto treaty the President signed and supports calls on this Nation, between the years 2008 to 2012, to actually reduce our emissions by 7 percent below 1990 levels. When you consider at the same time our economy, population and demand for energy has continued to increase since 1990, greenhouse gas cuts envisioned by the Kyoto treaty would amount to a cut of nearly one-third of today's energy use in America to achieve that goal, a one-third cut. That is a big-time number. We are heading for a train wreck. We want to reduce emissions and increase power generation at the same time, yet we refuse to develop new nuclear power infrastructure. Some greenies think you should live out in the woods and just let the rain and sunshine take care of you and maybe have a windmill to generate power. But that is not proven to be efficient or effective. There will be opportunities to expand the use of renewable energy, but it does not have the potential, using even the most generous forecasts, to reach a level that would satisfy the demands of the Kyoto treaty.

So how are we going to do it? Twenty percent of the power generated in the United States is generated by nuclear power. France has 80 percent. They continue to build nuclear power plants on a regular basis. Look at it this way. Ask yourself, how can we meet the demand of both increased energy and reduced emissions? Nuclear power has no greenhouse gases that are emitted from the production of electricity. It emits no waste into the atmosphere. It is the only large-scale clean-burning electricity production method. Yet, the very same people who fight for even more stringent clean air regulations are often also opposed to nuclear power.

Twenty percent of our power, at this very moment, comes from nuclear power. Utility companies have not ordered a new plant since the late 1970s, so it has been over 20 years since we have built a new nuclear plant. Other industrial nations are continuing to build them, such as France, Germany, and Japan and China. Do we want China to build coal plants to meet its massive need for electricity? Is that what we are asking them to do? Are we saying China can have it, but not us?

Fundamentally, we need to confront this question for humanity's sake. Should we increase the production of nuclear power? Through over 50 years of experience with nuclear energy, there has not been a single American injured from a nuclear plant, not a single person in the world injured by the production of American-generated equipment for nuclear power? Not one. None. How many have died in coal mines, or on oil rigs, or from truck wrecks in transporting oil and coal, and train wrecks? Which is safer, I submit to you?

This is an irrational thing to me. I can't understand such objection from those who long for a cleaner environment. I believe, first of all, we need to understand that America needs more power to support our growing economy and population. The world needs more power. It will be a good thing for the world. To meet these demands, we are going to have to use nuclear power. I don't just say this as a Member of the Senate. I am not an expert. However, last year I happened to be in attendance at the North Atlantic Assembly, in Edinburgh, Scotland, with members of Parliaments from all over the world gathered there. Ambassador John B. Ritch, III, addressed us. He is President Clinton's appointed Ambassador to the International Atomic Energy Administration. He shared some important thoughts with us about the future of nuclear power. He mentioned some of the things I have already shared with you. From his remarks, he said:

> Nuclear energy, the one technology able to meet large base-load energy needs with negligible greenhouse emissions, remains subject to what amounts to an intense, widespread political taboo.

Then he goes on to point out that we cannot possibly meet our world energy demands without increasing nuclear power. How is it we are not able to do that? How is it we have not been able to build a single nuclear plant in the United States, even though we have not had a single person injured from the operation of one since the conception of the program over 50 years ago? How is that true?

Well, one of the tactics that has been used is to spread this fear that nuclear waste is going to pollute the environment forever, and that it can't be stored anywhere. It is just going to destroy the whole Earth if we do that. Well, that notion is so far from reality. I understand the Senators' political commitment to their State and maybe they believe it is going to be somehow negative to their State. They talked about how much exposure to radiation you are going to have. This stuff is not going to be thrown all over the sides of the highways. The waste will be stored in a solid rock tunnel in the ground, inside thick, technologically advanced, containers within the tunnel. It is not a lot of product. It doesn't take up a lot of space. It can be safely stored.

Who is going to be subjected to any radiation from it? Are they going to bring schoolchildren down there to look at it? It is going to be sealed off from the public. The Yucca mountain site is in the remote desert, in area that was previously used to test over 1000 atomic bombs.

Somebody said the Lord created that desert so we could put that waste there. I don't know, but I say this to you. I don't see how the storage of very well-contained nuclear waste, placed hundreds of feet underground in the Yucca Mountain chamber—inside a mountain—is going to damage the life, health, and safety of anybody. It is beyond my comprehension that we would argue that. I know that maybe people don't like it to come through their States. People don't like interstate highways coming through their farms, and they don't want to move their homes, so they object. But if the Government decides that is where the interstate highway has to go for the good of all the people, they build a highway. I used to be a Federal attorney and we would condemn people's property and take it for public use.

Our country has 20 percent of its power generated by nuclear power plants, and we are incapable of finding a place in this whole vast country to put it? That is beyond my comprehension. We have to act responsibly and take decisive action. Nuclear energy simply must remain a part of our mix in the future.

I thought it was interesting that the Senator from Nevada indicated that Vice President GORE would not sign this bill. Well, maybe he would not sign this bill. Vice President GORE has also indicated that he flatly opposes offshore drilling for natural gas. Natural gas is the only non-nuclear fuel which has a chance of filling the demand for new power while reducing overall air emissions in the near future. Gas is produced predominantly from offshore wells. We have a significant deposit off the gulf coast of the United States. Yet the Vice President opposes the development of these significant deposits of clean burning fuel.

But the Vice President not only opposes nuclear power, he opposes the storing of nuclear waste in a sane way, in a single, guarded location—and not scattered in all 50 States, in hundreds of different locations. He also opposes, as he said recently, offshore gas production.

How are we going to meet our demands for the future, I ask? I think the Vice President's position is a very unsustainable position. It will not hold up to scrutiny and he will have to answer to that. If we are not going to use nuclear power and we are not going to use gas, what are we going to use? How can we do it without a huge cost and increase in expense for energy in America. The world is heading into a new century. Nuclear power is going to play a key role, without any doubt in my mind, in making the lives and the health of people all over this world better tomorrow than it is today. It is

going to make people healthier. Their lifestyles are going to be better. They are going to have pumps to bring water to their homes. They are going to have electric heating units to cook their food so they do not have to go out and gather wood or waste to burn. And it is going to clean up our global environment in ways we have never known before. We have prospects, if we don't run from science and if we don't retreat from the future. If we go forward and take advantage of the opportunities given to us, we can really have a terrific century. I think it is going to be better and better.

But it does make you wonder sometimes how people who seem to be caring deeply for the environment and our future could block the things that would be most helpful to us. That is a concern I have.

I hope we can reach the extra two votes. We have 65 votes. We need 67 to override a Presidential veto. There is bipartisan support—Republicans and Democrats—for this bill. It is the right thing to do.

I urge the President not to veto it. If he does, I urge the Members of this body in both political parties to vote for clean air, vote for the future, vote for improving the quality of our lives, both in the United States and the world. For over 50 years the United States has been a leader in the peaceful use of nuclear power. The United States needs to continue to be a leader in this industry. We don't need to be sitting on the sidelines while the rest of the world is developing the technology to produce even safer electric power through nuclear energy and even greater productivity through nuclear energy.

I have had the opportunity to talk to some of the country's finest scientists. They are absolutely convinced that if we improve regulations, have a little more research and a little more commitment, we can create a nuclear power plant that may even eliminate nuclear waste entirely. But that is a step for the future, but the not too distant future. It is an exciting time.

The PRESIDING OFFICER. The Senator from Texas.

## PRESIDENTIAL VETO

Mrs. HUTCHISON. Mr. President, I rise today to speak about President Clinton's veto of the Commerce, State, Justice appropriations bill for fiscal year 2000. I am very concerned about this veto. It was a very difficult bill. There is no question about it, given the budget caps that both Congress and this administration adopted and agreed they would adhere to.

Still, the bill provides the resources needed to continue our strong efforts to fight crime, enhance drug and border enforcement, respond to the threat of terrorism, and help women and children who are victims of family violence. A key component of our crime-fighting effort is stopping drugs at our borders. Thanks to Senator JUDD GREGG and Senator FRITZ HOLLINGS, this bill provides for 1,000 new Border Patrol agents to guard our borders.

The President's decision to veto the bill makes clear that funding for these critical matters is not a priority to the President. Despite our budget constraints and our need to preserve Social Security, this bill provides nearly $3 billion more than last year's bill. This bill is not a cut; it is an increase.

The President said he vetoed the bill because it didn't fully fund his COPS Program. The reality is that Congress provided funding for 100,000 police for our cities all over America 2 years ago. In fact, we have provided funding for 115,000 police. The President says he wants 30,000 to 50,000 more, but the irony is he hasn't even met the first goal. We still don't have more than 60,000 police on the streets. Yet he is vetoing the bill when the funding is there. The full funding was given by Congress with the excuse that he wants 30,000 to 50,000 more when he has 40,000 that are fully funded that he has not been able to fill.

I am concerned because this is not the only law enforcement initiative in which the President has failed. This administration was under direction from Congress to hire 1,000 new border guards in 1999. It failed when only 200 to 400 were actually hired. Yet every penny of the money that went to the 1,000 has been spent. Yet this year in the budget that the President has just vetoed, the President didn't ask for one new Border Patrol agent.

I ask, what is the role of the Federal Government? Is it to put police on the streets of our cities or is it to guard the sovereignty of our Nation, the borders of our Nation? I think the President of the United States is not fulfilling his responsibility when Congress comes forward and says we are going to guard the borders of our country; we are going to provide for police on streets as requested, and he vetoes the bill and asks for no new Border Patrol agents.

Our border is a sieve. The distinguished chair and I both represent States on the Southwest border. There is no other way to describe it when an estimated $10 billion in marijuana, heroin, cocaine, and other drugs crossed our border last year, according to the Office of National Drug Control Policy. These drugs find their way to cities and school yards all over America. This is not just the Southwest. It is not just Texas, Arizona, New Mexico, and California. These illegal drugs go all over the country. They end up in the school yards, preying on our children. We are a gateway, but we are not the stopping point. They are coming in record numbers. In 1998, there were over 6,000 drug seizures along the Southwest border. The total value was $1.28 billion. Our drug czar, General McCaffrey, has argued we should have 20,000 Border Patrol forces to stop the flow of drugs across our border.

A University of Texas study last year indicates 16,133 agents are needed to do the job. We have about 8,000—less than half of that needed to do the job, which is the responsibility of the Federal Government and which Congress is trying to provide, with no cooperation from this administration. Only 200 to 400 are likely to be hired this year, according to the administration's own records.

I think the President of the United States needs to stop the rhetoric. He needs to stop playing games with important appropriations bills and do something that is going to stop illegal immigration and illegal drugs coming through our borders and spreading all over our country. The President needs to fulfill the commitments he has already made and that we have funded to get 1,000 police officers on the streets and 1,000 more Border Patrol agents each year, for 5 years, as Congress has directed the administration to do.

Vetoing this bill does not help crime-fighting efforts. Signing the bill, keeping his promises for police and Border Patrol does.

I am very concerned the President of the United States has not taken seriously enough the need to control our borders, from illegal immigration to illegal drugs. Vetoing the Commerce-State-Justice bill shows that he is not taking this seriously, as Congress most certainly is. I urge the President to understand how important this issue is and to start doing what Congress has directed and what his own drug czar is recommending; that is, start working toward 20,000 Border Patrol agents who keep the sovereign borders of our country safe and secure.

## NATIONAL WOMEN'S BUSINESS WEEK

Mrs. HUTCHISON. Mr. President, I rise today to recognize National Women's Business Week, a series of national events held recently to recognize and celebrate women entrepreneurship.

Women now own 38 percent of all businesses in this country, and it has been reported that half of all new businesses started today are started by women. In my home state of Texas alone, there are now 627,300 woman-owned businesses employing 1.8 million people and generating $222 billion in annual sales, a growth of 157 percent over the last seven years.

As a former small business owner, I know it is no easy feat to develop a business plan, generate the necessary start-up and operating capital, and make a payroll when you start a business. As if all those economic hurdles were not enough, small business owners in this country must comply with literally hundreds of local, state, and federal licensure, regulatory, and tax laws and requirements.

That tens of thousands of small businesses do get started in this country every year is truly a testament to the vision and hard work of so many Americans, especially American women.

Women like Patricia Pliego Stout, owner of the Alamo Travel Group, headquartered in San Antonio. Ms. Pliego Stout has grown a small travel business into the fourth largest agency in San Antonio. In recognition of her achievements and, as importantly, her encouragement and support of other women entrepreneurs in Texas, Ms. Pliego Stout was recently appointed to the National Women's Business Council, which promotes the goal of woman business ownership.

There are countless other success stories, as well. Unfortunately, there are also far too many stories of lack of access to adequate capital, of inability to break into established government and contracting networks, and other problems that continue to hamper women as they seek to become financially independent and to contribute to their greater economy and community.

As a United States Senator, I have worked hard to break down some of these barriers, and to open more opportunities to more people of all backgrounds and talents. In particular, I was proud to have been able to lead the effort in Congress to establish a 5 percent federal government-wide contracting goal for woman-owned small businesses. In addition, I have worked to expand such successful federal efforts as the Women's Business Centers program, which helps women with those critical first steps of starting a business. In addition, of assistance to all small businesses, including a disproportionate number of woman-owned businesses, I have worked to limit the federal government procurement practice of ''bundling'' contracts, which can also leave newly-formed firms out of the contracting game.

Mr. President, I again congratulate the women in Texas and across the nation who every day continue to overcome obstacles and who create success, jobs, and wealth through their sheer determination and energy. The events and activities of National Women's Business Week are evidence that women business ownership is alive and well, to the betterment of us all.

## AGRICULTURAL JOB OPPORTUNITY BENEFITS AND SECURITY ACT OF 1999

Mr. SMITH of Oregon. Mr. President, I rise with Senators GRAHAM, CRAIG, CLELAND, MCCONNELL, COVERDELL, MACK, COCHRAN, HELMS, GRAMS, CRAPO, BUNNING, and VOINOVICH to encourage support of S. 1814, the Agricultural Job Opportunity Benefits and Security Act of 1999.

Our bill will reform the agricultural labor market, establish and maintain immigration control, provide a legal workforce for our farmers, and restore the dignity to the lives of thousands of farmworkers who have helped make the U.S. economy the powerhouse that it is today.

I am sure you are aware of the problems that have arisen within American agriculture. For many years, employers in the agricultural industry have struggled to hire enough legal workers to harvest their produce and plants.

As one of the most rapidly growing industries in this country, we can only expect the demand for agricultural labor jobs to continue to rise. When coupled with the lowest unemployment rates in decades, a crackdown on illegal immigration, and increased Social Security audits, the agriculture industry—and ultimately its consumers—face a crisis of devastating proportions.

Contrary to some media accounts, these labor shortages and the need for a revised H–2A temporary foreign worker program exist around the country. Mr. President, my colleagues all agree with the General Accounting Office's (GAO) statement that while the labor shortage is not caused by one single problem, regional shortages stemming from region-specific problems do exist.

We have a shortage of legal workers in this country and the GAO estimates that there are in excess of 600,000 self-identified illegal aliens currently employed in U.S. agriculture. Another survey done by the Department of Labor also revealed that more than 70 percent, or about 1 million, of those hired to work on U.S. farms are here illegally.

Due to the highly sophisticated fraudulent documents in circulation and strict U.S. laws prohibiting employers from scrutinizing these documents too carefully, thousands of illegal workers have been unknowingly hired as a result. This situation leaves many agricultural employers vulnerable to potential labor shortfalls in the event of concentrated or targeted Immigration and Naturalization Service (INS) enforcement efforts or Social Security Administration audits.

Immigrants are also severely impacted when they must work as undocumented workers. These foreign workers risk their lives paying human ''coyotes'' $1,200 to be smuggled across the desert border in the trunk of a car to work in this country. Because of the risks these foreign workers face in coming here and the difficulty of returning if they leave for a visit home, many go for years without seeing their spouses and children, some never return home. These illegal workers are extremely vulnerable to these ''coyotes'' and other dark elements of society that prey upon them, prohibiting the basic human rights of life, liberty, and the pursuit of happiness.

A recent survey published by the William C. Velasquez Institute demonstrated that a vast majority of registered Latino voters support a new farmworker program. In addition to supporting higher wages and unionization for farmworkers, the overwhelming majority of registered Latino voters—76% in California and 67% in Texas—supported a program where ''illegal immigrant'' farmworkers were allowed to become permanent residents in exchange for several years of mandatory agricultural labor.

This poll clearly demonstrates that the current farm labor system serves no one well. Farmworkers support changing an illegal system that victimizes them and their families.

This issue is not new to Congress. Our government's H–2A agricultural guest worker program was designed in part to help solve the labor problems facing our farmers. Instead of helping, the H–2A program—the only legal temporary agricultural worker program in the United States—it merely adds bureaucratic red tape and burdensome regulations to the growing crisis. And it is failing those who use it.

The H–2A program is not practicable for the agriculture and horticulture industry because it is loaded with burdensome regulations, excessive paperwork, a bureaucratic certification process and untimely, inconsistent, and hostile decision-making by the U.S. Department of Labor. This program is over 50 years old.

To illustrate, Mr. President, this is the application I filled out to run for the United States Senate. It is one page, front and back.

This is the Department of Labor's 325-page handbook, from January 1988, which attempts to guide employers through the H–2A program's confusing application process. The GAO itself found that this handbook is outdated, incomplete, and very confusing to the user.

Even the December 1997 GAO report illustrated the burdensome H–2A process with which employers must comply in order to bring in legal, foreign workers. A grower must apply to multiple agencies to obtain just one H–2A worker. This process is further complicated by the multiple levels of government, redundant levels of oversight and conflicting administrative procedures and regulations. Also, as reported by the recent Department of Labor Inspector General, the H–2A program does not meet the interests of domestic workers because it does a poor job of placing domestic workers in agricultural jobs.

We are looking for solutions to not only make it easier for employers to hire legal workers to harvest their crops, but also to ensure that U.S. workers find jobs and are treated fairly in the process.

Our bill is a win-win-win for farmers, farmworkers, and immigration control. It reforms the agricultural labor market and establishes and maintains immigration control. It gives farmers the stability of a legal workforce and the certainty that the crops will be harvested in a timely manner. It gives farmworkers the ability to earn the right to legal status, avoid the risks of undocumented status and receive U.S. labor law protections. It addresses a status quo that persons on both sides of the issue agree is indefensible, but until now, has been too easy to ignore. It is a balanced bill that seeks both

short and long-term solutions to the crisis in farm labor.

Our bill will allow farmworkers who have a proven history of agricultural employment to eventually adjust to legal status in this country. Serious agricultural workers who are willing to commit to work several years in agricultural employment will receive nonimmigrant status and the rights that go with it.

If employment requirements are met, workers can eventually adjust to permanent resident status, allowing them to remain in the U.S. year-round. Utilizing the skills of the existing farmworker workforce, a majority of whom are undocumented status in the United States, would reduce the number of temporary H–2A workers needed. It allows hardworking farmworkers seeking to better themselves and their families the opportunity to earn the right to legal status.

At the same time, the current temporary farmworker program—called H–2A—will be reformed to make it more responsive, affordable and usable by the average family farmer who needs temporary help to produce and harvest agricultural crops and commodities. The need and risks of illegal immigration are removed.

Our bill provides a system or registry where our unemployed U.S. workers can go to find out about job openings on our U.S. farms. Any legal U.S. resident who wants to work in agriculture will get the absolute right of first refusal for any and all jobs that become available. After the Department of Labor determines that a shortage of domestic workers exists, farmers would be able to recruit adjusted workers. If a shortage of adjusted workers is found, farmers could then utilize H–2A workers. This ensures that employers hire workers already in the U.S. before recruiting foreign guest workers.

Our bill also improves the conditions of the farm workers' lives and provide them the dignity they deserve. These needed benefits include providing a premium wage, providing housing and transportation benefits, guaranteeing basic workplace protections, and extending the Migrant and Seasonal Workers Protection Act to all workers.

To add more protections for the health, safety, and security of farmworkers, our bill establishes a commission that would study problems with farmworker housing. Our bill also directs the Department of Labor and Department of Agriculture to study field sanitation, childcare and child labor violations, labor standards enforcement and to ultimately make recommendations for long-term changes and improvements.

I am very concerned that workers are protected, but let's not forget that growers have been victimized by this process too. In order to feed their families—and yours—the growers need to harvest their crops on time, meet their payroll, and ultimately maintain their bottom line. Without achieving those things, farms go out of business and the jobs they create are lost along with them. So it is in all of our best interests—workers, growers, and consumers alike—that growers have the means by which to hire needed legal workers.

While I don't have a crystal ball to predict the future of the indefensible status quo, I can tell you that we will have a major economic and social crisis on our U.S. farmlands if there is not an improvement over the current process.

Let's not keep making fugitives out of farmworkers and felons out of farmers.

I urge my fellow colleagues to join Senators GRAHAM, CRAIG, CLELAND, MCCONNELL, COVERDELL, MACK, COCHRAN, HELMS, GRAMS, CRAPO, BUNNING, VOINOVICH, and me in support of this important bipartisan legislation.

## CHILDREN'S MARCH FOR GUN CONTROL

Mr. LEVIN. Mr. President, yesterday, students from around the country came to Washington to ask for help. Students participating in the Children's March for Gun Control marched hand-in-hand to Capitol Hill with a simple demand: to keep them safe from guns.

Members of Congress should tune out the NRA, and start listening to these children—who have to face the fear of guns everyday. The children from across the country are pleading that Congress create an environment free from fear and violence. These children are armed, not with firearms, but with letters, urging Congress to end the epidemic of gun violence that claims the lives of thousands of their peers each year.

Yet, while Congress should be passing comprehensive legislation to prevent school shootings like those in Conyers, Littleton, Springfield, Edinboro, Jonesboro, West Paducah, Pearl and the many others, it cannot even muster enough votes to take UZIs and AK–47s out of the hands of 15 year olds. After Columbine, the Senate took a few steps to protect children from gun violence. We passed legislation to prohibit juveniles from owning semiautomatic weapons and large capacity ammunition devices. We passed an amendment to require that handguns be sold with trigger locking devices to protect children. And we passed an amendment to close the gun show loophole, ensuring juveniles and others cannot use these shows as a convenient way to circumvent the safeguards applied to normal sales through licensed gun dealers.

That legislation was a first step, but it still falls short of closing loopholes which allow our youth easy access to deadly weapons. For example, one of our most important tasks yet will be to ban handguns and semiautomatic assault weapons for persons under 21 years of age. Yet, even the most minimal effort to end gun violence has been stymied in the House of Representatives, where they have passed no gun safety legislation. And any effort to come to some agreement has been repeatedly stalled by the Republican leadership.

It was great to welcome such a group of dedicated young people to the nation's Capitol. I encourage them to keep up their effort and to speak out for those children who have been silenced by guns. Over time, these children are sure to accomplish what other nations have done: end the plague of gun violence.

## LONG-PENDING JUDICIAL NOMINATIONS BEFORE THE SENATE

Mr. LEAHY. Mr. President, I thank the Majority Leader for the proposal he made to the Senate last night on moving a portion of the Executive Calendar. I would like to see those nominees he mentioned confirmed as well as the others on the calendar. I want to work with him to have them all considered and confirmed. I want to be sure that the Senate treats them all fairly and accords each of them an opportunity for an up or down vote. I want to share with you a few of the cases that cry out for a Senate vote:

The first is Judge Richard Paez. He is a judicial nominee who has been awaiting consideration and confirmation by the Senate since January 1996—for over 3½ years. The vacancy for which Judge Paez was nominated became a judicial emergency during the time his nomination has been pending without action by the Senate. His nomination was first received by the Senate almost 45 months ago and is still without a Senate vote. That is unconscionable.

Judge Paez has twice been reported favorably by the Senate Judiciary Committee to the Senate for final action. He is again on the Senate calendar. He was delayed 25 months before finally being accorded a confirmation hearing in February 1998. After being reported by the Judiciary Committee initially in March 1998, his nomination was held on the Senate Executive Calendar without action or explanation for over 7 months, for the remainder of the last Congress.

Judge Paez was renominated by the President again this year and his nomination was stalled without action before the Judiciary Committee until late July, when the Committee reported his nomination to the Senate for the second time. The Senate refused to consider the nomination before the August recess. I have repeatedly urged the Republican leadership to call this nomination up for consideration and a vote. The Republican leadership in the Senate has refused to schedule this nomination for an up or down vote.

Judge Paez has the strong support of both California Senators and a 'well-qualified' rating from the American Bar Association. He has served as a municipal judge for 13 years and as a federal judge for four years.

In my view Judge Paez should be commended for the years he worked to

provide legal services and access to our justice system for those without the financial resources otherwise to retain counsel. His work with the Legal Aid Foundation of Los Angeles, the Western Center on Law and Poverty and California Rural Legal Assistance for 9 years should be a source of praise and pride.

Judge Paez has had the strong support of California judges and law enforcement representatives familiar with his work, such as Justice H. Walter Crosky, and support from an impressive array of law enforcement officials, including Gil Garcetti, the Los Angeles District Attorney; the late Sherman Block, then Los Angeles County Sheriff; the Los Angeles County Police Chiefs' Association; and the Association for Los Angeles Deputy Sheriffs.

I have previously commended the Chairman of the Judiciary Committee for his support of this nominee and Senator BOXER and Senator FEINSTEIN of California for their efforts on his behalf. In the Senate's vote earlier this month on the nomination of Justice Ronnie White, Republican Senators justified their vote by deferring to home state Senators and local law enforcement. When it comes to Judge Paez, he has the strong support of both home state Senators and local law enforcement. Accordingly, I would hope and expect that the Senate will see a strong Republican vote for Judge Paez.

The Hispanic National Bar Association, the Mexican American Legal Defense and Educational Fund, the League of United Latin American Citizens, the National Association of Latino Elected and Appointed Officials, and many, many others have been seeking a vote on this nomination for what now amounts to years.

Last year the words of the Chief Justice of the United States were ringing in our ears with respect to the delays in Senate consideration of judicial nomination. He had written:

> Some current nominees have been waiting considerable time for a Senate Judiciary Committee vote or a final floor vote. . . . The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down.

Richard Paez's nomination to the Ninth Circuit had already been pending for 24 months when the Chief Justice issued that statement—and that was almost 2 years ago. The Chief Justice's words resound in connection with the nomination of Judge Paez. He has twice been reported favorably by the Judiciary Committee. It was been pending for 45 months. The court to which he was nominated has multiple vacancies. In fairness to Judge Paez and all the people served by the Ninth Circuit, the Senate should vote on this nomination.

I have been concerned for the last several years that it seems women and minority nominees are being delayed and not considered. I spoke to the Senate about this situation on May 22, June 22 and, again, on October 8 last year, and a number of times this year, including on October 15 and October 21. Over the last couple of years the Senate has failed to act on the nominations of Judge James A. Beaty, Jr. to be the first African-American judge on the Fourth Circuit; Jorge C. Rangel to the Fifth Circuit; Clarence J. Sundram to the District Court for the Northern District of New York; Anabelle Rodriguez to the District Court in Puerto Rico; and many others.

In explaining why he chose to withdraw from consideration for renomination after waiting 15 months for Senate action, Jorge Rangel wrote to the President and explained:

> Our judicial system depends on men and women of good will who agree to serve when asked to do so. But public service asks too much when those of us who answer the call to service are subjected to a confirmation process dominated by interminable delays and inaction. Patience has its virtues, but it also has its limits.

Last year the average for all nominees confirmed was over 230 days and 11 nominees confirmed last year took longer than 9 months: Judge William Fletcher's confirmation took 41 months—it became the longest-pending judicial nomination in the history of the United States, a record now held by Judge Paez; Judge Hilda Tagle's confirmation took 32 months, Judge Susan Oki Mollway's confirmation took 30 months, Judge Ann Aiken's confirmation took 26 months, Judge Margaret McKeown's confirmation took 24 months, Judge Margaret Morrow's confirmation took 21 months, Judge Sonia Sotomayor's confirmation took 15 months, Judge Rebecca Pallmeyer's confirmation took 14 months, Judge Ivan Lemelle's confirmation took 14 months, Judge Dan Polster's confirmation took 12 months, and Judge Victoria Roberts' confirmation took 11 months. Of these 11, 8 are women or minority nominees. Another was Professor Fletcher who was held up, in large measure because of opposition to his mother, Judge Betty Fletcher.

In 1997, of the 36 nominations eventually confirmed, 9, fully one-quarter of all those confirmed, took more than 9 months before a final favorable Senate vote.

In 1996, the Republican Senate shattered the previous record for the average number of days from nomination to confirmation for judicial confirmation. The average rose to a record 183 days. In 1997, the average number of days from nomination to confirmation rose dramatically yet again, and that was during the first year of a presidential term. From initial nomination to confirmation, the average time it took for Senate action on the 36 judges confirmed in 1997 broke the 200-day barrier for the first time in our history. It was 212 days.

Unfortunately, that time grew again last year to the detriment of the administration of justice. Last year the Senate broke its dismal record. The average time from nomination to confirmation for the 65 judges confirmed in 1998 was over 230 days. The independent and bipartisan study of Task Force on Judicial Selection formed by Citizens for Independent Courts recently confirmed what I have been observing for the past few years—the time to consider judicial nominations has been increased significantly over the last few years and women and minority judicial nominees are more likely to take significantly longer to be considered, if they are considered at all.

We have had too many cases in which it has taken women nominees years before the Judiciary Committee would act and the Senate would vote. Eventually, we have been able to confirm many of these outstanding nominees, people like Margaret Morrow, Sonia Sotomayor, Ann Aiken, Margaret McKeown and Susan Oki Mollway. The current victim of the extensive delays caused by unusually intensive scrutiny of many women judicial nominees is Marsha Berzon.

Marsha Berzon is one of the most qualified nominees I have seen in 25 years, and Senator HATCH has agreed with that assessment publically. He voted for her in the Judiciary Committee. Her legal skills are outstanding, her practice and productivity have been extraordinary. Lawyers against whom she has litigated regard her as highly qualified for the bench. She was first nominated in January 1998, some 20 months ago. Her nomination remains the subject of ''secret holds'' from anonymous Senate Republicans.

Senator FEINSTEIN has made the point that it may be subtle forms of disparate treatment and double standards to which these nominations are subjected. She has lectured the Committee and the Senate from time to time on our insensitivity to the experiences of these nominees. Women still do not have the good old boy network of some nominees and often show leadership and get experience by being involved in community activities and with charities and with organizations that some conservative Republicans apparently view negatively and with suspicion.

Marsha Berzon is an outstanding nominee. By all accounts, she is an exceptional lawyer with extensive appellate experience, including a number of cases heard by the Supreme Court. She has the strong support of both California Senators and a well-qualified rating from the American Bar Association.

She was initially nominated in January 1998, 21 months ago. She participated in an extensive two-part confirmation hearing before the Committee back on July 30, 1998. Thereafter she received a number of sets of written questions from a number of Senators and responded in August of last year. A second round of written

questions was sent and she responded by the middle of September of last year. Despite the efforts of Senator FEINSTEIN, Senator KENNEDY, Senator SPECTER and myself to have her considered by the Committee, she was not included on an agenda and not voted on during all of 1998. Her nomination was returned to the President without action by this Committee or the Senate last October.

This year the President renominated Ms. Berzon in January. She participated in her second confirmation hearing in June, was sent additional sets of written questions, responded and got and answered another round. I do not know why those questions were not asked last year.

Finally, on July 1 almost 4 months ago, the Committee considered the nomination and agreed to report it to the Senate favorably. After more than a year and one-half the Senate should, at long last, vote on the nomination. Senators who find some reason to oppose this exceptionally qualified woman lawyer can vote against her if they choose, but she should be accorded an up or down vote. That is what I have been asking for and that is what fairness demands.

Senator HATCH was right 2 years ago when he called for an end to the political game that has infected the confirmation process. These are real people whose lives are affected. Judge Richard Paez has been waiting patiently for 45 months, almost 4 years, for the Republican Senate to vote on his nomination, a nomination that Senator HATCH voted for twice. Marsha Berzon has been held hostage for 21 months not knowing what to make of her private practice or when the Senate will deem it appropriate to finally vote on her nomination.

Last week I received a Resolution from the National Association of Women Judges. I hope that the Senate will respond to Resolution, in which the NAWJ urges expeditious action on nominations to federal judicial vacancies. The President of the Women Judges, Judge Mary Schroeder, is right when she cautions that ''few first-rate potential nominees will be willing to endure such a tortured process'' and the country will pay a high price for driving away outstanding candidates to fill these important positions. The Resolution notes the scores of continuing vacancies with highly qualified women and men nominees and the nonpartisan study of delays in the confirmation process, and even more extensive delays for women nominees, found by the Task Force on Judicial Selection formed by Citizens for Independent Courts. The Resolution notes that such delay ''is costly and unfair to litigants and the individual nominees and their families whose lives and career are on hold for the duration of the protracted process.'' In conclusion, the National Association of Women Judges ''urges the Senate of the United States to bring the pending nominations for the federal judiciary to an expeditious vote so that those who have been nominated can get on with their lives and these vacancies can be filled.''

Although this is not just about numbers, the numbers are damning. So far this year the Senate has received 70 judicial nominations and confirmed only 25. By this time last year, the Senate had confirmed 66 judges—more than twice as many. By this time in 1992, the last year of President Bush's term, a Democratic Senate had confirmed 64 judges. By this time in 1994, a Democratic Senate had confirmed over 100 judges.

There are judicial emergencies vacancies all over the country. The Fifth Circuit Court of Appeals has had to declare that entire Circuit in an emergency. Its workload has gone up 65 percent in the last 9 years; but they are being forced to operate with almost one-quarter of their bench vacant. The Senate has not given any attention to the two nominees pending in Committee—either Enrique Moreno or Alston Johnson.

We had a similar emergency a year or so ago in the Second Circuit. We finally ended that crisis when we fought through secret Republican holds and got the Senate after 15 months to vote on the nomination of Judge Sonia Sotomayor. She was confirmed overwhelmingly.

At the time I was struck by an article by Paul Gigot in the Wall Street Journal, which explained why Judge Sotomayor was being held up—it was not because she was not qualified to serve on the Second Circuit but because some felt that she was so well qualified President Clinton might nominate her to the United States Supreme Court if a vacancy were to arise. Imagine that, anonymous holds to ensure that a superbly talented Hispanic woman judge not be seen as a good bet to nominate to the Supreme Court. I fear that the opposition to Marsha Berzon may partake of some of this kind of thinking. She is so well qualified, so clearly likely to be an outstanding judge on the Ninth Circuit, that perhaps some anonymous Republican Senators are afraid that she will be too good, that her opinions will be too well reasoned that her application of the law will be too sound.

Weeks ago the Majority Leader came to the floor and said that he would try to find a way to have the Paez and Berzon nominations considered by the Senate. I have tried to work with Majority Leader on all of these nominations. I would like to work with those Senators whom the Majority Leader is protecting from having to vote on the Paez and Berzon nominations, but I do not know who they are. Despite the policy announced at the beginning of this year doing away with ''secret holds,'' that is what Judge Paez and Marsha Berzon still confront as their nominations continue to be obstructed under a cloak of anonymity after 45 months and 21 months, respectively. That is wrong and unfair.

This continuing delay demeans the Senate, itself. I have great respect for this institution and its traditions. Still, I must say that this use of secret holds for extended periods that doom a nomination from ever being considered by the United States Senate is wrong and unfair and beneath us. Who is it that is afraid to vote on these nominations? Who is it that is hiding their opposition and obstruction of these nominees? After almost 4 years with respect to Judge Paez and almost 2 years with respect to Marsha Berzon, it is time for the Senate to vote up-or-down on these nominations.

The Senate should be fair and vote on these nominations. Anonymous Republican Senators are being unfair to the judicial nominees on the calendar. These qualified nominees are entitled to an up or down vote, too.

The Atlanta Constitution noted recently:

> Two U.S. appellate court nominees, Richard Paez and Marsha Berzon, both of California, have been on hold for four years and 20 months respectively. When Democrats tried . . . to get their colleagues to vote on the pair at long last, the Republicans scuttled the maneuver. . . . This partisan stalling, this refusal to vote up or down on nominees, is unconscionable. It is not fair. It is not right. It is no way to run the federal judiciary. . . . This ideological obstructionism is so fierce that it strains our justice system and sets a terrible partisan example for years to come.

It is against this backdrop that I, again, ask the Senate to be fair to these judicial nominees and all nominees. For the last few years the Senate has allowed one or two or three secret holds to stop judicial nominations from even getting a vote. That is wrong.

The Washington Post has noted:

> [T]he Constitution does not make the Senate's role in the confirmation process optional, and the Senate ends up abdicating responsibility when the majority leader denies nominees a timely vote. All the nominees awaiting floor votes . . . should receive them immediately.

The Florida Sun-Sentinel has written:

> The ''Big Stall'' in the U.S. Senate continues, as senators work slower and slower each year in confirming badly needed federal judges. . . . This worsening process is inexcusable, bordering on malfeasance in office, especially given the urgent need to fill vacancies on a badly undermanned federal bench. . . . The stalling, in many cases, is nothing more than a partisan political dirty trick.

Nominees deserve to be treated with dignity and dispatch—not delayed for 2 and 3 and 4 years. I continue to urge the Republican Senate leadership to proceed to vote on the nominations of Judge Richard Paez and Marsha Berzon. There was never a justification for the Republican majority to deny these judicial nominees a fair up or down vote. There is no excuse for their continuing failure to do so.

Acting to fill judicial vacancies is a constitutional duty that the Senate—and all of its members—are obligated to fulfill. In its unprecedented slowdown in the handling of nominees since

the 104th Congress, the Senate is shirking its duty. That is wrong and should end. These are the nominations that the Senate on which the Senate should be working toward action.

I understand that nominations are not considered in lockstep order based on the date of receipt. I understand and respect the prerogatives of the majority party and the Republican leader. I do not want to oppose any nomination on the calendar and only ask that the Senate be fair to these other nominees, as well. Nominees like Judge Richard Paez and Marsha Berzon should be voted on up or down by the Senate. We are asking and have been asking the Republican leadership to schedule votes on those nominations so that action on all the nominations can move forward.

I know that there were no objections on the Democratic side of the aisle to the three judicial nominations that the Majority Leader included in his proposal last night. No Democrat has a hold on the nominations of Judge Florence-Marie Cooper, Barbara Lynn or Ronald Gould. No Democrat has any objection to proceeding to confirm by voice vote or to proceed to roll call votes on these nominations. No Democratic Senator has any objection to proceeding to confirm by voice vote or to proceed to rollcall votes on any of the 9 judicial nominations on the Senate's executive calendar. What we do ask is that Judge Paez and Marsha Berzon not be left on the calendar without a vote at the end of another session of Congress. We have been unable even to obtain a commitment from the Majority Leader to schedule a fair up or down vote on these nominations at any time in the future. We respectfully request his help in scheduling such action by the Senate.

## IN MEMORY OF R. DUFFY WALL

Mr. BURNS. Mr. President, this has not been a good week—losing a friend and colleague; Payne Stewart, and, yes, another friend here in this town who had a government relations job.

We often hear the word ''lobbyist'' put in a negative tone, but this was a man who built a reputation of integrity and honesty in government relations.

This week, cancer claimed R. Duffy Wall. He died at his home on the Eastern Shore. He was friend and mentor.

You know what we would be without the folks who work in different areas of American life who represent that way of life to the Congress of the United States. We are not all wise. We do not know everything about everything. We need help. Duffy Wall was such a person—honest, straight shooter, a friend, dead at age 57, far too young. We will not get to use his services and wisdom anymore either.

I could talk longer about these friends. This has been a bad week, especially losing our Senator and losing a person very close to us.

Mr. President, I ask unanimous consent that the notes on Mr. Wall and his obituary be printed in the RECORD.

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

*Washington, DC, October 25, 1999.*

Following a long battle against lung cancer, R. Duffy Wall, 57, died yesterday at his home on the Eastern Shore—his wife Sharon was by his side. 'Duffy' as he was known by his many friends was a native of Louisiana who came to Washington in the 1970's and spent his entire career in the public policy arena. Known for his humor and ability to advise and ''cajole'' Members of Congress and clients on the intricacies of legislation, he was highly respected and admired by the powerful and the not-so-powerful alike.

In 1982, Mr. Wall founded R. Duffy Wall & associates providing lobbying and government relations services to a broad range of corporate clients. Under Mr. Wall's leadership, the firm grew into one of the Capital's most admired and successful lobbying operations attracting some of America's most prestigious companies and associations as clients. In 1998, the company was acquired by Fleishman-Hillard, an international communications company headquartered in St. Louis, Missouri.

Bill Brewster, the former Congressman from Oklahoma, who assumed the leadership of the company in 1998 and became CEO in 1999, said of Mr. Wall, ''Duffy was a friend, advisor, and mentor to all of us for many years. He will be missed very much by everyone in the government relations and political community, and he will always remain the faithful voice of encouragement to hunters in the field.''

An avid sportsman, Mr. Wall was as comfortable staling woodland paths and fencerows in pursuit of game and fowl as he was walking the halls of Congress.

In accordance with Duffy's wishes, the funeral will be limited to his family and there will be no memorial service. Those who wish to remember him are encouraged to send contributions in lieu of flowers to:

MD Anderson Cancer Center, Foundation of America, R. Duffy Wall Lung Cancer Program, Cancer Research Prgm., P.O. Box 297153, Houston, TX 77297; or Cancer Research, R. Duffy Wall Lung, 1600 Duke Street, Suite 110, Alexandria, VA 22314.

He is survived by his wife Sharon Borg Wall; a daughter, Catherine Wall Montgomery; a son, Howard Wall; his mother Juanita F. Wall; two brothers and three grandchildren.

## MILLENNIUM DIGITAL COMMERCE ACT

Mr. LEAHY. Mr. President, about two months ago, Senator ABRAHAM and I began holding a series of meetings involving industry and consumer representatives to work out a bill that would permit and encourage the continued expansion of electronic commerce, and promote public confidence in its integrity and reliability. Together, we solicited and received technical assistance from the Department of Commerce and the Federal Trade Commission. In late September, we put the finishing touches on a Leahy-Abraham substitute to S. 761.

On Tuesday night, after most members had left for the day, Senator ABRAHAM went to the floor and propounded a unanimous consent on a very different substitute to S. 761. Because I was not able to respond fully to his comments the other night, I would like to do so now.

At the outset, let me say that I support the passage of federal legislation in this area. In particular, we need to ensure that contracts are not denied validity that they otherwise have simply because they are in electronic form or signed electronically.

As I have said many times, however, we must tread cautiously when legislating in cyberspace. Senator ABRAHAM's bill, S. 761, takes a sweeping approach, preempting countless laws and regulations, federal and state, that require contracts, records and signatures to be in traditional written form. My concern is that such a sweeping approach would radically undermine laws that are currently in place to protect consumers.

We are told that S. 761 will have tremendous benefits for ''the public.'' Who exactly is ''the public'' that will benefit from this legislation? Not consumers. The bill is strongly opposed by consumer organizations across the country.

Supporters of this bill say that consumers will benefit from S. 761 because it will permit them to contract electronically for goods and services, and to obtain electronic records of their transactions. I agree that consumers should be able to contract online, but that is not the issue. Consumers already can contract for most things online, as anyone who has heard of such businesses as ''amazon.com'' and ''ebay.com'' knows. The issue here is whether we are going to allow public interest protections now applicable to private paper transactions to be circumvented simply by conducting the same transaction electronically.

Let me tell you about an incident that occurred in my office just this week. An industry lobbyist called to ask for a copy of my recent floor statement regarding this legislation. We sent him a copy as an attachment to an e-mail. An hour later, the same lobbyist called back to say that he had received the e-mail, but could not read the attachment. So we e-mailed it to him again, this time using a different word processing format. The lobbyist called back a third time to say that he still could not read the statement, and would we please fax a copy to his office, which we did. This sort of thing happens every day in offices and homes across the country.

It was only after we sent the fax that it occurred to me that under this bill, the unfortunate caller would have been deemed to have received written notice of my floor statement, in duplicate no less, before it ever reached him in a form he could read. No great loss in the case of my floor statement, but swap a bank and a homeowner for the Senator and the lobbyist in this story, and a foreclosure notice for the floor statement, and you can begin to see the harm this legislation could cause to ordinary Americans on a regular basis.

Many fine and responsible companies have called my office over the last few months, to express support for one or another version of S. 761. I have no doubt that they and a great many other American businesses that respect and value their customers would benefit from federal e-commerce legislation and share the benefits with their consumers.

We must not forget, however, that the purpose of consumer protection legislation is not so much to reinforce the good business practices of the best businesses in our society, but rather to protect consumers from the abusive and fraudulent minority of businesses that will take any opportunity to use new technologies to prey on consumers. That is why we must keep the interests of consumers in mind. While I do not question in any way the good intentions of the industry representatives who support this bill, they do not have the duty that we in Congress do to represent the broader public interest.

In urging speedy passage of S. 761, Senator ABRAHAM pointed to ''the fact'' that it passed the Commerce Committee unanimously, and ''the fact'' that the President endorsed it. The fact is, the bill that Senator ABRAHAM asked us to pass earlier this week is not the same bill that the Commerce Committee reported in June.

For one thing, it includes a new and complex provision regarding what it calls ''transferable records,'' that has never been considered by any Committee of the House or Senate. The bill also contains a host of other new provisions and amendments, including provisions and amendments relating to agreements, admissibility of evidence, record retention, and checks.

Furthermore, this bill is far less respectful of the states than the Commerce-passed bill, which was itself unprecedentedly preemptive. This legislation should be an interim measure to ensure the validity of electronic agreements entered into before the states have a chance to enact the Uniform Electronic Transactions Act. Once the UETA is adopted by a state, the federal rule is unnecessary and should ''sunset.''

Unlike the Commerce-passed bill, the new S. 761 would maintain a strong federal hand in the commercial law of electronic signatures and electronic records within a state even after it adopts the UETA. This is true because the bill would lift its preemptive effect only to the extent that a state's UETA is consistent with the provisions of S. 761. The reformulation can have only one possible objective, which is to prevent states like Vermont or California or even Michigan from passing e-commerce legislation that is more protective of consumers than federal law.

That is why the bill is so strongly opposed by the States. The National Conference of State Legislatures writes that the latest version of S. 761 ''would eviscerate consumer protections which consumers now enjoy off-line and mandate how states are to transact business.'' The New Jersey Law Revision Commission, an agency of the New Jersey Legislature, writes that it ''vigorously opposes'' S. 761, calling it ''an unwarranted imposition on State law'' that ''would create more problems than it would solve.'' Other representatives of the States have expressed similar concerns.

To summarize, the Commerce Committee did not unanimously report this bill, nor did the Administration endorse it. Indeed, I doubt that anyone in the Administration set eyes on this bill before Monday, when it was filed as a substitute to S. 761.

Moreover, the Administration does not currently endorse even the more modest bill reported by the Commerce Committee. In a recent letter to the House Judiciary Committee regarding title I of H.R. 1714, which substantially resembles S. 761, the General Counsel of the Commerce Department noted that, at the time S. 761 was reported, the spillover effect of its provisions on electronic contracts on existing consumer protection and regulatory standards had not been identified. He concluded:

> Now that this effect has become clear, and it is equally clear that enactment of this measure is desired by some precisely because of this spillover effect, we [i.e., the Administration] must oppose these provisions as currently drafted.

The same letter states:

> Consumer protection is [an] important area where the public interest has been found to require government oversight. States, as well as the Federal government, must not be shackled in their ability to provide safeguards in this area. Yet this is precisely what this legislation would do.

The recently-filed substitute version of S. 761 would do the same.

I was surprised to hear Senator ABRAHAM say that his efforts to negotiate with those of us who had concerns about the bill had been ''unsuccessful.'' As I have already discussed, those negotiations were very successful. They produced a truly bipartisan bill that promoted e-commerce for the benefit of all Americans and not just special interests. It took many weeks of hard work to achieve that result.

I urge my colleagues to oppose the substitute for S. 761.

I also ask unanimous consent to have printed in the RECORD a letter from Federal Trade Commission to my office dated September 3, 1999, and a letter from the Commerce Department to Representative HYDE dated October 12, 1999.

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

UNITED STATES OF AMERICA,
FEDERAL TRADE COMMISSION,
*Washington, DC, September 3, 1999.*

Hon. PATRICK LEAHY,
*U.S. Senate, Washington, DC.*

DEAR SENATOR LEAHY: In response to your request, I am pleased to submit the views of the Federal Trade Commission on S. 761, the ''Third Millennium Digital Commerce Act,'' which was reported by the Commerce Committee on June 23, 1999. You have asked, in particular, whether the bill could undermine consumer protections in state and federal law, and how the bill might be improved.

We share the broad goals of S. 761, which are to promote the development of electronic commerce through the expanded use of electronic signatures and electronic agreements. As with other aspects of electronic commerce, these technologies hold possibility of reducing costs and expanding opportunities for consumers. Although the bill appears primarily focused on removing barriers to electronic commerce in business-to-business transactions, we have begun analyzing the possible impact of the bill on business-to-consumer transactions.

The bill's potential application to consumer transactions raises questions that should be addressed. For instance, would the bill preempt numerous state consumer protection laws? Would borrowers be bound by a contract requiring that they receive delinquency or foreclosure notices by electronic mail, even if they did not own a computer? Would consumers who had agreed to receive electronic communications be entitled to revert to paper communications if their computer breaks or becomes obsolete? Would consumers disputing an electronic signature have to hire an encryption expert to rebut a claim that they had ''signed'' an agreement when, in fact, they had not? What evidentiary value would an electronic agreement have if it could be easily altered electronically? It may be that with some clarification, these questions can easily be addressed.

We would be pleased to work with the Congress, industry and consumer representatives to craft provisions that would provide protections for consumers while allowing business-to-business commerce to proceed unimpeded.

By direction of the Commission.

C. LANDIS PLUMMER,
*Acting Secretary.*

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GENERAL COUNSEL OF THE
U.S. DEPARTMENT OF COMMERCE,
*Washington, DC, October 12, 1999.*

Hon. HENRY J. HYDE,
*Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: This is to convey the views of the Administration regarding Title I of H.R. 1714, the ''Electronic Signatures in Global and National Commerce Act,'' as reported by your Subcommittee on Courts and Intellectual Property (''Subcommittee'').

We support the overall goal of H.R. 1714 of promoting a predictable, minimalist legal environment for electronic commerce, including the encouragement of prompt state adoption of uniform legislation assuring the legal effectiveness of electronic transactions and signatures. We also appreciate the desire and the work of the Subcommittee on Courts and Intellectual Property to put forward a bill that addresses the concerns of the Administration as explained in Commerce and Justice Department testimony before that Subcommittee.

In particular, we note that section 103 of the reported bill, titled ''Interstate Contract Certainty,'' is directed to ''any commercial transaction affecting interstate commerce'' and that ''transaction'' is defined to exclude activity involving federal or State governments as parties. We endorse these features of the bill, which make the scope of the legislation broad enough to encompass most day-to-day commercial electronic transactions without interfering with the orderly adoption by governments of electronic means for transacting their public business.

We also are pleased that the reported bill omits any provision for federal agency initiatives to enjoin state laws not conforming to the requirements of this statute.

We continue to support strongly the principles for the use of electronic signatures in international transactions set out in section 102. These are fully consistent with the principles we have been actively promoting internationally since July, 1997, when President Clinton and Vice President Gore issued the Framework for Global Electronic Commerce charging our Department to ''work with the private sector, state and local governments, and foreign governments to support the development, both domestically and internationally, of a uniform commercial legal framework that recognizes, facilitates, and enforces electronic transactions worldwide.''

We nevertheless believe that the bill, as reported, would still preempt state law unnecessarily, both in degree and duration; invalidate numerous state and federal laws and regulations designed to protect consumers and the general public; and otherwise create legal uncertainty where predictability is the goal. We therefore must strongly oppose the measure in its current form.

To begin with, we do not understand why it is necessary to override existing federal laws governing commercial transactions. The purpose of this legislation has always been explained as the elimination of antiquated requirements for physical contracts and pen-and-ink signatures. Because those legal principles are embodied in state law, it is understandable that some limited preemption of state law is necessary to accomplish that goal pending the States' adoption of the Uniform Electronic Transactions Act (UETA). The federal rules applicable to these transactions are grounded in regulatory obligations, not basic contract law principles. We do not believe it is appropriate to sweep away these requirements on an across-the-board basis. to the extent that federal regulatory rules need updating to address the new reality of electronic transactions, this should be done on a case-by-case basis, to ensure that the public policy concerns that underlie the existing measures are fully addressed in the electronic world. Accordingly, we believe only state law standards should be affected by federal legislation in this area.

Section 103 of H.R. 1714 as reported to your Committee continues to place significant, and we believe inappropriate, limits upon the States' ability to alter or supersede the federal rule of law that the bill would impose. As I indicated in my testimony before the Courts and Intellectual Property Subcommittee, this legislation should be limited to a temporary federal rule to ensure the validity of electronic agreements entered into before the States have a chance to enact the UETA. Once the UETA is adopted by a State, the federal rule is unnecessary, and it should ''sunset.'' The reported bill would maintain a strong federal hand in the commercial law of electronic signatures and records within a State even after it adopts the UETA. This is true because the bill would lift its preemptive effect only to the extent that the UETA ''as in effect in such State,'' or any other law of the State, is ''not inconsistent, in any significant manner'' with the provisions of this Act.

The pervasiveness and strength of this continuing federal influence over States' laws is shown by the broad and unqualified wording of some of the substantive provisions of section 103. For example, subsection 103(a)(3) provides: ''If a law requires a record to be in writing, or provides consequences if it is not, an electronic record satisfies the law.'' Similarly, subsection (a)(4) provides that wherever a law ''requires a signature, or provides consequences in the absence of a signature, the law is satisfied with respect to an electronic record if the electronic record includes an electronic signature,'' and subsection (a)(5) provides highly specific requirements for ensuring that a legal record-retention requirement will be satisfied by an electronic record. With such provisions in section 103, the bill's continuing preemption of all State laws which are ''not inconsistent in any significant manner'' with the provisions of this Act would perpetuate federal law as the core of the commercial law of electronic signatures and records in every state. As emphasized in our Department's testimony before the Subcommittee, deference to state law in the area of commercial transactions has been the hallmark of the legal system in this country. The reported bill remains inconsistent with this important tradition which has produced a system of commercial law widely considered the best in the world.

Subsections 103(a) (3), (4) and (5), which I have just mentioned, coupled with the broad party autonomy language of section 103(b), would also place excessive limits on governmental authority. In particular, these provisions would appear to preclude virtually any regulation of private parties' authentication of recordkeeping practices in the sphere of electronic commerce, as is common and recognized as appropriate with respect to paper-based transactions.* But these regulations, including consumer protection laws, laws governing financial transactions, and others, are essential to ensure that the public interest is protected.

For example, raising concerns similar to those noted in this Department's testimony on H.R. 1714, Banking Committee Chairman Leach recently wrote to Commerce Committee Chairman Bliley noting that the federal financial regulatory agencies have raised a concern about the language of the section of H.R. 1714 (section 103(b) of the version before your Committee) relating to the autonomy of parties to a contract to set their own requirements with respect to electronic records and signatures. Specifically, he noted the need to ensure that the bill's party autonomy provisions would not limit government authority to engage in limited regulation of authentication- or records-related matters in certain private party transactions in the public interest. We agree; for example, given the unqualified authorization provided by subsection 103(b) to private parties to determine the ''methods'' as well as the ''terms and conditions'' under which they will use and accept electronic signatures and records, banks would be free to adopt methods that could result in the absence of adequate records or sound authentications of transactions when the bank examiner arrives.

Chairman Leach also noted that the Federal Reserve Board has raised concerns regarding the application of H.R. 1714 to negotiable instruments, such as checks and notes. He pointed out that the National Conference of Commissioners on Uniform State Laws recognized some of these concerns and therefore excluded transactions covered by the Uniform Commercial Code from coverage under UETA. We agree with the concerns raised by Chairman Leach and believe that amendments or clarifications along the lines he has suggested continue to be needed in the context of H.R. 1714 as reported to your Committee.

Consumer protection is another important area where the public interest has been found to require government oversight. States, as well as the Federal government, must not be shackled in their ability to provide safeguards in this area. Yet this is precisely what this legislation would do.

Section 104, ''Study of Legal and Regulatory Barriers to Electronic Commerce,'' is consistent with the Administration's commitment to ensure the careful review of possible legal and regulatory barriers to electronic commerce. Indeed, this provision in the bill as reported focuses upon barriers to electronic commerce, as such, rather than more narrowly upon commerce in electronic signature products and services. We believe this focus is appropriate. However, to avoid duplication of agency reporting, we would recommend against inclusion of the Office of Management and Budget as an agency to receive initial agency reports under the provision.

In summary, we believe that the bill as reported by the Subcommittee addresses some important concerns of the Administration that were set out in our earlier testimony. However, H.R. 1714 in the form reported to your Committee retains significant flaws that would have to be addressed before the Administration could support the bill. We would be pleased to continue to work with your Committee on this important legislation.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

ANDREW J. PINCUS.

*These provisions are similar to some contained in S. 761, as reported by the Senate Commerce Committee. I expressed support for that measure because it ensured that contracts could not be invalidated because they were in electronic form or because they were signed electronically. At the time the bill was reported, the spillover effect of these provisions on existing consumer protection and regulatory standards had not been identified. Now that this effect has become clear, and it is equally clear that enactment of this measure is desired by some precisely because of this spillover effect, we must oppose these provisions as currently drafted.

## 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 treaty and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## A REPORT RELATIVE TO THE CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO SUDAN—MESSAGE FROM THE PRESIDENT—PM 69

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the

anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Sudanese emergency is to continue in effect beyond November 3, 1999, to the *Federal Register* for publication.

The crisis between the United States and Sudan that led to the declaration on November 3, 1997, of a national emergency has not been resolved. The Government of Sudan continues to support international terrorism and efforts to destabilize neighboring governments, and engage in human rights violations, including the denial of religious freedom. Such Sudanese actions pose a continuing unusual and extraordinary threat to the national security and foreign policy of the United States. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to apply economic pressure on the Government of Sudan.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 29, 1999*.

## MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

A message from the House of Representatives, received during the adjournment of the Senate, announced that the Speaker has signed the following enrolled joint resolution on October 28, 1999:

H.J. Res. 73. Joint resolution making further continuing appropriations for the fiscal year 2000, and for other purposes.

The enrolled joint resolution was signed by President pro tempore (Mr. THURMOND) on October 28, 1999.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5922. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Sedona, AZ; Docket No. 99–AWP–4 (10–21/10–25)'' (RIN2120–AA66) (1999–0356), received October 25, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5923. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; York County, PA; Docket No. 99–AWA–09 (10–26/10–25)'' (RIN2120–AA66) (1999–0357), received October 25, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5924. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Federal Airway Victor 108 in the Vicinity of Colorado Springs, CO; Docket No. 99–ANM–4 (10–26/10–25)'' (RIN2120–AA66) (1999–0358), received October 25, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5925. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (48); Amdt. No. 1954 (10–26/10–25)'' (RIN2120–AA65) (1999–0053), received October 25, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5926. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (55); Amdt. No. 1956 (10–26/10–25)'' (RIN2120–AA65) (1999–0052), received October 25, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5927. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (34); Amdt. No. 1957 (10–26/10–25)'' (RIN2120–AA65) (1999–0051), received October 25, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5928. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 727–100 and –100C Series Airplanes; Docket No. 98–NM–367 (10–7/10–21)'' (RIN2120–AA64) (1999–0390), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5929. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 737–100, –200, –300, –400, and –500 Series Airplanes; Docket No. 98–NM–318 (10–8/10–21)'' (RIN2120–AA64) (1999–0396), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5930. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 77–200 PF Series Airplanes; Docket No. 98–NM–38 (10–20/10–21)'' (RIN2120–AA64) (1999–0414), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5931. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747–400 Series Airplanes; Request for Comments; Docket No. 99–NM–178 (10–26/10–25)'' (RIN2120–AA64) (1999–0424), received October 25, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5932. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 767 Series Airplanes Powered by Pratt and Whitney JT9D–7R4 Series Turbofan Engines or General Electric CF6–80A Series Turbofan Engines; Docket No. 98–NM–363 (10–18/10–21)'' (RIN2120–AA64) (1999–0410), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5933. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes; Docket No. 99–NM–181 (10–22/10–25)'' (RIN2120–AA64) (1999–0418), received October 25, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5934. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A321 Series Airplanes; Docket No. 99–NM–193 (10–13/10–21)'' (RIN2120–AA64) (1999–0415), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5935. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A310 and A300–600R Series Airplanes; Docket No. 99–NM–08 (10–13/10–21)'' (RIN2120–AA64) (1999–0399), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5936. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A320 Series Airplanes; Docket No. 99–NM–94 (10–18/10–21)'' (RIN2120–AA64) (1999–0408), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5937. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A319–232, and –233 and A321–131 and –231 Series Airplanes; Docket No. 99–NM–96 (10–13/10–21)'' (RIN2120–AA64) (1999–0398), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5938. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A319, A320, A321, A330, and A340 Series Airplanes Equipped with Allied Signal RIA–35B Instrument Landing System Receivers; Docket No. 99–NM–25 (10–18/10–21)'' (RIN2120–AA64) (1999–0407), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5939. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Model DC–9–81, –82, –83, and –87 Series and Model MD–88 Airplanes; Docket No. 98–267 (10–21/10–7)'' (RIN2120–AA64) (1999–0387), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5940. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Model DC–10–10, –15, and –30 Airplanes,

and KC–10A Airplanes; Docket No. 98–NM–14 (10–6/10–21)'' (RIN2120–AA64) (1999–0386), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5941. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Model DC–9, DC–9–80, and C–9 Series Airplanes, and Model MD–88 Airplanes; Docket No. 98–NM–268 (17/10–21)'' (RIN2120–AA64) (1999–0389), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5942. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Model MD–90–30 Series Airplanes; Docket No. 98–NM–340 (10–20/10–21)'' (RIN2120–AA64) (1999–0412), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5943. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Model C–9; DC–9–80 and C–9 Series Airplanes and Model Md–88 Airplanes; Docket No. 98–NM–382 (10–26/10–25)'' (RIN2120–AA64) (1999–0422), received October 25, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5944. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model DHC–8–102, –103, –106, –201, –301, –311, and –315 Series Airplanes; Docket No. 99–NM–32 (10–22/10–25)'' (RIN2120–AA64) (1999–0420), received October 25, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5945. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 Series Airplanes; Docket No. 98–NM–321 (10–14/10–6)'' (RIN2120–AA64) (1999–0385), received October 14, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5946. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100) Series Airplanes; Docket No. 98–NM–385 (10–8/10–21)'' (RIN2120–AA64) (1999–0392), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5947. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Short Brothers Model SD3–60 Series Airplanes; Docket No. 99–NM–52 (10–22/10–25)'' (RIN2120–AA64) (1999–0416), received October 25, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5948. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Short Brothers Model SD3–30, SD3–60, SD3 SHERPA, and SD3–60 SHERPA Series Airplanes; Docket No. 98–NM–137 (10–13/10–21)'' (RIN2120–AA64) (1999–0401), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5949. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; British Aerospace BAe Model ATP Airplanes; Docket No. 99–NM–19 (10–22/10–25)'' (RIN2120–AA64) (1999–0419), received October 25, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5950. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; British Aerospace BAe Model ATP Airplanes; Docket No. 99–NM–345 (10–8/10–21)'' (RIN2120–AA64) (1999–0391), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5951. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; British Aerospace Model 4101 Airplanes; Docket No. 99–NM–115 (10–8/10–21)'' (RIN2120–AA64) (1999–0395), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5952. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model DHC–311 and –315 Series Airplanes; Docket No. 98–NM–324 (10–18/10–21)'' (RIN2120–AA64) (1999–0406), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5953. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Eurocopter France Model SA–365C, C1, C2, N, and N1: AS–365N2; and SA 366G1 Helicopters; Docket No. 98–SW–75 (10–14/10–21)'' (RIN2120–AA64) (1999–0402), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5954. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Eurocopter France Model SA–360C, SA–360C, SA365C, C1, C2, SA–365N, N1, AS–365N2, and A–366G1 Helicopters; Docket No. 98–SW–26 (10–8/10–21)'' (RIN2120–AA64) (1999–0394), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5955. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Eurocopter France Model SW.3160, SA.315B, SA.316C, and SA.319B Helicopters; Request for Comments; Docket No. 98–SW–29 (10–14/10–21)'' (RIN2120–AA64) (1999–0403), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5956. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Eurocopter Deutschland GMBH Model BO–105A, BO–105C–2, BO–105CB2, BO–105S, BO105 CS2, BO–105 CBS2, BO–105 CBS4 and BO–105LS A–1 Helicopters; Docket No. 99–SW–52 (10–8/10–21)'' (RIN2120–AA64) (1999–0393), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5957. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Eurocopter Canada Ltd. Model BO–105 LS A–3 Helicopters; Docket No. 99–SW–56 (10–18/10–21)'' (RIN2120–AA64) (1999–0409), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5958. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Eurocopter France Model AS332C, L, and L1 Helicopter; Request for Comments; Docket No. 99–SW–13 (10–6/10–14)'' (RIN2120–AA64) (1999–0384), received October 14, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5959. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Raytheon (Beech) Model 400A Airplanes; Docket No. 98–NM–280 (10–7/10–21)'' (RIN2120–AA64) (1999–0388), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5960. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Raytheon (Beech) Model 400, 400A, 400T, and MU–300–10 Airplanes; Docket No. 96–NM–209 (10–18/10–21)'' (RIN2120–AA64) (1999–0405), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5961. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Raytheon (Beech) Model MU–300 Airplanes; Docket No. 96–NM–210 (10–26/10–25)'' (RIN2120–AA64) (1999–0421), received October 25, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5962. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Conruccions Aeronauticas, SA (CASA), Model CN–235 Series Airplanes; Docket No. 99–NM–117 (10–22/10–25)'' (RIN2120–AA64) (1999–0417), received October 25, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5963. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Fokker Mol F–27 Mark 050 Series Airplanes; Docket No. 99–NM–225 (10–20/10–21)'' (RIN2120–AA64) (1999–0413), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5964. A communication from the Program Analyst, Office of the Chief Counsel,

Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes; Docket No. 98–NM–244 (10–20/10–21)'' (RIN2120–AA64) (1999–0411), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5965. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Avions Mudry et Cie Model CAP 10B Airplanes; Docket No. 99 CE–26 (10–13/10–21)'' (RIN2120–AA64) (1999–0397), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5966. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Dassault Model Falcon 2000 Series Airplanes; Docket No. 98 NM–377 (10–13/10–21)'' (RIN2120–AA64) (1999–0400), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5967. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Pratt and Whitney JT9D Series Turbofan Engines; Correction: Docket No. 98 ANE–31 (10–15/10–21)'' (RIN2120–AA64) (1999–0404), received October 21, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5968. A communication from the Program Analyst, Office of the Chief Counsel, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; General Electric Aircraft Engines CF34 Series Turbofan Engines; Docket No. 98 ANE–62 (10–26/10–25)'' (RIN2120–AA64) (1999–0423), received October 25, 1999; to the Committee on Commerce, Science, and Transportation.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. 1455. A bill to enhance protections against fraud in the offering of financial assistance for college education, and for other purposes.

## 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:

S. 1829. A bill to amend the Foreign Assistance Act of 1961 to prohibit the payment of debts incurred by the communist government of Cuba; to the Committee on Foreign Relations.

By Mr. COVERDELL (for himself, Mr. BIDEN, Mr. ROTH, Mr. EDWARDS, Mr. GRAHAM, Mr. CLELAND, Mr. SARBANES, Ms. MIKULSKI, and Mr. MACK):

S. 1830. A bill to provide for the appointment of additional temporary bankruptcy judges, and for other purposes; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 1831. A bill to protect and provide resources for the Social Security System, to reserve surpluses to protect, strengthen and modernize the Medicare Program, and for other purposes; to the Committee on the Budget and the Committee on Government Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other committee have thirty days to report or he discharged.

By Mr. DASCHLE (for Mr. KENNEDY):

S. 1832. A bill to amend the Fair Labor Standards Act of 1938 to increase the Federal minimum wage; read the first time.

By Mr. DASCHLE (for himself, Mr. BINGAMAN, Mr. BAUCUS, Mr. BYRD, Mr. KERREY, and Mr. INOUYE):

S. 1833. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the production and use of efficient energy sources, and for other purposes; to the Committee on Finance.

By Mr. DASCHLE:

S. 1834. A bill to amend title XIX of the Social Security Act to restore medical eligibility for certain supplementary security income beneficiaries; to the Committee on Finance.

By Mr. LEAHY:

S. 1835. A bill to restore Federal remedies for violations of intellectual property rights by States, and for other purposes; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HELMS (for himself, Mr. LEAHY, Mr. COVERDELL, Mr. DODD, Mr. DEWINE, and Mr. JEFFORDS):

S. Res. 209. A resolution expressing concern over interference with freedom of the press and the independence of judicial and electoral institutions in Peru; to the Committee on Foreign Relations.

By Mr. SCHUMER (for himself, Mr. MOYNIHAN, and Mr. LIEBERMAN):

S. Res. 210. A resolution recognizing and honoring the New York Yankees; considered and agreed to.

By Mr. WARNER (for himself and Mr. ROBB):

S. Res. 211. A resolution expressing the sense of the Senate regarding the February 2000 deployment of the U.S.S. Eisenhower Battle Group and the 24th Marine Expeditionary Unit to an area of potential hostilities and the essential requirements that the battle group and expeditionary unit have received the essential training needed to certify the warfighting proficiency of the forces comprising the battle group and expeditionary unit; to the Committee on Armed Services.

By Mr. ABRAHAM (for himself, Mr. MCCONNELL, Mr. TORRICELLI, Mr. ALLARD, Mr. REED, Mr. BENNETT, Ms. COLLINS, Mr. FITZGERALD, Mr. ENZI, Mr. KERRY, Mr. DURBIN, Mr. WARNER, Mr. EDWARDS, and Mr. LIEBERMAN):

S. Con. Res. 63. A concurrent resolution condemning the assassination of Armenian Prime Minister Vazgen Sargsian and other officials of the Armenian Government and expressing the sense of the Congress in mourning this tragic loss of the duly elected leadership of Armenia; to the Committee on Foreign Relations.

By Mr. INHOFE (for himself, Mr. SMITH of New Hampshire, Mr. SESSIONS, Mr. HUTCHINSON, and Mr. KYL):

S. Con. Res. 64. A concurrent resolution expressing the sense of Congress concerning continued use of the United States Navy training range on the island of Vieques in the Commonwealth of Puerto Rico; to the Committee on Armed Services.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COVERDELL (for himself, Mr. BIDEN, Mr. ROTH, Mr. EDWARDS, Mr. GRAHAM, Mr. CLELAND, Mr. SARBANES, Ms. MIKULSKI, and Mr. MACK):

S. 1830. A bill to provide for the appointment of additional temporary bankruptcy judges, and for other purposes; to the Committee on the Judiciary.

BANKRUPTCY JUDGESHIP ACT

Mr. COVERDELL. Mr. President, I rise today to introduce legislation that would address the growing bankruptcy caseload in our federal judiciary. Increased bankruptcy filings are placing a severe strain on our federal courts and on the judges who preside over these cases. The House and Senate bankruptcy reform bills seek to address this issue by authorizing eighteen new bankruptcy judges. While Congress recognizes the need for these judges, it has not yet taken the step it deems necessary to approve another needed group of bankruptcy judges identified by the U.S. Judicial Conference in March of this year. This legislation would authorize these six judgeships and help our federal judiciary address an overburdensome workload.

My home state of Georgia is one of the states that the Judicial Conference has indicated needs another bankruptcy judge. The middle and southern districts in Georgia have, respectively, the eighth and ninth highest weighted caseloads in the country. The most recent data from the Administrative Office of the U.S. Courts indicates that the weighted bankruptcy filings per authorized judgeships is 1,907 for the middle district and 1,880 for the Southern district. Even with approval of a new judge for the southern district, the three full-time judges in that district would still carry a caseload that exceeds the threshold of 1,500 weighted hours that justifies the creation of another judgeship.

The review undertaken by the Judicial Conference of the workload in these Georgia districts also found that caseloads are being managed in a highly efficient manner. The Judicial Conference had no suggestions to assist the court in expending its caseload. A new judgeship is the only solution to this caseload problem.

I understand that the Judicial Conference used the same criteria to justify the 6 new judgeships in their March 1999 recommendation that they used to justify the 18 judgeships in the bankruptcy reform bills. Understanding the need for a new bankruptcy judge in my state, I support the Judicial Conference's recommendation,

and other states' efforts to obtain an additional judge. I am pleased that Senator BIDEN, EDWARDS, GRAHAM, CLELAND, SARBANES, MIKULSKI, and MACK, whose states were also included in the March 1999 Judicial Conference recommendation, have joined me on this bill. I believe this legislation will shed important light on caseloads and the need for new judges. The last time Congress approved new bankruptcy judgeships was seven years ago. These judges are needed now and I hope Congress will move forward in approving them.

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By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 1831. A bill to protect and provide resources for the Social Security System, to reserve surpluses to protect, strengthen and modernize the Medicare Program, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be discharged.

MEDICAID ELIGIBILITY RESTORATION ACT OF 1999

Mr. DASCHLE. Mr. President, today I introduce the Medicaid Eligibility Restoration Act of 1999, which fixes a major problem recently created in the health care safety net.

My bill addresses a Medicaid eligibility problem—lack of access to health insurance during the first, and often costliest, month of disability—that was inadvertently caused by a change to Supplemental Security Income (SSI) policy in the 1996 welfare reform law.

Let me explain how this Medicaid ''gap month'' problem was created.

In 1996, the effective date of application for Supplemental Security Income (SSI) was changed to the month following the date when an individual applies for SSI.

Before the 1996 change, pro-rated payments began immediately. Since 1996, payments do not begin until the month following original application.

This SSI payment change generated a small cost savings for the SSI program and ended the administrative burden of calculating partial month payments, but it also created a problem—a gap month—for Medicaid eligibility that is linked to SSI.

For most SSI and Medicaid recipients, this change has resulted in one lost month of Medicaid eligibility, which is a hardship in itself.

But those who suddenly become disabled or who are born with a disability face more dire consequences.

Because of the 1996 change, they now lose health insurance coverage for what is often their costliest month—their first month of disability. This policy shift has left families with enormous medical bills and hospitals with uncompensated care.

The Medicaid Eligibility Restoration Act would end this gap month in Medicaid coverage and would restore the pre-1996 Medicaid eligibility criteria.

This issue first came to my attention when I received a letter from Randall Connelly of Sioux Falls, South Dakota.

His wife, Susan, had recently given birth to premature twins. Tragically, the twins died a few days later.

Despite the fact that Randy had a good job, with good health insurance, he still faced unaffordable out-of-pocket medical expenses. Because of the twins' low birth weight, both children were automatically eligible for SSI and Medicaid—or they would have been, if the twins had been born before enactment of the welfare reform law of 1996.

In fact, the Connellys were ineligible for any help with their medical bills because of the small 1996 technical change in SSI payment policy.

The unfortunate result was that the Connellys were left to cope not only with the loss of their newborn twins, but also with unaffordable hospital bills.

Since my communication with the Connellys, I have heard from hospital administrators who have expressed concern on behalf of patients and families who have suddenly found themselves with nowhere to turn during their first weeks of extreme financial hardship and emotional trauma due to disability.

Sioux Valley Hospital in Sioux Falls, SD, has reported that 28 newborns were affected during the past year in that one hospital alone. Hospital administrators report that:

> Delay in Medicaid coverage results in severe hardship for many families. . . . The normal stresses of dealing with a newborn with a serious disability are compounded by the extensive financial demands attendant to medical services provided for that child.

I ask that a copy of Sioux Valley's letter of support for the bill be printed in the RECORD.

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

SIOUX VALLEY
HOSPITALS & HEALTH SYSTEM,
*Sioux Falls, October 27, 1999.*

Hon. THOMAS DASCHLE,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR SENATOR DASCHLE: I am writing to express the support of the Sioux Valley Hospitals & Health System for legislation we understand you are planning to introduce which would address an issue involving SSI eligibility, and therefore, Medicaid eligibility. The issue, as we have experienced it, involves the date on which Medicaid coverage would commence for SSI eligible newborns. We understand that current law results in a start date for Medicaid payment coverage on the first of the month following SSI eligibility which for disabled newborns is their date of birth.

That delay in Medicaid coverage results in severe hardship for many families who have had babies with medical conditions requiring extremely expensive services in the Sioux Valley Hospital Neonatal Intensive Care Unit. Some 28 families have been affected at Sioux Valley alone over the course of the last year. The normal stresses of dealing with a newborn with a serious disability are compounded by the extensive financial demands attendant to medical services required for the child.

While we understand that public programs cannot be expected to address expenses associated with every catastrophic medical situation, this delay in coverage for severely disabled newborns seems particularly appropriate for a public response. I wanted you to know, therefore, that we do support your effects in this respect.

Please let me know if any of our staff could provide further information with respect to the importance and impact of the legislation which you propose.

Sincerely,

FRANK M. DREW,
*Senior Vice President of Public Policy.*

Mr. DASCHLE. I have also heard from public health officials who are concerned that public health funds may need to be diverted to address the needs of those who should have been covered by Medicaid—as they were in the past.

Some states are able to cover the gap month through other Medicaid categories, such as the ''medically needy'' category and a category for those who meet all the SSI criteria but are not receiving benefits.

There are several states, however, that still face the gap month problem.

It is difficult for many of these states to address this problem, because, while covering only the gap month may be affordable, adding a whole new Medicaid category is seen as too expensive.

There is a simpler, and less expensive way to address the problem: restore the pre-1996 Medicaid eligibility.

We must restore health care benefits to those with disabilities who need them and should be eligible for them.

The gap month is not a difficult problem to fix.

A solution only requires our attention and our commitment to protecting the health care safety net. My bill does that by ensuring Medicaid helps cover those facing unexpected disability.

I urge my colleagues to join me in support of this legislation.

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. 1831

*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 ''Strengthen Social Security and Medicare Act of 1999.''

**SEC. 2. FINDINGS AND PURPOSE.**

(a) FINDINGS.—The Congress finds that:

(1) The Social Security system is one of the cornerstones of American national policy and has allowed a generation of Americans to retire with dignity. For 30 percent of all senior citizens, Social Security benefits provide almost 90 percent of their retirement income. For 66 percent of all senior citizens, Social Security benefits provide over half of their retirement income. Poverty rates among the elderly are at the lowest level since the United States began to keep poverty statistics, due in large part to the Special Security system. The Social Security system, together with the additional protections afforded by the Medicare system, have been an outstanding success for past and current retirees and must be preserved for future retirees.

(2) The long-term solvency of the Social Security and Medicare trust funds is not assured. There is an estimated long-range actuarial deficit in the Social Security trust funds. According to the 1999 report of the Board of Trustees of the Social Security trust funds, the accumulated balances in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are currently projected to become unable to pay benefits in full on a timely basis starting in 2034. The Medicare system faces more immediate financial shortfalls, with the Hospital Insurance Trust Fund projected to become exhausted in 2015.

(3) In addition to preserving Social Security and Medicare, the Congress and the President have a responsibility to future generations to reduce the Federal debt held by the public. Significant debt reduction will contribute to the economy and improve the Government's ability to fulfill its responsibilities and to face future challenges, including preserving and strengthening Social Security and Medicare.

(4) The Federal Government is now in sound financial condition. The Federal budget is projected to generate significant surpluses. In fiscal years 1998 and 1999, there were unified budget surpluses—the first consecutive surpluses in more than 40 years. Over the next 15 years, the Government projects the on-budget surplus, which excludes Social Security, to total $2.9 trillion. The unified budget surplus (including Social Security) is projected by the Government to total $5.9 trillion over the next 15 years.

(5) The surplus, excluding Social Security, offers an unparalleled opportunity to: preserve Social Security; protect, strengthen, and modernize Medicare; and significantly reduce the Federal debt held by the public, for the future benefit of all Americans.

(b) PURPOSE.—It is the purpose of this Act to protect the Social Security surplus for debt reduction, to extend the solvency of Social Security, and to set aside a reserve to be used to protect, strengthen, and modernize Medicare.

**SEC. 3. ADDITIONAL APPROPRIATIONS TO FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND AND FEDERAL DISABILITY INSURANCE TRUST FUND.**

(a) PURPOSE.—The purpose of this section is to assure that the interest savings on the debt held by the public achieved as a result of Social Security surpluses from 2000 to 2015 are dedicated to Social Security solvency.

(b) ADDITIONAL APPROPRIATION TO TRUST FUNDS.—Section 201 of the Social Security Act is amended by adding at the end the following new subsection:

''(n) ADDITIONAL APPROPRIATION TO TRUST FUNDS.

''(1) In addition to the amounts appropriated to the Trust Funds under subsections (a) and (b), there is hereby appropriated to the Trust Funds, out of any moneys in the Treasury not otherwise appropriated—

''(A) for the fiscal year ending September 30, 2011, and for each fiscal year thereafter through the fiscal year ending September 30, 2016, an amount equal to the prescribed amount for the fiscal year; and

''(B) for the fiscal year ending September 30, 2017, and for each fiscal year thereafter through the fiscal year ending September 30, 2044, an amount equal to the prescribed amount for the fiscal year ending September 30, 2016.

''(2) The amount appropriated by paragraph (1) in each fiscal year shall be transferred in equal monthly installments.

''(3) The amount appropriated by paragraph (1) in each fiscal year shall be allocated between the Trust Funds in the same proportion as the taxes imposed by chapter 21 (other than sections 3101(b) and 3111(b)) of Title 26 with respect to wages (as defined in section 3121 of Title 26) reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of Title 26, and the taxes imposed by chapter 2 (other than section 1401(b)) of Title 26 with respect to self-employment income (as defined in section 1402 of Title 26) reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of Title 26, are allocated between the Trust Funds in the calendar year that begins in the fiscal year.

''(4) For purposes of this subsection, the ''prescribed amount'' for any fiscal year shall be determined by multiplying:

''(A) the excess of:

''(i) the sum of:

''(I) the face amount of all obligations of the United States held by the Trust Funds on the last day of the fiscal year immediately preceding the fiscal year of determination purchased with amounts appropriated or credited to the Trust Funds other than any amount appropriated under paragraph (1); and

''(II) the sum of the amounts appropriated under paragraph (1) and transferred under paragraph (2) through the last day of the fiscal year immediately preceding the fiscal year of determination, and an amount equal to the interest that would have been earned thereon had those amounts been invested in obligations of the United States issued directly to the Trust Funds under subsections (d) and (f),

''over—

''(ii) the face amount of all obligations of the United States held by the Trust Funds on September 30, 1999,

''times—

''(B) a rate of interest determined by the Secretary of the Treasury, at the beginning of the fiscal year of determination, as follows:

''(i) if there are any marketable interest-bearing obligations of the United States then forming a part of the public debt, a rate of interest determined by taking into consideration the average market yield (computed on the basis of daily closing market bid quotations or prices during the calendar month immediately preceding the determination of the rate of interest) on such obligations; and

''(ii) if there are no marketable interest-bearing obligations of the United States then forming in part of the public debt, a rate of interest determined to be the best approximation of the rate of interest described in clause (i), taking into consideration the average market yield (computed on the basis of daily closing market bid quotations or prices during the calendar month immediately preceding the determination of the rate of interest) on investment grade corporate obligations selected by the Secretary of the Treasury, less an adjustment made by the Secretary of the Treasury to take into account the difference between the yields on corporate obligations comparable to the obligations selected by the Secretary of the Treasury and yields on obligations of comparable maturities issued by risk-free government issuers selected by the Secretary of the Treasury.''.

**SEC. 4. PROTECTION OF SOCIAL SECURITY SURPLUSES.**

(a) POINTS OF ORDER TO PROTECT SOCIAL SECURITY SURPLUSES.—Section 312 of the Congressional Budget Act of 1974 is amended by adding at the end the following new subsection:

''(g) POINTS OF ORDER TO PROTECT SOCIAL SECURITY SURPLUSES.—

''(1) CONCURRENT RESOLUTIONS ON THE BUDGET.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget, or conference report thereon or amendment thereto, that would set forth an on-budget deficit for any fiscal year.

''(2) SUBSEQUENT LEGISLATION.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report if—

''(A) the enactment of the bill or resolution as reported;

''(B) the adoption and enactment of that amendment; or

''(C) the enactment of that bill or resolution in the form recommended in that conference report,

would cause or increase an on-budget deficit for any fiscal year.

''(3) BUDGET RESOLUTION BASELINE.—(A) For purposes of this section, ''set forth an on-budget deficit'', with respect to a budget resolution, means the resolution sets forth an on-budget deficit for a fiscal year and the baseline budget projection of the surplus or deficit for such fiscal year on which such resolution is based projects an on-budget surplus, on-budget balance, or an on-budget deficit that is less than the deficit set forth in the resolution.

''(B) For purposes of this section, ''cause or increase an on-budget deficit'' with respect to legislation means causes or increases an on-budget deficit relative to the baseline budget projection.

''(C) For purposes of this section, the term ''baseline budget projection'' means the projection described in section 257 of the Balance Budget and Emergency Deficit Control Act of 1985 of current year levels of outlays, receipts, and the surplus or deficit into the budget year and future years, except that—

''(i) if outlays for programs subject to discretionary appropriations are subject to discretionary statutory spending limits, such outlays shall be projected at the level of any applicable current adjusted statutory discretionary spending limits:

''(ii) if outlays for programs subject to discretionary appropriations are not subject to discretionary spending limits, such outlays shall be projected as required by section 257 beginning in the first fiscal year following the last fiscal year in which such limits applied; and

''(iii) with respect to direct spending or receipts legislation previously enacted during the current calendar year and after the most recent baseline estimate pursuant to section 257 of the Balance Budget and Emergency Deficit Control Act of 1995, the net extent (if any) by which all such legislation is more than fully paid for in one of the applicable time periods shall count as a credit for that time period against increase in direct spending or reductions in net revenue.''.

(b) CONTENT OF CONCURRENT RESOLUTION ON THE BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph.

''(6) the receipts, outlays, and surplus or deficit in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, combined, established by title II of the Social Security Act;''.

(c) SUPER MAJORITY REQUIREMENT.—

(1) Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting ''312(g),'' after ''310(d)(2),''.

(2) Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting ''312(g),'' after ''310(d)(2),''.

**SEC. 5. PROTECTION OF MEDICARE.**

(a) POINTS OR ORDER TO PROTECT MEDICARE.—

(1) Section 301 of the Congressional Budget Act of 1974 is amended by adding at the end the following:

''(j) POINTS OR ORDER TO PROTECT MEDICARE.—

(1) IN GENERAL.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget (or amendment, motion, or conference report on the resolution) that would decrease the on-budget surplus for the total of the period of fiscal years 2000 through 2009 below the level of the Medicare surplus reserve for those fiscal years are calculated in accordance with section 3(11).

''(2) INAPPLICABILITY.—This subsection shall not apply to legislation that—

''(A) appropriates a portion of the Medicare reserve for new amounts for prescription drug benefits under the Medicare program as part of or subsequent to legislation extending the solvency of the Medicare Hospital Insurance Trust Fund; or

''(B) appropriates new amounts from the general fund to the Medicare Hospital Insurance Trust Fund.''.

(2) Section 311(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following:

''(4) ENFORCEMENT OF THE MEDICARE SURPLUS RESERVE.—

''(A) IN GENERAL.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that together with associated interest costs would decrease the on-budget surplus for the total of the period of fiscal years 2000 through 2009 below the level of the Medicare surplus reserve for those fiscal years as calculated in accordance with section 3(11).''.

''(B) INAPPLICABILITY.—This paragraph shall not apply to legislation that—

''(i) appropriates a portion of the Medicare reserve for new amounts for prescription drug benefits under the Medicare program as part of or subsequent to legislation extending the solvency of the Medicare Hospital Insurance Trust Fund; or

''(ii) appropriates new amounts from the general fund to the Medicare Hospital Insurance Trust Fund.

(b) DEFINITION.—Section 3 of the Congressional Budget Act of 1974 is amended by adding at the end the following:

''(11) The term 'Medicare surplus reserve' means one-third of any on-budget surplus for the total of the period of the fiscal years 2000 through 2009, an estimated by the Congressional Budget Office in the most recent initial report for a fiscal year pursuant to section 202(e).''.

(c) SUPER MAJORITY REQUIREMENT—

(1) Section 904(c)(2) of the Congressional Budget Act of 1974 is amended by inserting ''301(j),'' after ''301(i),''.

(2) Section 904(d)(3) of the Congressional Budget Act of 1974 is amended by inserting ''301(j),'' after ''301(i),''.

**SEC. 6. EXTENSION OF DISCRETIONARY SPENDING LIMITS.**

(a) EXTENSION OF LIMITS.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended, in the matter before paragraph (A), by deleting ''2002'', and inserting ''2014''.

(b) EXTENSION OF AMOUNTS.—Section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking paragraphs (4), (5), (6) and (7), and inserting the following:

''(4) With respect to fiscal year 2000,

''(A) for the discretionary category: $535,368,000,000 in new budget authority and $543,257,000,000 in outlays;

''(B) for the highway category: $24,574,000,000 in outlays;

''(C) for the mass transit category: $4,117,000,000 in outlays; and

''(D) for the violent crime reduction category: $4,500,000,000 in new budget authority and $5,564,000,000 in outlays;

''(5) With respect to fiscal year 2001,

''(A) for the discretionary category: $573,004,000,000 in new budget authority and $564,931,000,000 in outlays;

''(B) for the highway category: $26,234,000,000 in outlays; and

''(C) for the mass transit category: $4,888,000,000 in outlays;

''(6) With respect to fiscal year 2002,

''(A) for the discretionary category: $584,754,000,000 in new budget authority and $582,516,000,000 in outlays;

''(B) for the highway category: $26,655,000,000 in outlays; and

''(C) for the mass transit category: $5,384,000,000 in outlays;

''(7) With respect to fiscal year 2003,

''(A) for the discretionary category: $590,800,000,000 in new budget authority and $587,642,000,000 in outlays;

''(B) for the highway category: $27,041,000,000 in outlays; and

''(C) for the mass transit category: $6,124,000,000 in outlays;

''(8) With respect to fiscal year 2004, for the discretionary category: $604,319,000,000 in new budget authority and $634,039,000,000 in outlays;

''(9) With respect to fiscal year 2005, for the discretionary category: $616,496,000,000 in new budget authority and $653,530,000,000 in outlays;

''(10) With respect to fiscal year 2006, for the discretionary category: $630,722,000,000 in new budget authority and $671,530,000,000 in outlays;

''(11) With respect to fiscal year 2007, for the discretionary category: $644,525,000,000 in new budget authority and $687,532,000,000 in outlays;

''(12) With respect to fiscal year 2008, for the discretionary category: $663,611,000,000 in new budget authority and $704,534,000,000 in outlays; and

''(13) With respect to fiscal year 2009, for the discretionary category: $678,019,000,000 in new budget authority and $721,215,000,000 in outlays, ''as adjusted in strict conformance with subsection (b).

''With respect to fiscal year 2010 and each fiscal year thereafter, the term ''discretionary spending limit'' means, for the discretionary category, the baseline amount calculated pursuant to the requirements of Section 257(c), as adjusted in strict conformance with subsection (b).''.

**SEC. 7. EXTENSION AND CLARIFICATION OF PAY-AS-YOU-GO REQUIREMENT.**

Section 252 of the Balanced Budget And Emergency Deficit Control Act of 1985 is amended—

(a) in subsection (a), by striking ''October 1, 2002'' and inserting ''October 1, 2014'' and by adding ''or decreases the surplus'' after ''increases the deficit''; (b)(1) in paragraph (1) of subsection (b), by striking ''October 1, 2002'' and inserting ''October 1, 2014'' and by adding ''or any net surplus decrease'' after ''any net deficit increase'';

(2) in paragraph (2) of subsection (b),

(i) in the header by adding ''or surplus decrease'' after ''deficit increase'';

(ii) in the matter before subparagraph (A), by adding ''or surplus'' after ''deficit''; and

(iii) in subparagraph (C), by adding ''or surplus'' after ''net deficit''; and

(3) in the header of subsection (c), by adding ''or surplus decrease'' after ''deficit increase''.

**SEC. 8. EXTENSION OF BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT.**

Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking ''September 30, 2002'' and inserting ''September 30, 2104'' and by striking ''September 30, 2006'' and inserting ''September 30, 2018''.

**SEC. 9. EXTENSION OF SOCIAL SECURITY FIREWALL IN CONGRESSIONAL BUDGET ACT.**

Section 904(e) of the Congressional Budget Act of 1974 is amended by striking ''September 30, 2002'' and inserting ''September 30, 2014''.

**SEC. 10. PROTECTION OF SOCIAL SECURITY INTEREST SAVINGS TRANSFERS.**

(a) DEFINITION OF DEFICIT AND SURPLUS UNDER BUDGET ENFORCEMENT ACT.—Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended in paragraph (1) by adding '' 'surplus','' before ''and 'deficit' ''.

(b) REDUCTION OR REVERSAL OF SOCIAL SECURITY TRANSFERS NOT TO BE COUNTED AS PAY-AS-YOU-GO OFFSET.—Any legislation that would reduce, reverse or repeal the transfers to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund made by Section 201(n) of the Social Security Act, as added by Section 3 of this Act, shall not be counted on the pay-as-you-go scorecard and shall not be included in any pay-as-you-go estimates made by the Congressional Budget Office or the Office of Management and Budget under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) CONFORMING CHANGE.—Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended, in paragraph (4) of subsection (d), by—

(1) striking ''and'' after subparagraph (A),

(2) striking the period after the subparagraph (B) and inserting ''; and'', and

(3) adding the following:

''(C) provisions that reduce, reverse or repeal transfers under Section 201(n) of the Social Security Act.''.

**SEC. 11. CONFORMING CHANGES.**

(a) REPORTS.—Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in paragraph (3) of subsection (c),

(A) in subparagraph (A), by adding ''or surplus'' after ''deficit'';

(B) in subparagraph (B), by adding ''or surplus'' after ''deficit''; and

(C) in subparagraph (C), by adding ''or surplus decrease'' after ''deficit increase'';

(2) in paragraph (4) of subsection (f), by adding ''or surplus'' after ''deficit''; and

(3) in subparagraph A of paragraph (2) of subsection (f), by striking ''2002'' and inserting ''2009''.

(b) ORDERS.—Section 258A(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended in the first sentence by adding ''or increase the surplus'' after ''deficit''.

(c) PROCESS.—Section 258(C)(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in paragraph (2), by adding ''or surplus increase'' after ''deficit reduction'';

(2) in paragraph (3), by adding ''or increase in the surplus'' after ''reduction in the deficit''; and

(3) in paragraph (4), by adding ''or surplus increase'' after ''deficit reduction''.

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By Mr. LEAHY:

S. 1835. A bill to restore Federal remedies for violations of intellectual property rights by States, and for other purposes; to the Committee on the Judiciary.

THE INTELLECTUAL PROPERTY PROTECTION RESTORATION OF 1999

Mr. LEAHY. Mr. President, today I am introducing the Intellectual Property Protection Restoration Act of

1999, a bill to restore federal remedies for violations of intellectual property rights of States.

Innvoation and creativity have been the fuel of our national economic boom over the past decade. The United States now leads the world in computing, communications and biotechnologies, and American authors and brand names are recognized across the globe.

Our national prosperity is, first and foremost, a tribute to American ingenuity. But it is also a tribute to the wisdom of our Founding Fathers, who made the promotion of what they called ''Science and the Useful Arts'' a national project, which they constitutionally assigned to Congress. And it is no less of a tribute to the successive Congresses and Administrations of both parties who have striven to provide real incentives and rewards for innovation and creativity by providing strong and even-handed protection to intellectual property rights. Congress passed the first federal patent law in 1790, and the U.S. Government issued its first patent the same year—to Samuel Hopkins of my home State of Vermont. The first federal copyright law was also enacted in 1790, and the first federal trademark laws date back to the 1870s.

The Supreme Court has long recognized that intellectual property rights bear the hallmark of true constitutional property rights—the right of exclusion against the world—and are therefore protection against appropriation both by individuals and by government. Consistent with this understanding of intellectual property, Congress has long ensured that the rights secured by the federal intellectual property laws were enforceable against the federal governments by waiving the government's immunity in suits alleging infringements of those rights.

No doubt Congress would have legislated similarly with respect to infringements by State entities and bureaucrats had there been any doubt that they were already fully subject to federal intellectual property laws. But there was no doubt. States had long enjoyed the benefits of the intellectual property laws on an equal footing with private parties. By the same token, and in accordance with the fundamental principles of equity on which our intellectual property laws are founded, the States bore the burdens of the intellectual property laws, being liable for infringements just like private parties. States were free to join intellectual property markets as participants, or to hold back from commerce and limit themselves to a narrower governmental role. The intellectual property right of exclusion meant what it said and was enforced evenhandley for public and private entities alike.

This harmonious state of affairs ended in 1985, with the Supreme Court's announced of the so-called ''clear statement'' rule in Atascadero State Hospital v. Scanlon. The Court in Atascadero held that Congress must express its intention to abrogate the States' Eleventh Amendment immunity ''in unmistakable language in the statute itself.'' A few years later, in Pennsylvania v. Union Gas Co., the Supreme Court assured us that if the intent to abrogate were expressed clearly enough, it would be honored.

Following Atascadero, some courts held that States and State entities and officials could escape liability for patent, copyright and trademark infringement because the patent, copyright and trademark laws lacked the clear statement of congressional intent that was now necessary to abrogate State sovereign immunity.

To close this new loophole in the law, Congress promptly did precisely what the Supreme Court had told us was necessary. In 1990 and 1992, Congress passed three laws—the Patent and Plant Variety Protection Remedy Clarification Act, the Copyright Remedy Clarification Act, and the Trademark Remedy Clarification Acts. The sole purpose of these Clarification Acts was to make it absolutely, unambiguously, 100 percent clear that Congress intended the patent, copyright and trademark laws to apply to everyone, including the States, and that Congress did not intend the States to be immune from liability for money damages. Each of three Clarification Acts passed unanimously.

In 1996, however, by a five-to-four vote, the Supreme Court in Seminole Tribe of Florida v. Florida reversed its earlier decision in Union Gas and held that Congress lacked authority under article I of the Constitution to abrogate the States' Eleventh Amendment immunity from suit in federal court.

Then, on June 23, by the same bare majority, the Supreme Court in Florida Prepaid Postsecondary Education Expense Board v. College Savings Bank told us that it did not really mean what it said in Atascadero and invalidated the Patent and Plant Variety Protection Remedy Clarification Act. In a companion case decided on the same day, the same five Justices held that the Trademark Remedy Clarification Act also failed to abrogate State sovereign immunity.

The Court's latest decisions have been the subject of bipartism criticism. In a floor statement on July 1, I highlighted the anti-democratic implications of the approach of the activist majority of the Supreme Court, who have left constitutional text behind, ripped up precedent, and treated Congress with less respect than that due to an administrative agency in their haste to impose their natural laws notions of sovereignty as a barrier to democratic regulations. I also noted that ''the Court's decisions will have far-reaching consequences about how . . . intellectual property rights may be protected against even egregious infringements and violation by the State.''

One of my Republican colleagues on the Judicial Committee, Senator SPECTER, expressed similar concerns in a floor statement on August 5. He noted that the Court decisions ''leave us with an absurd and untenable state of affairs,'' where ''States will enjoy an enormous advantage over their private sector competitions.''

Not surprisingly, alarm has also been expressed in the business community about the potential of the Court's recent decisions to harm intellectual property owners in a wide variety of ways. A commentary in Business Week on August 2, 1999, gave these examples:

> Watch out if you publish software that someone at a State university wants to copy for free . . . Watch out if you own a patent on a medical procedure that some doctor in a State medical school wants to use. Watch out if you've invested heavily in a great trademark, like Nike's Swoosh, and a bureaucrat decides his State program would be wildly promoted if it used the same mark.

Charles Fried, a professor at Harvard Law School and former Solicitor General during the Reagan Administration, has called the Court's decisions in Florida Prepaid and College Savings Bank ''truly bizarre.'' He observed, in a July 6 opinion editorial in the New York Times:

> [The Court's decisions] did not question that States are subject to the patent and trademark laws of the United States. It's just that when a State violates those laws—as when it uses a patented invention without permission and without paying for it—the patent holder cannot sue the State for infringement. So a State hospital can manufacture medicines patented by others and sell or use them, and State schools universities can pirate textbooks and software, and the victims cannot sue for infringement.

I believe that these concerns are very real. As Congress realized when it waived federal sovereign immunity in the area, it would be naive to imagine that reliance on the commercial decency of the government and its myriad agencies and officials would provide the security needed to promote investment in research and development and to facilitate negotiation in the exclusive licensing arrangements that are often necessary to bring valuable products and creations to market.

The issue is not whether State infringement has been frequent in the past, but rather whether we can assure American inventors and investors and our design trading partners that, as State involvement in intellectual property becomes ever greater in the new information economy, U.S. intellectual property rights are backed by guaranteed legal remedies. It is a question of economics: our national economy depends on real and effective intellectual property rights. It is also a question of justice: in conceding that the States are constitutionally bound to respect federal intellectual property rights but invalidating the remedies Congress has created to enforce those rights, the Court has jeopardized one of the key principles that distinguishes our Constitution from the Constitution of the old Soviet Union—the principle that where there is a right, there must also be a remedy.

Some have suggested that a constitutional amendment may be the only way to restore protection to patent, copyright and trademark owners as against States. But even if Congress were to adopt such an amendment, I do not expect that we will see a lot of States rushing to ratify an amendment that forces them to pay for things that they can currently get for free.

Fortunately, however, while the implications of the Court's decisions for our constitutional scheme are serious, we can restore the guarantees of our intellectual property laws without resorting to a constitutional amendment. After close consideration of Florida Prepaid and the other recent Supreme Court precedents, I have no doubt that they leave several constitutional mechanisms open to us to restore substantial protection for patents, copyrights and trademarks through ordinary legislation. The Supreme Court's hyper-technical constitutional interpretations require us to jump through some technical constitutional hoops of our own, but that the exercise is now not merely worthwhile, but essential to safeguard both U.S. prosperity and the continued authority of Congress.

The Intellectual Property Protection Restoration Act is based on a simple supposition—that there is no inherent entitlement to federal intellectual property rights. In discussing the policies underlying the patent laws, the Supreme Court has emphasized that ''[t]he grant of a patent is the grant of a special privilege 'to promote the Progress of Science and useful Arts,''' and that ''[i]t is the public interest which is dominant in the patent system.'' Similarly, in discussing the copyright laws, the Court has underscored that ''the monopoly privileges that Congress has authorized, while 'intended to motivate the creative activity of authors and inventors by the provision of a special reward,' are limited in nature and must ultimately serve the public good.''

The Constitution empowers but does not require Congress to make intellectual property rights available, and Congress should do so on in a manner that encourages and protects innovation in the public and private sector alike.

States and their institutions, especially State universities, benefit hugely from the federal intellectual property laws. All 50 States own or have obtained patents—some hold many hundreds of patents. States also hold other intellectual property rights secured by federal law, and the trend is toward increased participation by the States in commerce involving intellectual property rights.

Principles of State sovereignty tell us that States are entitled to a free and informed choice of whether or not to participate in the federal intellectual property schemes, subject only to their constitutional obligations. Equity and common sense tell us that one who chooses to enjoy the benefits of a law—whether it be a federal grant or the multimillion-dollar benefits of intellectual property protections—should also bear its burdens. Sound economics and traditional notions of federalism tell us that it is appropriate for the federal government to assist and encourage the sovereign States in their sponsorship of whatever innovation and creation they freely choose to sponsor by giving them intellectual property protection and, on occasion, funding, so long as the States reciprocate by assisting the federal governments to keep its promise of guaranteed exclusive rights to intellectual property owners.

The IPPRA builds on these principles. In order to promote cooperative federalism in the intellectual property arena, it provides a mechanism for States to affirm their willingness to participate in our national intellectual property project and so ''opt in'' as full and equal participants. A State would opt in to the federal intellectual property system every time it applied for protection under a federal intellectual property law, by promising to waive its sovereign immunity from any subsequent suit against the State arising under such a law.

States take their commitments seriously. We can therefore expect that a State, having promised to waive its immunity if called upon to do so, would take whatever steps were necessary to fulfill that promise. At least in theory, however, a State could assert its immunity regardless of any assurance to the contrary.

The IPPRA addresses this problem by conditioning a State's intellectual property rights on its adherence to its promise to waive immunity. Thus, a State's refusal to waive immunity in an intellectual property suit after it has accepted benefits under an intellectual property law would have a number of consequences. Most significantly, it would give private parties the right to assert an immunity-like defense to damages claims in any action to enforce an intellectual property right that is or has been owned by the State during the five years preceding the State's assertion of immunity. This quid pro quo provision restores the level playing field by putting States that assert immunity in essentially the same position as private parties who seek to endorse federal intellectual property rights against them.

The IPPRA does this without coercing the State to waive by threatening pre-existing benefits. The quid pro quo provision only affects those intellectual property rights that the State acquired by virtue of its promise to waive immunity. To ensure that State waivers are voluntary, State intellectual property rights that pre-date the passage of the IPPRA are preserved regardless of waiver.

This scheme is consistent with the spirit of federalism, as interpreted by the Supreme Court, because it gives the States a free, informed and meaningful choice to waive or not to waive immunity at any time. It is also plainly authorized by the letter of the Constitution. Article I empowers Congress to ''promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.'' Incident to this power, Congress may attach conditions on the receipt of exclusive intellectual property rights. Indeed, we have always attached certain conditions, such as the requirements of public disclosure of an invention at the Patent and Trademark Office in order to obtain a patent.

Congress may attach conditions on States' receipt of federal intellectual property protection under its Article I intellectual property power just as Congress may attach conditions on States' receipt of federal funds under its Article I spending power. Either way, the power to attach conditions to the federal benefit is an integral part of the greater power to deny the benefit altogether. Either way, States have a choice—to forgo the federal benefit and exercise their sovereign power however they wish subject to the Constitution, or to take the benefit and exercise their sovereign power in the manner requested by Congress. In South Dakota v. Dole, for example, the Supreme Court held that Congress may condition federal highway funds on a State's agreement to raise its minimum drinking age to 21. The condition imposed on receipt of federal benefits by the IPPRA—submitting to suit under laws that are already binding on the States—is not onerous, nor does it co-opt any State resources to the service of federal policy.

Given the choice between opting in to the intellectual property laws and forgoing intellectual property protection under the federal laws, most States are likely to choose to former. The benefits secured by those laws far outweigh the burdens. Most States already respect intellectual property rights and will seldom find themselves in infringement suits. To deny the States the choice that the IPPRA offers them would amount to penalizing States that play by the federal intellectual property rules for the free-riding violations of the minority of States that refuse to commit to do so. As is normally the case in a federal system, cooperation between the States and the federal government is likely to be beneficial to all concerned.

However, some States and some State entities and officials have infringed patents and violated other intellectual property rights in the past, and the massive growth of both intellectual property and State participation in intellectual property that we are seeing as we move into the next century give ample cause for concern that such violations will continue. Now that the Supreme Court has seemingly given States and State entities carte

blanche to violate intellectual property rights free from any adverse financial consequences so long as they stand on their newly augmented sovereign immunity, the prospect of States violating federal law and then asserting immunity is too serious to ignore.

The IPPRA therefore also provides for the limited set of remedies that the Supreme Court's new jurisprudence leaves available to Congress to enforce a non-waiving State's obligations under federal law and the United States Constitution. The key point here is that, while the Court struck down our prior effort to enforce the intellectual property laws themselves by authorizing actions for damages against the States, it nonetheless acknowledged Congress' power to enforce constitutional rights related to intellectual property.

First, for the avoidance of doubt, the IPPRA ensures the full availability of prospective equitable relief to prevent States from violating or exceeding their rights under federal intellectual property laws. As the Supreme Court expressly acknowledged in its Seminole Tribe decision in 1996, such relief is available, notwithstanding any assertion of State sovereign immunity, under what is generally known as the doctrine of Ex parte Young.

Second, to address the harm done to the rights of intellectual property owners before they can secure an injunction, the IPPA also provides a damages remedy against non-consenting States, to the full extent of Congress' power to enforce the constitutional rights of intellectual property owners. Under the Supreme Court's recent decisions, this remedy is necessarily limited to the redress of constitutional violations, not violations of the federal intellectual property laws themselves. However, as I have already noted, the Supreme Court has reaffirmed on many occasions that the intellectual property owner's right of exclusion is a property right fully protected from governmental violation under the Fifth Amendment's Takings Clause and under the Fourteenth Amendment's Due Process Clause.

Under the Fifth Amendment, a State can be sued for damages for taking an intellectual property right. Although States can normally take a property right constitutionally, so long as they do so for a ''public purpose'' and provide ''just compensation,'' the Supreme Court held in 1984 that the ''public purpose'' requirement for a lawful taking means that the taking must be a valid exercise of the State's eminent domain powers. Because of the uniquely federal nature of federal intellectual property rights of exclusion, States have no eminent domain or other sovereign power over them. ''When Congress grants an exclusive right or monopoly, its effects are pervasive; no citizen or State may escape its reach.'' Therefore, every State taking of an intellectual property right, with or without some promise of subsequent compensation, is a constitutional violation ripe for congressional enforcement under section five of the Fourteenth Amendment.

Stangely, and I think improperly, the Supreme Court declined to decide in Florida Prepaid whether our earlier Clarification Acts could be sustained as an enforcement of the Takings Clause. The Court also did not resolve when a violation of intellectual property rights amounts to an unconstitutional taking. Because the Court emphasized that the resolution of such constitutional questions is its job, and not ours, the IPPRA simply provides a federal cause of action for an unconstitutional taking of intellectual property rights, leaving the courts to make the final determination of what is a constitutional violation and what remedy is constitutionally authorized. The IPPRA does, however, instruct the courts to interpret both the right and the remedy as broadly as constitutionally permissible. At the same time, by excluding treble damages from the remedies provided and by adopting the same standard of compensation—''reasonable and entire compensation''—that is currently available against the federal government for patient infringements, the bill respects the States' dignity and responds to the Court's objection that the Clarification Acts provided identical remedies against States and private parties.

Finally, in order to ensure the full availability of constitutionally permissible remedies if the courts adopt a narrow view of the Takings Clause in this context, the IPPRA adopts a similar approach in providing the fullest remedies constitutionally available, up to and including ''reasonable and entire compensation'' but excluding treble damages, for State violations of a federal intellectual property owner's Fourteenth Amendment right not to be deprived of her property without due process of law.

In sum, the constitutional remedy provided by the IPPRA closely resembles the remedy that Congress provided decades ago for deprivations of federal rights by persons acting under color of State law. The bill does not expand the property rights secured by the federal intellectual property laws—these laws are already binding on the States—nor does the bill interfere with any governmental authority to regulate businesses that own such rights. It simply restores the ability of private persons to sue in federal court to enforce such rights against the States.

I view this bill as an exercise in cooperative federalism. Clear, certain and uniform national rules protecting federal intellectual property rights benefit everyone: consumers, businesses, the federal government and the States. The IPPRA preserves States' rights, and gives the States a free choice. At the same time, it ensures effective protection for individual constitutional rights, and fills the gap left by recent Supreme Court decisions in which there are federal rights unsupported by effective remedies.

There are, to be sure, other approaches that Congress could take to address the problems created by the Court's decisions. For example, Congress could condition a State's receipt of federal funds—including federal research funds used to generate intellectual property—on the State's wavier of immunity from any suit arising under the federal intellectual property laws. As I previously discussed, this approach is squarely supported by the Court's decisions in the spending cases. In my view, however, such an approach would be less respectful of State sovereignty than the opt-in-scheme proposed by the IPPRA. It would also impede the States' ability to conduct research in a manner that the IPPRA would not.

There is another approach that remains open to Congress that would provide a remedy for intellectual property owners against States, respect State sovereignty, and restore some degree of uniformity and consistency in the construction of the federal intellectual property laws. That is, Congress could give State courts jurisdiction over intellectual property suits or just compensation claims against the States, and then require the United States Supreme Court to exercise appellate review of the resulting State court judgment. There is no possible constitutional objection to this approach; the Eleventh Amendment does not defeat the Supreme Court's appellate jurisdiction over suits brought against the States. We should not, however, burden the Supreme Court in this manner when, as the IPPRA demonstrates, there are efficient and proper ways to bring these claims into the lower federal courts in which intellectual property expertise resides.

Intellectual property is the currency of the new global economy. As we move into the 21st century, we should not allow that currency to be devalued by abstruse 18th century legal formalities. For that reason, I believe that legislation is imperative to minimize the ill effects of the Supreme Court's latest attack on our ability to protect our national economic assets. The IPPRA restores protection for violations of intellectual property rights that may, under current law, go unremedied, and so provides the certainty and security necessary to foster innovation and creativity. We unanimously passed more sweeping legislation earlier this decade, but were thwarted by Supreme Court technicalities. The IPPRA is designed to restore the benefits we sought to provide intellectual property owners while meeting the Supreme Court's technical requirements. We should move to consider this legislation as soon as we return next year.

I ask unanimous consent that the bill and a section-by-section summary 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. 1835

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Intellectual Property Protection Restoration Act of 1999''.

(b) REFERENCES.—Any reference in this Act to the Trademark Act of 1946 shall be a reference to the Act entitled ''An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (15 U.S.C. 1051 et seq.).

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:



**SEC. 2. FINDINGS AND PURPOSES.**

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

(1) The protection of Federal intellectual property rights is of critical importance to the Nation's ability to compete in the global market.

(2) There is a strong Federal interest in the development of uniform and consistent law regarding Federal intellectual property rights, and in the fulfillment of international treaty obligations that the Federal Government has undertaken.

(3) Prior to 1985 and the Supreme Court ruling in Atascadero State Hospital v. Scanlon, 473 U.S. 234 (1985) (in this section referred to as ''Atascadero''), owners of Federal intellectual property rights could fully protect their rights against infringement by States.

(4) Following Atascadero, a number of courts held that Federal patent, copyright and trademark laws failed to contain the clear statement of intent to abrogate State sovereign immunity necessary to permit owners of Federal intellectual property rights to protect their rights against infringement by States.

(5) In 1990, Congress passed the Copyright Remedy Clarification Act (Public Law 101–553), to clarify its intent to abrogate State sovereign immunity from suits for infringement of copyrights and exclusive rights in mask works.

(6) In 1992, Congress passed the Patent and Plant Variety Protection Remedy Clarification Act (Public Law 102–206) and the Trademark Remedy Clarification Act (Public Law 102–542) to clarify its intent to abrogate State sovereign immunity from suits for infringement of patents, protected plant varieties and trademarks.

(7) In 1996, the Supreme Court held in Seminole Tribe of Florida v. Florida, 517 U.S. 44 (1996) (in this section referred to as ''Seminole Tribe'') that Congress may not abrogate State sovereign immunity under article I of the United States Constitution. Under the Supreme Court decision in Seminole Tribe, the Copyright Remedy Clarification Act, the Patent and Plant Variety Protection Remedy Clarification Act, and the Trademark Remedy Clarification Act could not be sustained under clause 3 or 8 of section 8 of article I of the United States Constitution.

(8) In 1999, the Supreme Court held in Florida Prepaid Postsecondary Education Expense Board v. College Savings Bank, 119 S. Ct. 2199 (1999) (in this section referred to as ''Florida Prepaid'') that the Patent and Plant Variety Protection Remedy Clarification Act could not be sustained as legislation enacted to enforce the guarantees of the due process clause of the fourteenth amendment of the United States Constitution.

(9) As a result of the Supreme Court's decision in Florida Prepaid, and absent remedial legislation, a patent owner's only remedy under the Federal patent laws against a State infringer of a patent is prospective relief under the doctrine of Ex parte Young, 209 U.S. 123 (1908).

(10) On the same day that it decided Florida Prepaid, the Supreme Court in College Savings Bank v. Florida Prepaid Postsecondary Education Expense Board, 119 S. Ct. 2219 (1999) (in this section referred to as ''College Savings Bank'') extended State sovereign immunity to purely commercial activities of certain State entities.

(11) The Seminole Tribe, Florida Prepaid and College Savings Bank decisions have the potential to—

(A) deprive private intellectual property owners of effective protection for both their Federal intellectual property rights and their constitutional rights under the fifth and fourteenth amendments of the United States Constitution; and

(B) compromise the ability of the United States to fulfill its obligations under a variety of international treaties.

(12) Article I of the United States Constitution empowers, but does not require, Congress to offer Federal intellectual property protection to any person on such terms as appear reasonable and appropriate to serve the public interest by encouraging scientific and artistic innovation and promoting commerce and fair competition.

(13) Congress can best accomplish the public interests described under paragraph (12) by providing clear and certain national rules protecting Federal intellectual property rights that establish a level playing field for everyone, including States.

(14) In recent years, States have increasingly elected to avail themselves of the benefits of the Federal intellectual property system by obtaining and enforcing Federal intellectual property rights.

(15) Any State should continue to enjoy the benefits of the Federal intellectual property system, if that State accepts the burdens with the benefits.

(16) A State should not enjoy the benefits of the Federal intellectual property laws unless it is prepared to have those same laws enforced against that State.

(17) Limiting the ability of a State to enjoy the benefits of the Federal intellectual property system will neither prevent the State from providing any services to citizens of that State, nor stop the State from engaging in any commercial activity.

(18) If a State waives its sovereign immunity from suit under the Federal intellectual property laws, any constitutional violation resulting from its infringement of a Federal intellectual property right may be remedied in an infringement suit in Federal court.

(19) If a State does not waive sovereign immunity with respect to Federal intellectual property laws, it is necessary and appropriate for Congress to exercise its power under section 5 of the fourteenth amendment to the United States Constitution to protect the constitutional rights of owners of Federal intellectual property rights, which are property interests protected by the fifth and fourteenth amendments of the United States Constitution.

(20) According to the Supreme Court in College Savings Bank, ''The hallmark of a protected property interest is the right to exclude others.''. Patents, copyrights, and trademarks are constitutionally cognizable species of property because they secure for their owners rights of exclusion against others.

(21) A State may not exercise any of the rights conferred by a Federal intellectual property law without the authorization of the right holder, except in the manner and to the extent authorized by such law. In Goldstein v. California, 412 U.S. 546 (1973), the Supreme Court stated ''When Congress grants an exclusive right or monopoly, its effects are pervasive; no citizen or State may escape its reach.''.

(22) Because a State engaged in an infringing use of a Federal intellectual property right is acting outside the scope of its sovereign power, such State fails to meet the public use requirement for a taking of property imposed by the fifth amendment of the United States Constitution (made applicable to the States through the fourteenth amendment).

(23) According to the Supreme Court in Hawaii Housing Authority v. Midkiff, 467 U.S. 229 (1984), a claim for the taking of property

in violation of the public use requirement is ripe at the time of the taking.

(24) A violation of the Federal intellectual property laws by a State may also constitute an unconstitutional deprivation of property under the due process clause of the fourteenth amendment of the United States Constitution.

(25) In order to enforce Federal intellectual property rights against States under the fifth and fourteenth amendments of the United States Constitution, it is appropriate to provide a right to enjoin any continuing or future constitutional violation and a right to recover sufficient damages to make the injured party whole.

(26) Violations of the Federal intellectual property laws by States not only impair the constitutional rights of the individual intellectual property owner, but also discourage technological innovation and artistic creation. Moreover, the potential for future violations to go unremedied as a result of State sovereign immunity prevents intellectual property owners from securing fair and efficient fees in licensing negotiations.

(27) States and instrumentalities of States have been involved in many intellectual property cases. Some States have violated Federal intellectual property rights and the constitutional provisions which protect such rights and have refused to waive their constitutional immunities, thereby securing unfair economic advantages over other States and private entities with whom such States may be in competition.

(28) States and instrumentalities of States have become increasingly involved in commerce involving intellectual property rights in recent years, and this trend is likely to continue. As a result, violations of Federal intellectual property rights by States have become increasingly more widespread.

(29) It is not practical for Congress to engage in an ongoing particularized inquiry as to which States are violating the United States Constitution at any given time. Accordingly, a national, uniform remedy for constitutional violations is appropriate.

(b) PURPOSES.—The purposes of this Act are to—

(1) provide States an opportunity to participate in the Federal intellectual property system on equal terms with private entities;

(2) reaffirm the availability of prospective relief to prevent State officials from violating Federal intellectual property laws, and to allow challenges to assertions by State officials of rights secured under such laws, on the same terms and in the same manner as if such State officials were private parties;

(3) provide other Federal remedies to owners of Federal intellectual property rights as against the States, State instrumentalities and State officials, to the maximum extent permitted by the United States Constitution; and

(4) abrogate State sovereign immunity in suits alleging violations of Federal intellectual property laws or challenging assertions of Federal intellectual property rights by States to the maximum extent permitted by the United States Constitution, pursuant to Congress's powers under the fifth and fourteenth amendments of the United States Constitution and any other applicable provisions.

## TITLE I—STATE PARTICIPATION IN THE FEDERAL INTELLECTUAL PROPERTY SYSTEM

### Subtitle A—Definitions

**SEC. 101. DEFINITIONS.**

In this title:

(1) FEDERAL INTELLECTUAL PROPERTY LAW.—The term ''Federal intellectual property law'' means a statute or regulation of the United States that governs the creation or protection of any form of intellectual property, including a patent, protected plant variety, copyright, mask work, original design, trademark, or service mark.

(2) FEDERAL INTELLECTUAL PROPERTY RIGHT.—The term ''Federal intellectual property right'' means any of the rights secured under a Federal intellectual property law.

(3) FEDERAL INTELLECTUAL PROPERTY SYSTEM.—The term ''Federal intellectual property system'' means the system established under the Federal intellectual property laws for protecting and enforcing Federal intellectual property rights, including through the award of damages, injunctions, and declaratory relief.

### Subtitle B—Procedures for State Participation in the Federal Intellectual Property System

**SEC. 111. OPT-IN PROCEDURE.**

(a) IN GENERAL.—No State or any instrumentality of that State may acquire a Federal intellectual property right unless the State opts into the Federal intellectual property system.

(b) AGREEMENT TO WAIVE SOVEREIGN IMMUNITY.—A State opts into the Federal intellectual property system by providing an assurance under the procedures established in subtitle D of this title with respect to the State's agreement to waive sovereign immunity from suit in Federal court in any action against the State or any instrumentality or official of that State—

(1) arising under a Federal intellectual property law; or

(2) seeking a declaration with respect to a Federal intellectual property right.

**SEC. 112. BREACH OF ASSURANCE BY A STATE.**

(a) IN GENERAL.—If a State asserts sovereign immunity contrary to an assurance provided under the procedures established in subtitle D of this title, such State shall be deemed to have breached such assurance.

(b) ASSERTION OF IMMUNITY.—A State asserts sovereign immunity for purposes of subsection (a) if—

(1) the State or any instrumentality or official of that State is found to have asserted the State's sovereign immunity in an action against the State or any instrumentality or official of that State—

(A) arising under a Federal intellectual property law; or

(B) seeking a declaration with respect to a Federal intellectual property right; and

(2) such State, instrumentality, or official does not, within a period of 60 days after such finding, withdraw such assertion of immunity and consent to the continuation or refiling of the action in which the finding was made.

(c) EFFECTIVE DATE OF BREACH OF ASSURANCE.—A State shall be deemed to have breached an assurance on the day after the end of the 60-day period provided in subsection (b)(2).

**SEC. 113. CONSEQUENCES OF BREACH OF ASSURANCE BY A STATE.**

(a) ABANDONMENT OF PENDING APPLICATIONS.—Any application by or on behalf of a State or any instrumentality or official of that State for protection arising under a Federal intellectual property law shall be regarded as abandoned and shall not be subject to revival after the date referred to under paragraph (2), if that application—

(1) contains an assurance provided under the procedures established in subtitle D; and

(2) is pending on the date upon which such State is deemed to have breached an assurance under section 112.

(b) ESTABLISHMENT OF DEFENSE TO LIABILITY.—

(1) IN GENERAL.—No damages or other monetary relief shall be awarded in any action to enforce a Federal intellectual property right that is or has been owned by or on behalf of a State or any instrumentality of that State at any time during the 5-year period preceding the date upon which such State is deemed to have breached an assurance under section 122.

(2) NO RETROACTIVE EFFECT.—The defense under paragraph (1) shall not be available in any action to enforce a Federal intellectual property right that was owned by or on behalf of a State or an instrumentality of a State before the effective date of this title.

(c) ONE-YEAR BAR ON ACQUISITION OF NEW RIGHTS.—

(1) IN GENERAL.—A State may not opt back into the Federal intellectual property system under section 111 during the 1-year period following the date upon which that State was deemed to have breached an assurance under section 112.

(2) NEW RIGHTS UNENCUMBERED.—Federal intellectual property rights acquired by or on behalf of a State or any instrumentality or official of that State after the State has opted back into the Federal intellectual property system shall be unencumbered by any prior breach of an assurance.

### Subtitle C—Administration of Procedures for State Participation in the Federal Intellectual Property System

**SEC. 121. NOTIFICATION BY COURT OF STATE ASSERTION OF SOVEREIGN IMMUNITY.**

Not later than 20 days after any finding by a Federal court that a State or any instrumentality or official of that State has asserted the State's sovereign immunity from suit in that court in an action against the State or any instrumentality or official of that State arising under a Federal intellectual property law, or seeking a declaration with respect to a Federal intellectual property right, the clerk of the court shall notify the Commissioner of Patents and Trademarks. The clerk shall send with the notification a copy of any order, judgment, or written opinion of the court.

**SEC. 122. CONFIRMATION BY COMMISSIONER OF PATENTS AND TRADEMARKS OF STATE ASSERTION OF SOVEREIGN IMMUNITY.**

Not later than 20 days after receiving a notification under section 121, the Commissioner of Patents and Trademarks shall—

(1) forward such notification to the attorney general of the State whose sovereign immunity has been found to have been asserted, together with a copy of this title; and

(2) inquire of the attorney general whether the State intends to withdraw such assertion of immunity and consent to the continuation or refiling of the action in which the finding was made within the 60-day period provided in section 112(b)(2).

**SEC. 123. PUBLICATION BY COMMISSIONER OF PATENTS AND TRADEMARKS OF STATE ASSERTION OF SOVEREIGN IMMUNITY.**

(a) IN GENERAL.—The Commissioner of Patents and Trademarks, in consultation with the Secretary of Agriculture and the Register of Copyrights, shall publish in the Federal Register and maintain on the Internet information concerning the participation of each State in the Federal intellectual property system.

(b) CONTENT OF INFORMATION.—The information under subsection (a) shall include, for each State—

(1) whether the State's sovereign immunity from suit in Federal court has been asserted under section 112(b); and

(2) the name of the case and court in which such assertion of immunity was made.

**SEC. 124. RULEMAKING AUTHORITY.**

The Commissioner of Patents and Trademarks may, pursuant to section 6 of title 35,

United States Code, promulgate such rules as necessary to implement the provisions of this subtitle.

**Subtitle D—Amendments to the Federal Intellectual Property Laws**

**SEC. 131. CONDITIONS FOR STATE PARTICIPATION IN THE FEDERAL PATENT SYSTEM.**

(a) APPLICATION FOR PATENT.—Section 111 of title 35, United States Code, is amended by adding at the end the following:

''(c) APPLICATION BY OR ON BEHALF OF A STATE.—When an application for patent or a provisional application for patent is made by or on behalf of a State, an instrumentality of a State, or a State official acting in an official capacity, the Commissioner shall require—

''(1) an assurance that, during the pendency of the application and the term of any patent resulting from that application, the State's sovereign immunity from suit in Federal court will be waived in any action against the State or any instrumentality or official of that State—

''(A) arising under a Federal intellectual property law; or

''(B) seeking a declaration with respect to a Federal intellectual property right; and

''(2) a certification that, during the 1-year period preceding the date of the application, the State's sovereign immunity from suit in Federal court has not been asserted in any action described in paragraph (1).''.

(b) ASSIGNMENT AND RECORDATION.—Section 261 of title 35, United States Code, is amended—

(1) by striking ''Subject to the provisions of this title'' in the first sentence and inserting ''(a) IN GENERAL.—Subject to the provisions of this title''; and

(2) by adding at the end the following:

''(b) RECORDATION BY OR ON BEHALF OF A STATE.—When an assignment, grant, or conveyance of an application for patent, patent, or any interest in that patent, is recorded in the Patent and Trademark Office by or on behalf of a State, an instrumentality of a State, or a State official acting in an official capacity, the Commissioner shall require—

''(1) an assurance that, during the pendency of the application and the term of any patent resulting from that application, or during the remaining term of the patent or any interest in that patent, the State's sovereign immunity from suit in Federal court will be waived in any action against the State or any instrumentality or official of that State—

''(A) arising under a Federal intellectual property law; or

''(B) seeking a declaration with respect to a Federal intellectual property right; and

''(2) a certification that, during the 1-year period preceding the date of the recordation, the State's sovereign immunity from suit in Federal court has not been asserted in any action described in paragraph (1).''.

**SEC. 132. CONDITIONS FOR STATE PARTICIPATION IN THE FEDERAL PLANT VARIETY PROTECTION SYSTEM.**

(a) APPLICATION FOR CERTIFICATE OF PROTECTION.—Section 52 of the Plant Variety Protection Act (7 U.S.C. 2422) is amended—

(1) by striking ''An application for a certificate'' in the first sentence and inserting ''(a) An application for a certificate''; and

(2) by adding at the end the following:

''(b) When an application for plant variety protection is made by or on behalf of a State, an instrumentality of a State, or a State official acting in an official capacity, the Secretary shall require—

''(1) an assurance that, during the pendency of the application and the term of any plant variety protection resulting from that application, the State's sovereign immunity from suit in Federal court will be waived in any action against the State or any instrumentality or official of that State—

''(A) arising under a Federal intellectual property law; or

''(B) seeking a declaration with respect to a Federal intellectual property right; and

''(2) a certification that, during the 1-year period preceding the date of the application, the State's sovereign immunity from suit in Federal court has not been asserted in any action described in paragraph (1).''.

(b) ASSIGNMENT AND RECORDATION.—Section 101 of the Plant Variety Protection Act (7 U.S.C. 2531) is amended by adding at the end the following:

''(e) When an assignment, grant, conveyance, or license of plant variety protection or application for plant variety protection is filed for recording in the Plant Variety Protection Office by or on behalf of a State, an instrumentality of a State, or a State official acting in an official capacity, the Secretary shall require—

''(1) an assurance that, during the remaining term of the plant variety protection, or during the pendency of the application and the term of any plant variety protection resulting from that application, the State's sovereign immunity from suit in Federal court will be waived in any action against the State or any instrumentality or official of that State—

''(A) arising under a Federal intellectual property law; or

''(B) seeking a declaration with respect to a Federal intellectual property right; and

''(2) a certification that, during the 1-year period preceding the date of the recordation, the State's sovereign immunity from suit in Federal court has not been asserted in any action described in paragraph (1).''.

**SEC. 133. CONDITIONS FOR STATE PARTICIPATION IN THE FEDERAL COPYRIGHT SYSTEM.**

Section 409 of title 17, United States Code, is amended—

(1) in paragraph (10), by striking ''and'' at the end;

(2) by redesignating paragraph (11) as paragraph (12); and

(3) by inserting after paragraph (10) the following:

''(11) if the application is by or on behalf of a State or an instrumentality of a State—

''(A) an assurance that, during the pendency of the application and the subsistence of any copyright identified in that application, the State's sovereign immunity from suit in Federal court will be waived in any action against the State or any instrumentality or official of that State—

''(i) arising under a Federal intellectual property law; or

''(ii) seeking a declaration with respect to a Federal intellectual property right; and

''(B) a certification that, during the 1-year period preceding the date of the application, the State's sovereign immunity from suit in Federal court has not been asserted in any action described in subparagraph (A); and''.

**SEC. 134. CONDITIONS FOR STATE PARTICIPATION IN THE FEDERAL MASK WORK SYSTEM.**

Section 908 of title 17, United States Code, is amended by adding at the end the following:

''(h) When an application for registration of a mask work is made by or on behalf of a State or an instrumentality of a State, the Register of Copyrights shall require—

''(1) an assurance that, during the pendency of the application and any term of protection resulting from that application, the State's sovereign immunity from suit in Federal court will be waived in any action against the State or any instrumentality or official of that State—

''(A) arising under a Federal intellectual property law; or

''(B) seeking a declaration with respect to a Federal intellectual property right; and

''(2) a certification that, during the 1-year period preceding the date of the application, the State's sovereign immunity from suit in Federal court has not been asserted in any action described in paragraph (1).''.

**SEC. 135. CONDITIONS FOR STATE PARTICIPATION IN THE FEDERAL ORIGINAL DESIGN SYSTEM.**

Section 1310 of title 17, United States Code, is amended by adding at the end the following:

''(k) APPLICATION BY OR ON BEHALF OF A STATE OR AN INSTRUMENTALITY OF A STATE.—When an application for registration of a design is made by or on behalf of a State or an instrumentality of a State, the Administrator shall require—

''(1) an assurance that, during the pendency of the application and any term of protection resulting from that application, the State's sovereign immunity from suit in Federal court will be waived in any action against the State or any instrumentality or official of that State—

''(A) arising under a Federal intellectual property law; or

''(B) seeking a declaration with respect to a Federal intellectual property right; and

''(2) a certification that, during the 1-year period preceding the date of the application, the State's sovereign immunity from suit in Federal court has not been asserted in any action described in paragraph (1).''.

**SEC. 136. CONDITIONS FOR STATE PARTICIPATION IN THE FEDERAL TRADEMARK SYSTEM.**

(a) APPLICATION FOR USE OF TRADEMARK OR SERVICE MARK.—Section 1 of the Trademark Act of 1946 (15 U.S.C. 1051) is amended by adding at the end the following:

''(f) When an application under subsection (a) or (b) of this section is made by or on behalf of a State or an instrumentality of a State, the Commissioner shall require—

''(1) an assurance that, during the pendency of the application and for as long as the mark is registered, the State's sovereign immunity from suit in Federal court will be waived in any action against the State or any instrumentality or official of that State—

''(A) arising under a Federal intellectual property law; or

''(B) seeking a declaration with respect to a Federal intellectual property right; and

''(2) a certification that, during the 1-year period preceding the date of the application, the State's sovereign immunity from suit in Federal court has not been asserted in any action described in paragraph (1).''.

(b) ASSIGNMENT AND RECORDATION.—Section 10 of the Trademark Act of 1946 (15 U.S.C. 1060) is amended—

(1) by inserting ''(a)'' before ''A registered mark'';

(2) by inserting ''(b)'' before ''An assignee not domiciled''; and

(3) by adding at the end the following:

''(c) When an assignment of a registered mark or a mark for which an application to register has been filed is recorded in the Patent and Trademark Office by or on behalf of a State or an instrumentality of a State, the Commissioner shall require—

''(1) an assurance that, during the pendency of any application and for as long as any mark is registered, the State's sovereign immunity from suit in Federal court will be waived in any action against the State or any instrumentality or official of that State—

''(A) arising under a Federal intellectual property law; or

''(B) seeking a declaration with respect to a Federal intellectual property right; and

''(2) a certification that, during the 1-year period preceding the date of the recordation, the State's sovereign immunity from suit in Federal court has not been asserted in any action described in paragraph (1).''.

**SEC. 137. NO RETROACTIVE EFFECT.**

The amendments made by this subtitle shall not apply to—

(1) any application pending before the effective date of this title; or

(2) any assertion of sovereign immunity made before the effective date of this title.

## TITLE II—RESTORATION OF PROTECTION FOR FEDERAL INTELLECTUAL PROPERTY RIGHTS

**SEC. 201. LIABILITY OF STATES FOR PATENT VIOLATIONS.**

Section 296 of title 35, United States Code, is amended to read as follows:

**''§ 296. Liability of States, instrumentalities of States, and State officials for infringement of patents**

''(a) REMEDY FOR STATUTORY VIOLATION.—In any action against an officer or employee of a State for infringement of a patent under section 271, or for any other violation under this title, prospective relief is available against the officer or employee in the same manner and to the same extent as such relief is available in an action against a private individual under like circumstances. Prospective relief may include injunctions under section 283, attorney fees under section 285, and declaratory relief under section 2201 of title 28.

''(b) REMEDY FOR CONSTITUTIONAL VIOLATION.—

''(1) DEFINITION.—In this subsection, the term 'State' includes a State, an instrumentality of a State, and an officer or employee of a State acting in an official capacity.

''(2) IN GENERAL.—

''(A) REMEDIES.—Any State that takes any of the rights of exclusion secured under this chapter in violation of the fifth amendment of the United States Constitution, or deprives any person of any of the rights of exclusion secured under this chapter without due process of law in violation of the fourteenth amendment—

''(i) shall be liable to the party injured in a civil action against the State for the recovery of that party's reasonable and entire compensation; and

''(ii) may be enjoined from continuing or future constitutional violations, in accordance with the principles of equity and upon such terms as the court may determine reasonable.

''(B) COMPENSATION.—Reasonable and entire compensation may include damages, interest, and costs under section 284, attorney fees under section 285, and the additional remedy for infringement of design patents under section 289.

''(3) LIMITATIONS.—

''(A) IN GENERAL.—The remedy provided under paragraph (2) is not available in an action against—

''(i) a State that has waived its sovereign immunity from suit in Federal court for damages resulting from a violation of this title; or

''(ii) a State official in an individual capacity.

''(B) REMEDIES.—Remedies (including remedies both at law and in equity) are available against such State or State official in the same manner and to the same extent as such remedies are available in an action against a private entity or individual under like circumstances.

''(4) BURDEN OF PROOF.—If a claimant produces prima facie evidence to support a claim under paragraph (2), the burden of proof shall be on the State, except as to any elements of the claim that would have to be proved if the action were brought under another provision of this title. The burden of proof shall be unaffected with respect to any such element.

''(c) PREEMPTION.—No State may use or manufacture the invention described in or covered by a patent without the authorization or consent of the patent owner, except in the manner and to the extent authorized by Federal law.''.

**SEC. 202. LIABILITY OF STATES FOR VIOLATION OF PLANT VARIETY PROTECTION.**

Section 130 of the Plant Variety Protection Act (7 U.S.C. 2570) is amended to read as follows:

**''SEC. 130. LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF PLANT VARIETY PROTECTION.**

''(a) In any action against an officer or employee of a State for infringement of plant variety protection under section 111, or for any other violation under this chapter, prospective relief is available against the officer or employee in the same manner and to the same extent as such relief is available in an action against a private individual under like circumstances. Prospective relief may include injunctions under section 123, attorney fees under section 125, and declaratory relief under section 2201 of title 28, United States Code.

''(b)(1) In this subsection, the term 'State' includes a State, an instrumentality of a State, and an officer or employee of a State acting in an official capacity.

''(2)(A) Any State that takes any of the rights of exclusion secured under this chapter in violation of the fifth amendment of the United States Constitution, or deprives any person of any of the rights of exclusion secured under this chapter without due process of law in violation of the fourteenth amendment—

''(i) shall be liable to the party injured in a civil action against the State for the recovery of that party's reasonable and entire compensation; and

''(ii) may be enjoined from continuing or future constitutional violations, in accordance with the principles of equity and upon such terms as the court may determine reasonable.

''(B) Reasonable and entire compensation may include damages, interest, and costs under section 124, and attorney fees under section 125.

''(3)(A) The remedy provided under paragraph (2) is not available in an action against—

''(i) a State that has waived its sovereign immunity from suit in Federal court for damages resulting from a violation of this chapter; or

''(ii) a State official in an individual capacity.

''(B) Remedies (including remedies both at law and in equity) are available against such State or State official in the same manner and to the same extent as such remedies are available in an action against a private entity or individual under like circumstances.

''(4) If a claimant produces prima facie evidence to support a claim under paragraph (2), the burden of proof shall be on the State, except as to any elements of the claim that would have to be proved if the action were brought under another provision of this chapter. The burden of proof shall be unaffected with respect to any such element.

''(c) No State may exercise any rights of the owner of a plant variety protected by a certificate of plant variety protection under this chapter without the authorization or consent of such owner, except in the manner and to the extent authorized by Federal law.''.

**SEC. 203. LIABILITY OF STATES FOR COPYRIGHT VIOLATIONS.**

Section 511 of title 17, United States Code, is amended to read as follows:

**''§ 511. Liability of States, instrumentalities of States, and State officials for infringement of copyright**

''(a) REMEDY FOR STATUTORY VIOLATION.—In any action against an officer or employee of a State for violation of any rights of a copyright owner as provided in sections 106 through 121 or of an author as provided in section 106A, or for any other violation under this title, prospective relief is available against the officer or employee in the same manner and to the same extent as such relief is available in an action against a private individual under like circumstances. Prospective relief may include injunctions under section 502, impounding and disposition of infringing articles under section 503, costs and attorney fees under section 505, and declaratory relief under section 2201 of title 28.

''(b) REMEDY FOR CONSTITUTIONAL VIOLATION.—

''(1) DEFINITION.—In this subsection, the term 'State' includes a State, an instrumentality of a State, and an officer or employee of a State acting in an official capacity.

''(2) IN GENERAL.—

''(A) REMEDIES.—Any State that takes any of the rights of exclusion secured under this title in violation of the fifth amendment of the United States Constitution, or deprives any person of any of the rights of exclusion secured under this title without due process of law in violation of the fourteenth amendment—

''(i) shall be liable to the party injured in a civil action against the State for the recovery of that party's reasonable and entire compensation; and

''(ii) may be enjoined from continuing or future constitutional violations, in accordance with the principles of equity and upon such terms as the court may determine reasonable.

''(B) COMPENSATION.—Reasonable and entire compensation may include actual damages and profits or statutory damages under section 504, and costs and attorney fees under section 505.

''(3) LIMITATIONS.—

''(A) IN GENERAL.—The remedy provided under paragraph (2) is not available in an action against—

''(i) a State that has waived its sovereign immunity from suit in Federal court for damages resulting from a violation of this title; or

''(ii) a State official in an individual capacity.

''(B) REMEDIES.—Remedies (including remedies both at law and in equity) are available against such State or State official in the same manner and to the same extent as such remedies are available in an action against a private entity or individual under like circumstances.

''(4) BURDEN OF PROOF.—If a claimant produces prima facie evidence to support a claim under paragraph (2), the burden of proof shall be on the State, except as to any elements of the claim that would have to be proved if the action were brought under another provision of this title. The burden of proof shall be unaffected with respect to any such element.

''(c) PREEMPTION.—No State may exercise any rights of a copyright owner protected under this title without the authorization or consent of such owner, except in the manner and to the extent authorized by Federal law.''.

**SEC. 204. LIABILITY OF STATES FOR MASK WORK VIOLATIONS.**

(a) IN GENERAL.—Chapter 9 of title 17, United States Code, is amended—

(1) in section 911, by striking subsection (g); and

(2) by adding at the end the following:

**"§ 915. Liability of States, instrumentalities of States, and State officials for violation of mask works**

''(a) REMEDY FOR STATUTORY VIOLATION.—In any action against an officer or employee of a State for infringement of any rights in a mask work protected under this chapter, or for any other violation under this chapter, prospective relief is available against the officer or employee in the same manner and to the same extent as such relief is available in an action against a private individual under like circumstances. Prospective relief may include injunctive relief under section 911(a), impounding and destruction of infringing products under section 911(e), costs and attorney fees under section 911(f), and declaratory relief under section 2201 of title 28.

''(b) REMEDY FOR CONSTITUTIONAL VIOLATION.—

''(1) DEFINITION.—In this subsection, the term 'State' includes a State, an instrumentality of a State, and an officer or employee of a State acting in an official capacity.

''(2) IN GENERAL.—

''(A) REMEDIES.—Any State that takes any of the rights of exclusion secured under this chapter in violation of the fifth amendment of the United States Constitution, or deprives any person of any of the rights of exclusion secured under this chapter without due process of law in violation of the fourteenth amendment—

''(i) shall be liable to the party injured in a civil action against the State for the recovery of that party's reasonable and entire compensation; and

''(ii) may be enjoined from continuing or future constitutional violations, in accordance with the principles of equity and upon such terms as the court may determine reasonable.

''(B) COMPENSATION.—Reasonable and entire compensation may include actual damages and profits under section 911(b) or statutory damages under section 911(c), and costs and attorney fees under section 911(f).

''(3) LIMITATIONS.—

''(A) IN GENERAL.—The remedy provided under paragraph (2) is not available in an action against—

''(i) a State that has waived its sovereign immunity from suit in Federal court for damages resulting from a violation of this title; or

''(ii) a State official in an individual capacity.

''(B) REMEDIES.—Remedies (including remedies both at law and in equity) are available against such State or State official in the same manner and to the same extent as such remedies are available in an action against a private entity or individual under like circumstances.

''(4) BURDEN OF PROOF.—If a claimant produces prima facie evidence to support a claim under paragraph (2), the burden of proof shall be on the State, except as to any elements of the claim that would have to be proved if the action were brought under another provision of this chapter. The burden of proof shall be unaffected with respect to any such element.

''(c) PREEMPTION.—No State may exercise any rights of the owner of a mask work protected under this chapter without the authorization or consent of such owner, except in the manner and to the extent authorized by Federal law.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 9 of title 17, United States Code, is amended by adding at the end the following:

''915. Liability of States, instrumentalities of States, and State officials for violation of mask works.''.

**SEC. 205. LIABILITY OF STATES FOR ORIGINAL DESIGN VIOLATIONS.**

(a) IN GENERAL.—Chapter 13 of title 17, United States Code, is amended—

(1) in section 1309(a), by adding at the end the following: ''In this subsection, the term 'any person' includes any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in an official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this chapter in the same manner and to the same extent as any nongovernmental entity.''; and

(2) by adding at the end the following:

**"§ 1333. Liability of States, instrumentalities of States, and State officials for violation of original designs**

''(a) REMEDY FOR STATUTORY VIOLATION.—In any action against an officer or employee of a State for infringement of any rights in a design protected under this chapter, or for any other violation under this chapter, prospective relief is available against the officer or employee in the same manner and to the same extent as such relief is available in an action against a private individual under like circumstances. Prospective relief may include injunctions under section 1322, attorney fees under section 1323(d), disposition of infringing and other articles under section 1323(e), and declaratory relief under section 2201 of title 28.

''(b) REMEDY FOR CONSTITUTIONAL VIOLATION.—

''(1) DEFINITION.—In this subsection, the term 'State' includes a State, an instrumentality of a State, and an officer or employee of a State acting in an official capacity.

''(2) IN GENERAL.—

''(A) REMEDIES.—Any State that takes any of the rights of exclusion secured under this chapter in violation of the fifth amendment of the United States Constitution, or deprives any person of any of the rights of exclusion secured under this chapter without due process of law in violation of the fourteenth amendment—

''(i) shall be liable to the party injured in a civil action against the State for the recovery of that party's reasonable and entire compensation; and

''(ii) may be enjoined from continuing or future constitutional violations, in accordance with the principles of equity and upon such terms as the court may determine reasonable.

''(B) COMPENSATION.—Reasonable and entire compensation may include damages, profits, and attorney fees under section 1323.

''(3) LIMITATIONS.—

''(A) IN GENERAL.—The remedy provided under paragraph (2) is not available in an action against—

''(i) a State that has waived its sovereign immunity from suit in Federal court for damages resulting from a violation of this title; or

''(ii) a State official in an individual capacity.

''(B) REMEDIES.—Remedies (including remedies both at law and in equity) are available against such State or State official in the same manner and to the same extent as such remedies are available in an action against a private entity or individual under like circumstances.

''(4) BURDEN OF PROOF.—If a claimant produces prima facie evidence to support a claim under paragraph (2), the burden of proof shall be on the State, except as to any elements of the claim that would have to be proved if the action were brought under another provision of this chapter. The burden of proof shall be unaffected with respect to any such element.

''(c) PREEMPTION.—No State may exercise any rights of the owner of a design protected under this chapter without the authorization or consent of such owner, except in the manner and to the extent authorized by Federal law.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 13 of title 17, United States Code, is amended by adding at the end the following:

''1333. Liability of States, instrumentalities of States, and State officials for violation of original designs.''.

**SEC. 206. LIABILITY OF STATES FOR TRADEMARK VIOLATIONS.**

Section 40 of the Trademark Act of 1946 (15 U.S.C. 1122) is amended to read as follows:

**"SEC. 40. LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF TRADEMARKS.**

''(a) REMEDY FOR STATUTORY VIOLATION.—In any action against an officer or employee of a State for infringement of a trademark under section 32, or for any other violation under this Act, prospective relief is available against the officer or employee in the same manner and to the same extent as such relief is available in an action against a private individual under like circumstances. Prospective relief may include injunctive relief under section 34, costs and attorney fees under section 35, destruction of infringing articles under section 36, and declaratory relief under section 2201 of title 28, United States Code.

''(b) REMEDY FOR CONSTITUTIONAL VIOLATION.—

''(1) DEFINITION.—In this subsection, the term 'State' includes a State, an instrumentality of a State, and an officer or employee of a State acting in an official capacity.

''(2) IN GENERAL.—

''(A) REMEDIES.—Any State that takes any of the rights of exclusion secured under this Act in violation of the fifth amendment of the United States Constitution, or deprives any person of any of the rights of exclusion secured under this Act without due process of law in violation of the fourteenth amendment—

''(i) shall be liable to the party injured in a civil action against the State for the recovery of that party's reasonable and entire compensation; and

''(ii) may be enjoined from continuing or future constitutional violations, in accordance with the principles of equity and upon such terms as the court may determine reasonable.

''(B) COMPENSATION.—Reasonable and entire compensation may include actual damages and profits or statutory damages, and costs and attorney fees under section 35.

''(3) LIMITATIONS.—

''(A) IN GENERAL.—The remedy provided under paragraph (2) is not available in an action against—

''(i) a State that has waived its sovereign immunity from suit in Federal court for damages resulting from a violation of this title; or

''(ii) a State official in an individual capacity.

''(B) REMEDIES.—Remedies (including remedies both at law and in equity) are available against such State or State official in the same manner and to the same extent as such remedies are available in an action against a private entity or individual under like circumstances.

''(4) BURDEN OF PROOF.—If a claimant produces prima facie evidence to support a

claim under paragraph (2), the burden of proof shall be on the State, except as to any elements of the claim that would have to be proved if the action were brought under another provision of this Act. The burden of proof shall be unaffected with respect to any such element.

''(c) PREEMPTION.—No State may use a federally registered mark for the same or similar goods or service without the authorization or consent of the owner of the mark, except in the manner and to the extent authorized by Federal law.''.

**SEC. 207. RULES OF CONSTRUCTION.**

(a) JURISDICTION.—The district courts shall have original jurisdiction of any action arising under this title and the amendments made by this title under section 1338 of title 28, United States Code.

(b) BROAD CONSTRUCTION.—This title and the amendments made by this title shall be construed in favor of a broad protection of Federal intellectual property rights, to the maximum extent permitted by this title and the United States Constitution.

**TITLE III—EFFECTIVE DATES**

**SEC. 301. EFFECTIVE DATES.**

(a) TITLE I.—Title I of this Act and the amendments made by that title shall take effect 90 days after the date of enactment of this Act.

(b) TITLE II.—The amendments made by title II of this Act shall take effect with respect to violations that occur on or after the date of enactment of this Act.

**SEC. 302. SEVERABILITY.**

If any provision of this Act or of an amendment made by this Act, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provision to any other person or circumstance shall not be affected.

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INTELLECTUAL PROPERTY PROTECTION RESTORATION ACT—SECTION-BY-SECTION SUMMARY

OVERVIEW

The purpose of the Intellectual Property Protection Restoration Act of 1999 (''IPPRA'') is to restore protection for owners of federal intellectual property rights against infringement by States. Recent Supreme Court decisions invalidated prior efforts by Congress to abrogate State sovereign immunity in actions arising under the federal intellectual property laws. The IPPRA encourages States to participate in the federal intellectual property system on equal terms with private entities, by conditioning a State's receipt of future benefits under the federal intellectual property laws on an unambiguous waiver of sovereign immunity. As against States that choose not to participate, the bill also provides new remedies for federal intellectual property rights, to the maximum extent permitted by the Constitution.

DETAILED SUMMARY

TITLE I—STATE PARTICIPATION IN THE FEDERAL INTELLECTUAL PROPERTY SYSTEM

Subtitle A—Definitions

*Sec. 101. Definitions*

Section 101 defines terms used in this title.

Subtitle B—Procedures for State Participation in the Federal Intellectual Property System

*Sec. 111. Opt-in procedure*

Section 111 provides that no State or State instrumentality may acquire a federal intellectual property right unless the State opts in to the federal intellectual property system by agreeing to waive sovereign immunity in any subsequent action that either arises under a federal intellectual property law or seeks a declaration with respect to a federal intellectual property right. Thus, if a State elects to receive the benefits of a nationally recognized right governed by uniform federal laws, then it must accept the obligation to defend any suits arising under those laws in the federal courts.

An assurance provided under section 111 is binding on the State and fully enforceable. ''A State may effectuate a waiver of its constitutional immunity . . . in the context of a particular federal program,'' so long as the State's intention to waive its immunity is unequivocal. Atascadero State Hosp. v. Scanlon, 473 U.S. 234, 238 n.1 & 241 (1985). See also Litman v. George Mason Univ., 186 F.3d 544 (4th Cir. 1999) (holding that a State's acceptance of federal education funding resulted in a binding waiver of immunity in a subsequent action against a State university under Title IX); Innes v. Kansas State Univ., 184 F.3d 1275 (10th Cir. 1999) (holding that a State university's agreement to participate in a federal loan program acted as a binding waiver of immunity).

*Sec. 112. Breach of assurance by a State*

Section 112 establishes procedures for determining whether a State that has opted in to the federal intellectual property system is in breach of its agreement to waive sovereign immunity.

*Sec. 113. Consequences of breach of assurance by a State*

Section 113 sets forth three consequences of a breach of an agreement to waive sovereign immunity.

First, under subsection (a), any pending applications by or on behalf of the State for federal intellectual property rights shall be regarded as abandoned and shall not be subject to revival thereafter.

Second, under subsection (b), no damages or other monetary relief shall be awarded in any action to enforce a federal intellectual property right that is or has been owned by or on behalf of the State during the preceding five years.

Third, under subsection (c), the State is barred from acquiring any new rights under the federal intellectual property laws for a period of one year. If, however, the State opts back in to the system after a year has passed, by providing a new assurance that it will henceforth waive its sovereign immunity in federal intellectual property litigation, it can then acquire new rights that will be enforceable by the full panoply of federal intellectual property remedies.

Subtitle C—Administration of Procedures for State Participation in the Federal Intellectual Property System

*Sec. 121. Notification by court of State assertion of sovereign immunity*

Section 121 directs federal courts to notify the Commissioner of Patents and Trademarks within 20 days of finding that a State has asserted sovereign immunity in any action to enforce or challenge a federal intellectual property right.

*Sec. 122. Confirmation by Commissioner of Patents and Trademarks of State assertion of sovereign immunity*

Section 122 directs the Commissioner of Patents and Trademarks, within 20 days of receiving a notification under section 121, to forward such notification to the Attorney General of the State, together with a copy of title I of the IPPRA, and inquire whether the State intends to withdraw its assertion of immunity and consent tot he continuation or refiling of the action in which it was made within the 60-day grace period provided in section 112(b)(2).

*Sec. 123. Publication by Commissioner of Patents and Trademarks of State assertion of sovereign immunity*

Section 123 directs the Commissioner of Patents and Trademarks, in consultation with the Secretary of Agriculture and the Register of Copyrights, to publish in the Federal Register and maintain on the Internet information concerning the participation of each State in the federal intellectual property system. The information must include, for each State, whether the State's sovereign immunity has been asserted, and the name of the case and court in which any such assertion of immunity was made.

*Sec. 124. Rulemaking authority*

Section 124 authorizes the Commissioner of Patents and Trademarks to promulgate such rules as necessary to implement the provisions of this subtitle.

Subtitle D—Amendments to the Federal Intellectual Property Laws

*Sec. 131. Conditions for State participation in the federal patent system*

Section 131 amends the federal patent statute to require any State that seeks to register for patent protection to provide an unequivocal assurance of the State's intention to waive sovereign immunity in any action to enforce or challenge a federal intellectual property right. A State must also certify that the State's sovereign immunity has not been asserted in any such action during the past year.

*Sec. 132. Conditions for State participation in the federal plant variety protection system*

Section 132 amends the federal plant variety statute to require any State that seeks to register for plant variety protection to provide an unequivocal assurance of the State's intention to waive sovereign immunity in any action to enforce or challenge a federal intellectual property right. A State must also certify that the State's sovereign immunity has not been asserted in any such action during the past year.

*Sec. 133. Conditions for State participation in the federal copyright system*

Section 133 amends the federal copyright statute to require any State that seeks to register for copyright protection to provide an unequivocal assurance of the State's intention to waive sovereign immunity in any action to enforce or challenge a federal intellectual property right. A State must also certify that the State's sovereign immunity has not been asserted in any such action during the past year.

*Sec. 134. Conditions for State participation in the federal mask work system*

Section 134 amends the federal mask work statute to require any State that seeks to register for mask work protection to provide an unequivocal assurance of the State's intention to waive sovereign immunity in any action to enforce or challenge a federal intellectual property right. A State must also certify that the State's sovereign immunity has not been asserted in any such action during the past year.

*Sec. 135. Conditions for State participation in the federal original design system*

Section 135 amends the federal original design statute to require any State that seeks to register for design protection to provide an unequivocal assurance of the State's intention to waive sovereign immunity in any action to enforce or challenge a federal intellectual property right. A State must also certify that the State's sovereign immunity has not been asserted in any such action during the past year.

*Sec. 136. Conditions for State participation in the federal trademark system*

Section 136 amends the federal trademark statute to require any State that seeks to

register for trademark protection to provide an unequivocal assurance of the State's intention to waive sovereign immunity in any action to enforce or challenge a federal intellectual property right. A State must also certify that the State's sovereign immunity has not been asserted in any such action during the past year.

*Sec. 137. No retroactive effect*

Section 137 ensures that the amendments made by this subtitle are not given retroactive effect. Specifically, the amendments do not apply to any application by a State that was pending before the effective date of this subtitle, or to any assertion of sovereign immunity by a State made before the enactment of the IPPRA.

TITLE II—RESTORATION OF PROTECTION FOR FEDERAL INTELLECTUAL PROPERTY RIGHTS

*Sec. 201. Liability of States for patent violations*

Section 201 replaces section 296 of title 35, which was enacted pursuant to the Patent and Plant Variety Remedy Clarification Act of 1992 and invalidated by the Supreme Court in Florida Prepaid Postsecondary Educ. Expense Bd. v. College Savings Bank, 119 S. Ct. 2199 (1999).

Subsection (a) ensures the full availability of prospective relief to prevent State officials from violating the federal patent laws, and to allow challenges to assertions by State officials of rights secured under such laws, on the same terms and in the same manner as if such State officials were private individuals. Such relief is authorized under the doctrine of Ex parte Young, 209 U.S. 123 (1908), which held that an individual may sue a State official in an official capacity for prospective relief requiring the State official to cease violating federal law, even if the State itself is immune from suit under the Eleventh Amendment.

Subsection (b) provides a cause of action against States, State instrumentalities, and State officials acting in an official capacity for (1) taking a patent right in violation of the Fifth Amendment or (2) depriving a person of a patent right without due process of law in violation of the Fourteenth Amendment. Damages are fixed at ''reasonable and entire compensation,'' which is the measure of damages available against the United States for infringement of a patent (see 28 U.S.C. 1498); treble damages are not available under this subsection. Injunctive relief is available to prevent or deter constitutional violations.

The remedy provided under subsection (b) is not available against States that have waived their sovereign immunity from suit in federal court, nor is it available against State officials in their individual capacity, who do not partake of the State's sovereign immunity. Such States and State officials remain subject to the remedies provided by other provisions of the federal patent laws, to the same extent as such remedies are available in an action against any private entity or individual. Thus, for example, a State official sued in an individual capacity may not assert any defense or claim of absolute or qualified immunity that would not be available to a private individual under similar circumstances.

Subsection (b) abrogates State sovereign immunity to the maximum extent permitted by the Constitution, pursuant to Congress's powers under the Fifth and Fourteenth Amendments and any other applicable provisions.

A claim under subsection (b) for taking a patent right is ripe at the time of the taking. In Hawaii Housing Authority v. Midkiff, 467 U.S. 229 (1984), the Supreme Court held that the Public Use Clause of the Fifth Amendment, made applicable to the States through the Fourteenth Amendment, prohibits a State from taking private property for a non-public use, even with just compensation. The Court further stated that ''[t]he 'public use' requirement is . . . coterminous with the scope of a sovereign's police powers.'' 467 U.S. at 240. Because States making unauthorized uses of federal intellectual property rights are acting outside the scope of their sovereign powers, a State's infringement of a patent, even if compensated, is an unconstitutional taking of property for a non-public use; accordingly, the patent holder need not seek a remedy in State proceedings before filing a claim under subsection (b) in federal court.

Subsection (b)(4) addresses the burden of proof when a claimant produces prima facie evidence to support a claim under this subsection. Under subsection (b)(4), the burden of proof is on the State, except as to any elements of the claim that would have to be proved if the action were brought under another provision of this title. As to such elements, the burden of proof is unaffected. Thus, for example, if the adequacy of any State remedies became an issue, the State would bear the burden of proof thereon.

Subsection (c) clarifies that the federal patent laws and treaties supersede and preempt any power of a State to acquire or otherwise affect patent rights through the exercise of eminent domain.

*Sec. 202. Liability of States for violation of plant variety protection*

Section 202 establishes the same sorts of remedies for violations of protected plant varieties as section 201 establishes with respect to patents.

*Sec. 203. Liability of States for copyright violations*

Section 203 establishes the same sorts of remedies for violations of copyrights as section 201 establishes with respect to patents.

*Sec. 204. Liability of States for mask work violations*

Section 204 establishes the same sorts of remedies for violations of federally-protected rights in mask works as section 201 establishes with respect to patents.

*Sec. 205. Liability of States for original design violations*

Section 205 establishes the same sorts of remedies for violations of federally-protected rights in original designs as section 201 establishes with respect to patents.

*Sec. 206. Liability of States trademark violations*

Section 206 establishes the same sorts of remedies for violations of federally-registered trademarks and service marks as section 201 establishes with respect to patents.

*Sec. 207. Rules of construction*

Subsection (a) makes clear that the district courts shall have original jurisdiction under 28 U.S.C. §1338 of any action arising under this title. It follows that, pursuant to 28 U.S.C. §1295, the United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction of any appeal from a final decision of a district court in an action arising under this title relating to patents, plant variety protection, and exclusive rights in designs under chapter 13 of title 17.

Subsection (b) provides that this title shall be construed in favor of a broad protection of intellectual property rights, to the maximum extent permitted by its terms and the Constitution.

TITLE III—EFFECTIVE DATES

*Sec. 301. Effective dates*

Subsection (a) provides that the opt-in procedures established by title I of the IPPRA shall take effect 90 days after the date of enactment of the IPPRA.

Subsection (b) provides that the remedial provisions established by title II of the IPPRA shall take effect with respect to violations by States that occur on or after the date of enactment of the IPPRA.

*Sec. 302. Severability*

Section 302 contains a strong severability clause. If any provision of the IPPRA or of any amendment made by the IPPRA, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of the IPPRA, the amendments made by the IPPRA, and the application of the provision to any other person or circumstance shall not be affected.

## ADDITIONAL COSPONSORS

S. 311

At the request of Mr. ROBB, his name was added as a cosponsor of S. 311, a bill to authorize the Disabled Veterans' LIFE Memorial Foundation to establish a memorial in the District of Columbia or its environs, and for other purposes.

S. 345

At the request of Mr. ALLARD, the names of the Senator from Illinois (Mr. FITZGERALD) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 345, a bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 777

At the request of Mr. FITZGERALD, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 777, a bill to require the Department of Agriculture to establish an electronic filing and retrieval system to enable the public to file all required paperwork electronically with the Department and to have access to public information on farm programs, quarterly trade, economic, and production reports, and other similar information.

S. 1020

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1020, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1109

At the request of Mr. MCCONNELL, the names of the Senator from Delaware (Mr. ROTH) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 1109, a bill to conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes.

S. 1133

At the request of Mr. GRAMS, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1133, a bill to amend the Poultry Products Inspection Act to cover birds

of the order Ratitae that are raised for use as human food.

S. 1158

At the request of Mr. HUTCHINSON, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 1158, a bill to allow the recovery of attorney's fees and costs by certain employers and labor organizations who are prevailing parties in proceedings brought against them by the National Labor Relations Board or by the Occupational Safety and Health Administration.

S. 1315

At the request of Mr. BINGAMAN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1315, a bill to permit the leasing of oil and gas rights on certain lands held in trust for the Navajo Nation or allotted to a member of the Navajo Nation, in any case in which there is consent from a specified percentage interest in the parcel of land under consideration for lease.

S. 1384

At the request of Mr. ABRAHAM, the names of the Senator from Washington (Mrs. MURRAY), the Senator from New York (Mr. SCHUMER), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 1384, a bill to amend the Public Health Service Act to provide for a national folic acid education program to prevent birth defects, and for other purposes.

S. 1419

At the request of Mr. ROBB, his name was added as a cosponsor of S. 1419, a bill to amend title 36, United States Code, to designate May as ''National Military Appreciation Month.''

At the request of Mr. MCCAIN, the names of the Senator from Connecticut (Mr. DODD), the Senator from New Mexico (Mr. DOMENICI), the Senator from New York (Mr. SCHUMER), the Senator from North Dakota (Mr. CONRAD), the Senator from Tennessee (Mr. FRIST), the Senator from Illinois (Mr. DURBIN), the Senator from Indiana (Mr. BAYH), and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 1419, supra.

S. 1455

At the request of Mr. ABRAHAM, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1455, a bill to enhance protections against fraud in the offering of financial assistance for college education, and for other purposes.

S. 1482

At the request of Ms. SNOWE, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1482, a bill to amend the National Marine Sanctuaries Act, and for other purposes.

S. 1528

At the request of Mr. LOTT, the names of the Senator from Hawaii (Mr. AKAKA) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 1528, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions.

S. 1590

At the request of Mr. CRAPO, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from South Dakota (Mr. DASCHLE) were added as cosponsors of S. 1590, a bill to amend title 49, United States Code, to modify the authority of the Surface Transportation Board, and for other purposes.

S. 1592

At the request of Mr. DURBIN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1592, a bill to amend the Nicaraguan Adjustment and Central American Relief Act to provide to certain nationals of El Salvador, Guatemala, Honduras, and Haiti an opportunity to apply for adjustment of status under that Act, and for other purposes.

S. 1600

At the request of Mr. HARKIN, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 1600, a bill to amend the Employee Retirement Income Security Act of 1974 to prevent the wearing away of an employee's accrued benefit under a defined benefit plan by the adoption of a plan amendment reducing future accruals under the plan.

S. 1638

At the request of Mr. ASHCROFT, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 1638, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to extend the retroactive eligibility dates for financial assistance for higher education for spouses and dependent children of Federal, State, and local law enforcement officers who are killed in the line of duty.

S. 1717

At the request of Mr. BOND, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1717, a bill to amend title XXI of the Social Security Act to provide for coverage of pregnancy-related assistance for targeted low-income pregnant women.

S. 1770

At the request of Mr. LOTT, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 1770, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research and development credit and to extend certain other expiring provisions for 30 months, and for other purposes.

S. 1791

At the request of Mr. CAMPBELL, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1791, a bill to authorize the Librarian of Congress to purchase papers of Dr. Martin Luther King, Junior, from Dr. King's estate.

At the request of Mr. LIEBERMAN, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 1791, supra.

S. 1795

At the request of Mr. CRAPO, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 1795, a bill to require that before issuing an order, the President shall cite the authority for the order, conduct a cost benefit analysis, provide for public comment, and for other purposes.

SENATE RESOLUTION 118

At the request of Mr. REID, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of Senate Resolution 118, a resolution designating December 12, 1999, as ''National Children's Memorial Day.''

SENATE RESOLUTION 200

At the request of Mr. GRAMS, the names of the Senator from South Carolina (Mr. THURMOND), the Senator from Indiana (Mr. LUGAR), the Senator from Florida (Mr. MACK), the Senator from Kentucky (Mr. BUNNING), the Senator from Rhode Island (Mr. REED), the Senator from Alabama (Mr. SHELBY), the Senator from Louisiana (Mr. BREAUX), the Senator from Mississippi (Mr. LOTT), the Senator from Alabama (Mr. SESSIONS), the Senator from Kansas (Mr. BROWNBACK), the Senator from North Carolina (Mr. HELMS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Tennessee (Mr. FRIST), the Senator from Vermont (Mr. JEFFORDS), the Senator from Oregon (Mr. SMITH), the Senator from Texas (Mr. GRAMM), the Senator from Vermont (Mr. LEAHY), the Senator from New Hampshire (Mr. SMITH), the Senator from West Virginia (Mr. BYRD), the Senator from Utah (Mr. HATCH), the Senator from Delaware (Mr. ROTH), the Senator from Ohio (Mr. DEWINE), the Senator from Missouri (Mr. BOND), the Senator from Maine (Ms. SNOWE), the Senator from Wyoming (Mr. ENZI), the Senator from Michigan (Mr. ABRAHAM), the Senator from Missouri (Mr. ASHCROFT), the Senator from Nebraska (Mr. HAGEL), the Senator from Utah (Mr. BENNETT), the Senator from Oklahoma (Mr. INHOFE), the Senator from Ohio (Mr. VOINOVICH), the Senator from Kansas (Mr. ROBERTS), the Senator from Colorado (Mr. CAMPBELL), the Senator from Alaska (Mr. STEVENS), the Senator from Idaho (Mr. CRAPO), the Senator from Mississippi (Mr. COCHRAN), the Senator from Kentucky (Mr. MCCONNELL), the Senator from New Mexico (Mr. DOMENICI), the Senator from Colorado (Mr. ALLARD), the Senator from Alaska (Mr. MURKOWSKI), the Senator from New Hampshire (Mr. GREGG), the Senator from Wyoming (Mr. THOMAS), the Senator from Idaho (Mr. CRAIG), the Senator from Maine (Ms. COLLINS), the Senator from Nebraska (Mr.

KERREY), the Senator from Arizona (Mr. MCCAIN), the Senator from Tennessee (Mr. THOMPSON), the Senator from Oklahoma (Mr. NICKLES), the Senator from Montana (Mr. BURNS), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of Senate Resolution 200, a resolution designating the week of February 14–20 as ''National Biotechnology Week.''

## SENATE CONCURRENT RESOLUTION 63—CONDEMNING THE ASSASSINATION OF ARMENIAN PRIME MINISTER VAZGEN SARGSIAN AND OTHER OFFICIALS OF THE ARMENIAN GOVERNMENT AND EXPRESSING THE SENSE OF THE CONGRESS IN MOURNING THIS TRAGIC LOSS OF THE DULY ELECTED LEADERSHIP OF ARMENIA

Mr. ABRAHAM (for himself, Mr. MCCONNELL, Mr. TORRICELLI, Mr. ALLARD, Mr. REED, Mr. BENNETT, Ms. COLLINS, Mr. FITZGERALD, Mr. ENZI, Mr. KERRY, Mr. DURBIN, Mr. WARNER, Mr. EDWARDS, and Mr. LIEBERMAN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 63

Whereas on October 27, 1999, several armed individuals broke into Armenia's Parliament and assassinated the Prime Minister of Armenia, Vazgen Sargsian, the Chairman of the Armenian Parliament, Karen Demirchian, the Deputy Chairman of the Armenian Parliament, Yuri Bakhshian, the Minister of Operative Issues, Leonard Petrossian, and other members of the Armenian Government;

Whereas Armenia is working toward democracy, the rule of law, and a viable free market economy since obtaining its freedom from Soviet rule in 1991; and

Whereas all nations of the world mourn the loss suffered by Armenia on October 27, 1999: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That the Congress—

(1) deplores the slaying of the Prime Minister of Armenia, Vazgen Sargsian, the Chairman of the Armenian Parliament, Karen Demirchian, the Deputy Chairman of the Armenian Parliament, Yuri Bakhshian, the Minister of Operative Issues, Leonard Petrossian, and other members of the Armenian Government struck down in this violent attack;

(2) strongly shares the determination of the Armenian people that the perpetrators of these vile acts will be swiftly brought to justice so that Armenia may demonstrate its resolute opposition to acts of terror;

(3) commends the efforts of the late Prime Minister and the Armenian Government for their commitment to democracy, the rule of law, and for supporting free market movements internationally; and

(4) continues to cherish the strong friendship between Armenia and the United States.

Mr. ABRAHAM. Mr. President, I rise today to express my deepest condolences to the family of the slain Prime Minister of Armenia, Vazgen Sargsian, and the other assassinated leaders of the Armenian Parliament who were tragically killed in the brutal attack on the Armenian Parliament on October 27, 1999. My thoughts and prayers are also with the people of Armenia and the Armenian community around the world and in the United States.

The tragic turn of events that took place earlier this week should not be viewed as an impediment to the ongoing positive trends the world has seen in Armenia. Indeed, Armenia has proven its commitment to a democratic future in its recent elections which were deemed free and fair by international election monitors. They have also made substantial progress on the peace process regarding Nagorno Karabakh.

The United States is enjoying a growing and mutually beneficial relationship with Armenia. Our focus should be on our continued support of the Armenian people. We must not allow the recent terrorist activity to eschew our dedication in helping Armenia achieve the highest form of freedom, liberty, and opportunity. To reaffirm our commitment to the progress embodied by the fallen Armenian patriots not only should be our goal, but our duty as a global leader.

For this reason, I ask to submit a resolution that condemns the terrorist activities that took the lives of the Armenian Prime Minister, Vazgen Sargsian, and other leaders of the Armenian Parliament, and pledges continued alliance between our two countries. Our thoughts are with the families, friends and loved ones of those affected by this tragedy, and we send our hope that those who perpetrated this horrible act will be brought to justice.

Mr. President, I urge my colleagues to support this resolution.

## SENATE CONCURRENT RESOLUTION 64—EXPRESSING THE SENSE OF CONGRESS CONCERNING CONTINUED USE OF THE UNITED STATES NAVY TRAINING RANGE ON THE ISLAND OF VIEQUES IN THE COMMONWEALTH OF PUERTO RICO

Mr. INHOFE (for himself, Mr. SMITH of New Hampshire, Mr. SESSIONS, Mr. HUTCHINSON, and Mr. KYL) submitted the following resolution; which was referred to the Committee on Armed Services:

S. CON. RES. 64

Whereas the success or failure of the Nation's Armed Forces when sent into combat and the risk of loss of life, both to United States military personnel and to civilians, are a direct function of the degree of training received by members of the Armed Forces before combat;

Whereas from World War II through the most recent crisis in Kosovo the Nation's military has been able to meet the call to arms due to training such as that afforded at the United States Navy training range on the island of Vieques in the Commonwealth of Puerto Rico;

Whereas in April 1999, following an accident at that training range that resulted in the death of a Navy civilian employee, training activities at that range were suspended by direction of the Secretary of the Navy pending a safety review;

Whereas officials of the Department of Defense have testified before congressional committees that the Vieques training range is the only range along the Atlantic seaboard that allows critical combined arms live fire training that includes the coordinated use of naval surface fire support training, Navy/Marine amphibious combined arms training, Carrier Battle Group strike training and high altitude tactics, and subsurface training;

Whereas officials of the Department of Defense have testified before congressional committees that the safe conduct of operations on the island of Vieques has been and will remain the primary concern of the Department of the Navy and that the recent death of the civilian Navy employee on the range was the first civilian death on the range since its purchase in 1941;

Whereas the John F. Kennedy carrier battle group, which was unable to continue training at Vieques after the April accident, deployed in September 1999 in degraded readiness condition and the Dwight D. Eisenhower carrier battle group, which is scheduled to deploy in the spring of 2000, will be forced to deploy in a significantly degraded readiness condition if not allowed to conduct training activities at the Vieques training range before departing on that deployment;

Whereas the suspension of training activities at the Vieques training range has resulted in a loss of critical combat training that is essential to the Nation's Navy and Marine forces; and

Whereas, given that recently deploying Navy and Marine Corps battle groups have been sent directly into combat operations in Kosovo and Iraq, thereby placing service personnel immediately in harm's way, it would be unthinkable to knowingly deploy members of the Armed Forces in the future without this essential training, since to do so would place American lives, including the lives of members of the Armed Forces from Puerto Rico, at high risk: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That the Congress—

(1) calls upon the Secretary of the Navy and the Attorney General of the United States to promptly ensure that the Federal property located at the Vieques training range in the Commonwealth of Puerto Rico is safe and secure and, once the range is safe and secure, for the Secretary of the Navy to resume critical live fire training at that range;

(2) calls upon the President, as Commander-in-Chief, to ensure that United States forces deploy with 100 percent of the combat qualifications needed to meet national security requirements;

(3) strongly urges the Department of Defense and the Government of Puerto Rico to reestablish a mutually supportive relationship, to resolve the issues between the Department of the Navy and the people of Puerto Rico, and to implement a program that addresses the economic and social needs and safety concerns of the residents of Vieques and the citizens of Puerto Rico; and

(4) recognizes the significant contribution by the residents of Vieques and the citizens of Puerto Rico to the Nation's defense.

## SENATE RESOLUTION 209—EXPRESSING CONCERN OVER INTERFERENCE WITH FREEDOM OF THE PRESS AND THE INDEPENDENCE OF JUDICIAL AND ELECTORAL INSTITUTIONS IN PERU

Mr. HELMS (for himself, Mr. LEAHY, Mr. COVERDELL, Mr. DODD, Mr. DEWINE, and Mr. JEFFORDS) submitted the following resolution; which was referred

to the Committee on Foreign Relations:

S. RES. 209

Whereas the independence of Peru's legislative and judicial branches has been brought into question by the May 29, 1997, dismissal of 3 Constitutional Tribunal magistrates;

Whereas Peru's National Council of Magistrates and the National Election Board have been manipulated by President Alberto Fujimori and his allies so he can seek a third term in office;

Whereas the Department of State's Country Report on Human Rights Practices for 1998, dated February 26, 1999, concludes, with respect to Peru, that ''government intelligence agents allegedly orchestrated a campaign of spurious attacks by the tabloid press against a handful of publishers and investigative journalists in the strongly pro-opposition daily La Republica and the other print outlets and electronic media'';

Whereas the Department of State's Country Report on Human Rights Practices for 1997, dated January 30, 1998, states that Channel 2 television station reporters in Peru ''revealed torture by Army Intelligence Service Officers'' and ''the systematic wiretapping of journalists, government officials, and opposition politicians'';

Whereas on July 13, 1997, Peruvian immigration authorities revoked the Peruvian citizenship of Baruch Ivcher, the Israeli-born owner of the Channel 2 television station; and

Whereas Baruch Ivcher subsequently lost control of Channel 2 under an interpretation of a law that provides that a foreigner may not own a media organization, causing the Department of State's Report on Human Rights Practices for 1998 to report that ''threats and harassment continued against Baruch Ivcher and some of his former journalists and administrative staff...In September Ivcher and several of his staff involved in his other nonmedia businesses were charged with customs fraud. The Courts sentenced Ivcher in absentia to 12 years' imprisonment and his secretary to 3 years in prison. Other persons from his former television station, who resigned in protest in 1997 when the station was taken away, also have had various charges leveled against them and complain of telephone threats and surveillance by persons in unmarked cars'': Now, therefore, be it

*Resolved,*

**SECTION 1. SENSE OF THE SENATE ON ANTI-DEMOCRATIC MEASURES BY THE GOVERNMENT OF PERU.±**

It is the sense of the Senate that—

(1) the erosion of the independence of judicial and electoral branches of the Government of Peru and the blatant intimidation of journalists in Peru are matters of serious concern to the Unites States;

(2) efforts by any person or political movement in Peru to undermine that country's constitutional order for personal or political gain are inconsistent with the standard of representative democracy in the Western Hemisphere;

(3) the Government of the United States supports the effort of the Inter-American Commission on Human Rights to report on the pattern of threats to democracy, freedom of the press, and judicial independence by the Government of Peru; and

(4) systematic abuse of the rule of law and threats to democracy in Peru could undermine the confidence of foreign investors in, as well as the credit worthiness of, Peru.

**SEC. 2. TRANSMITTAL OF RESOLUTION.**

The Secretary of the Senate shall transmit a copy of this resolution to the Secretary of State with the request that the Secretary further transmit such copy to the Secretary General of the Organization of the American States, the President of the Inter-American Development Bank, and the President of the International Bank for Reconstruction and Development.

## SENATE RESOLUTION 210—RECOGNIZING AND HONORING THE NEW YORK YANKEES

Mr. SCHUMER (for himself, Mr. MOYNIHAN, and Mr. LIEBERMAN) submitted the following resolution; which was considered and agreed to:

S. RES. 210

Whereas the New York Yankees are 1 of the greatest sports franchises ever;

Whereas the New York Yankees are the winningest sports franchise in professional sports history;

Whereas the New York Yankees have won 25 World Series, the most by any major league franchise;

Whereas the New York Yankees have played 86 seasons in the city of New York;

Whereas the New York Yankees became a baseball icon in the 1950's by winning 5 World Series in a row;

Whereas the New York Yankees' dominance was ignited in 1920 by the appearance of the indomitable Babe Ruth in pinstripes;

Whereas the New York Yankees have retired 11 numbers for 12 baseball legends;

Whereas the New York Yankees have had a player win the American League batting title 9 times;

Whereas the New York Yankees are represented in the Baseball Hall of Fame by 16 players who were inducted wearing the distinctive New York Yankee cap;

Whereas the New York Yankees have fielded teams such as the 1927 ''Murderers' Row''; and

Whereas the New York Yankees have finished the 20th century meeting the standards they set throughout it: Now, therefore, be it

*Resolved,*

**SECTION 1. CONGRATULATION AND COMMENDATION.**

The Senate recognizes and honors the New York Yankees—

(1) for their storied history;

(2) for their many contributions to the national pastime; and

(3) for continuing to carry the standards of character, commitment, and achievement for baseball and for the State of New York.

**SEC. 2. TRANSMITTAL OF RESOLUTION.**

The Senate directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the New York Yankees owner, George Steinbrenner, and to the New York Yankees manager, Joe Torre.

## SENATE RESOLUTION 211—EXPRESSING THE SENSE OF THE SENATE REGARDING THE FEBRUARY 2000 DEPLOYMENT OF THE U.S.S. ''EISENHOWER'' BATTLE GROUP AND THE 24TH MARINE EXPEDITIONARY UNIT TO AN AREA OF POTENTIAL HOSTILITIES AND THE ESSENTIAL REQUIREMENTS THAT THE BATTLE GROUP AND EXPEDITIONARY UNIT HAVE RECEIVED THE ESSENTIAL TRAINING NEEDED TO CERTIFY THE WARFIGHTING PROFICIENCY OF THE FORCES COMPRISING THE BATTLE GROUP AND EXPEDITIONARY UNIT

Mr. WARNER submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 211

Whereas the President, as Commander-in-Chief of all of the Armed Forces of the United States, makes the final decision to order a deployment of those forces into harm's way;

Whereas the President, in making that decision, relies upon the recommendations of the civilian and military leaders tasked by law with the responsibility of training those forces, including the Commander of the Second Fleet of the Navy and the Commander of the Marine Forces in the Atlantic;

Whereas the Atlantic Fleet Weapons Training Facility has been since World War II, and continues to be, an essential part of the training infrastructure that is necessary to ensure that maritime forces deploying from the east coast of the United States are prepared and ready to execute their assigned missions;

Whereas according to the testimony of the Chairman of the Joint Chiefs of Staff, the Chief of Naval Operations, and the Commandant of the Marine Corps, the Island of Vieques is a vital part of the Atlantic Fleet Weapons Training Facility and makes an essential contribution to the national security of the United States by providing integrated live-fire combined arms training opportunities to Navy and Marine Corps forces deploying from the east coast of the United States;

Whereas according to testimony before the Committee on Armed Services of the Senate and the report of the Special Panel on Military Operations on Vieques, a suitable alternative to Vieques cannot now be identified;

Whereas during the course of its hearings on September 22 and October 19, 1999, the Committee on Armed Services of the Senate acknowledged and expressed its sympathy for the tragic death and injuries that resulted from the training accident that occurred at Vieques in April 1999;

Whereas the Navy has failed to take those actions necessary to develop sound relations with the people of Puerto Rico;

Whereas the Navy should implement fully the terms of the 1983 Memorandum of Understanding between the Navy and the Commonwealth of Puerto Rico regarding Vieques and work to increase its efforts to improve the economic conditions for and the safety of the people on Vieques;

Whereas in February 2000, the U.S.S. Eisenhower Battle Group and the 24th Marine Expeditionary Unit are scheduled to deploy to the Mediterranean Sea and the Persian Gulf where the battle group and expeditionary unit will face the possibility of combat, as experienced by predecessor deploying units, during operations over Iraq and during other unexpected contingencies;

Whereas in a September 22, 1999, letter to the Committee on Armed Services of the Senate, the President stated that the rigorous, realistic training undergone by military forces ''is essential for success in combat and for protecting our national security'';

Whereas in that letter the President also stated that he would not permit Navy or Marine Corps forces to deploy ''unless they are at a satisfactory level of combat readiness'';

Whereas Richard Danzig, the Secretary of the Navy, recently testified before the Committee on Armed Services of the Senate that ''only by providing this preparation can we fairly ask our service members to put their lives at risk'';

Whereas according to the testimony of the Chairman of the Joint Chiefs of Staff, the Chief of Naval Operations, and the Commandant of the Marine Corps, Vieques provides integrated live-fire training ''critical to our readiness'', and the failure to provide for adequate live-fire training for our naval forces before deployment will place those forces at unacceptably high risk during deployment;

Whereas Admiral Johnson, the Chief of Naval Operations, and General Jones, the Commandant of the Marine Corps, recently testified before the Committee on Armed Services of the Senate that without the ability to train on Vieques, the U.S.S. Eisenhower Battle Group and the 24th Marine Expeditionary Unit scheduled for deployment in February 2000 would not be ready for such deployment ''without greatly increasing the risk to those men and women who we ask to go in harm's way'';

Whereas Vice Admiral Murphy, Commander of the Sixth Fleet of the Navy, recently testified before the Committee on Armed Services of the Senate that the loss of training on Vieques would ''cost American lives''; and

Whereas the Navy is currently prevented as a consequence of unrestrained civil disobedience from using the training facilities on Vieques which are required to accomplish the training necessary to achieve a satisfactory level of combat readiness: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that the President should not deploy the U.S.S. Eisenhower Battle Group or the 24th Marine Expeditionary Unit until—

(1) the President, in consultation with the Secretary of Defense, the Secretary of the Navy, the Chief of Naval Operations, and the Commandant of the Marine Corps, reviews the certifications regarding the readiness of the battle group and the expeditionary unit made by the Commander of the Second Fleet of the Navy and the Commander of the Marine Forces in the Atlantic, as the case may be; and

(2) the President determines and so notifies Congress that the battle group and the expeditionary unit are free of serious deficiencies in major warfare areas.

Mr. WARNER. Mr. President, I ask unanimous consent to have printed in the RECORD, a letter from the President of the United States to this Senator.

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

THE WHITE HOUSE,
*Washington, September 22, 1999.*

Hon. JOHN WARNER,
*Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter on the United States Navy's training facilities on Vieques.

I share your concern for the combat readiness of deploying Navy and Marine Corps forces. Military readiness is one of my top defense priorities. I have ordered our forces into action several times, most recently in Kosovo, and every time have seen that the rigorous, realistic training they undergo is essential for success in combat and for protecting our national security. As Commander in Chief I will not permit Navy or Marine Corps units to deploy unless they are at a satisfactory level of combat readiness.

I believe that we can meet Navy and Marine Corps combat readiness requirements will ensuring the safety and well being of the people of Vieques. The U.S. Armed Forces work hard to ensure that their training activities throughout the United States, and abroad as well, do not adversely impact the safety and livelihood of nearby civilian residents. The Defense Department is also required by law to be conscientious guardians of the environment. I am sure you would agree that these requirements apply no less on Vieques than in any other location where our forces train.

As you know, Secretary Bill Cohen established a special panel to conduct an independent review of our training operations at Vieques. I understand that Bill recently was briefed by the panel members and that he is considering next steps in the process. At the conclusion of the panel's efforts, I expect to receive a recommendation from Bill on the future of Navy training facilities on Vieques. In reaching a decision, I will review carefully Bill's recommendation, weighing Navy and Marine Corps combat readiness requirements, the alternatives that may be available to meet their training needs, and the safety, environmental and economic concerns raised by the Commonwealth of Puerto Rico and the people of Vieques.

Again, thank you for your letter. I hope that, working together, we will be able to find a solution that fulfills our essential national security needs and meets the concerns of the residents of Vieques Island and the people of Puerto Rico.

Sincerely,

BILL.

Mr. WARNER. Mr. President, the Senate Armed Services Committee has taken cognizance of this very critical situation of our east coast fleet units being deployed, their state of readiness, and the degree of risk these units are facing as they deploy into the operations in Iraq, the operations in the Persian Gulf, and the unforeseen risks that seem to be ever present in that region of the world, the Mediterranean, the Persian Gulf, that arise so quickly and demand the instantaneous reaction, if so directed by the President, hopefully as a deterrence and then, if necessary, the actual combat.

We have seen this now for a decade. When we stop to think of the risks taken by these young men and women flying aircraft off these ships, and performing other military missions, the Senate owes them no less than the highest possible standard of training, the best possible equipment to reduce that risk.

Therefore, having chaired the hearings of the Committee of Armed Services of recent and, indeed, under the chairmanship of Senator INHOFE, a subcommittee of our full committee, and under the chairmanship of Senator SNOWE, a second subcommittee—two subcommittee hearings and a full committee hearing on that state of readiness and particularly as that state of readiness could be affected adversely by the absence of the ability of the United States to continue the use of the ranges on the islands of Vieques in Puerto Rico. That is the reason why I offer this sense-of-the-Senate resolution.

I shall read in general from this resolution and comment as I go:

In the Senate of the United States Mr. Warner submitted the following resolution;

Resolution

Expressing the sense of the Senate regarding the February 2000 deployment—

That is coming in just a matter of months—

of the U.S.S. Eisenhower Battle Group and the 24th Marine Expeditionary Unit to an area of potential hostilities and the essential requirements that the battle group and expeditionary unit have received [that] training needed to certify the warfighting proficiency of the forces comprising the battle group and expeditionary unit.

Whereas the President, as Commander-in-Chief of all of the Armed Forces of the United States, makes the final decision—

Under our Constitution—

to order a deployment of those forces—

And all our forces. That is his role under the Constitution. We respect that role.

Whereas the President, in making that decision—

With reference to the Eisenhower battle group—

relies upon the recommendations of the civilian and military leaders tasked by law—

Laws passed by this body and predecessor Congresses—

with the responsibility of training those forces, including the Commander of the Second Fleet of the Navy and the Commander of the Marine Forces in the Atlantic;

Whereas the Atlantic Fleet Weapons Training Facility—

At Vieques—

has been since World War II, and continues to be, an essential—

Underline ''essential''—

part of the training infrastructure that is necessary to ensure that maritime forces deploying from the east coast of the United States are prepared and ready to execute their assigned missions.

Not only execute their assigned missions, but to accept the risk of life and limb in executing those missions.

Whereas according to the testimony of the Chairman of the Joint Chiefs of Staff, the Chief of Naval Operations, and the Commandant of the Marine Corps, the Island of Vieques is a vital part of the Atlantic Fleet Weapons Training Facility and makes an essential contribution to the national security of the United States by providing integrated live-fire combined arms training opportunities to Navy and Marine Corps forces deploying from the east coast of the United States;

Whereas according to testimony before the Committee on Armed Services—

Just weeks ago—

and the report of the Special Panel on Military Operations on Vieques—

Again, issued a week or so ago—

a suitable alternative to Vieques cannot now be identified;

Much less identified and put into an operational status.

Whereas during the course of its hearings on September 22 and October 19, 1999, the Committee on Armed Services of the Senate acknowledged and expressed its sympathy for the tragic death and injuries that resulted from the training accident that occurred at Vieques in April 1999;

We did that with heartfelt expression during the course of our hearings just weeks ago.

Whereas the Navy—

In the judgment of the committee—

has failed [at times] to take those actions necessary to develop sound relations with the people of Puerto Rico;

Indeed, with the people most specifically on Vieques. The Navy has not done a good job, in this Senator's judgment, and collectively, I think, in the majority of the committee in carrying out its responsibility of important relationships with the people and assuring them, first, of the essential need and their contribution to our national security and how to operate this range in a manner that is safe. We acknowledge that.

Whereas the Navy should implement fully the terms of the 1983 Memorandum of Understanding between the Navy and the Commonwealth of Puerto Rico regarding Vieques and work to increase its efforts to improve the economic conditions for and the safety of the people on Vieques;

Whereas in February 2000—

Just months away—

the U.S.S. Eisenhower Battle Group and the 24th Marine Expeditionary Unit are scheduled to deploy to the Mediterranean Sea and the Persian Gulf where the battle group and expeditionary unit will face the possibility of combat, as experienced by predecessor—

Units deploying in the past years—

during operations over Iraq and during other unexpected contingencies—

That arise in that dangerous region of the world.

Whereas in a September 22, 1999 letter to the Committee on Armed Services of the Senate, the President—

The Commander in Chief—

stated that the rigorous, realistic training undergone by military forces ''is—

I quote the President of the United States—

''is essential for success in combat and for protecting our national security'';

The President realizes this. It is not a political document I am handling. This is the recitation of the statements by the President this year on this very subject, and he has put it down here very clearly. The purpose of this sense of the Senate is to give him the support necessary to make the tough decisions and resolve this problem.

Whereas in that letter the President also stated that he would not permit Navy or Marine Corps forces to deploy ''unless they are at a satisfactory level of combat readiness'';

Whereas Richard Danzig, the Secretary of the Navy, recently testified before the Committee on Armed Services of the Senate that ''only by providing this preparation can we fairly ask our service members to put their lives at risk.''

Whereas according to the testimony of the Chairman of the Joint Chiefs of Staff, the Chief of Naval Operations, and the Commandant of the Marine Corps—

This testimony was just three days ago—

Vieques provides integrated live-fire training ''critical to our readiness'', and the failure to provide for adequate live-fire training for our naval forces before deployment will place those forces at—

Listen carefully—

at unacceptably high risk during deployment.

Whereas Admiral Johnson, the Chief of Naval Operations, and General Jones, the Commandant of the Marine Corps—

On October 19, 1999—

testified before the Committee on Armed Services of the Senate that without the ability to train on Vieques, the U.S.S. Eisenhower Battle Group and the 24th Marine Expeditionary Unit scheduled for deployment in February 2000 would not be ready for such deployment ''without greatly increasing the risk to those men and women who we ask to go in harm's way'';

Whereas Vice Admiral Murphy, Commander of the Sixth Fleet of the Navy, recently testified before the Committee on Armed Services of the Senate that the loss of training on Vieques would ''cost American lives''; and

Whereas the Navy is currently prevented as a consequence of unrestrained civil disobedience—

I repeat:

Whereas the Navy is currently prevented as a consequence of unrestrained civil disobedience—

In defiance of law, in defiance of a court order—

Whereas the Navy is currently prevented as a consequence of unrestrained civil disobedience from using the training facilities on Vieques which are required to accomplish the training necessary to achieve a satisfactory level of combat readiness: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should not—

I repeat: Not—

deploy the U.S.S. Eisenhower Battle Group or the 24th Marine Expeditionary Unit until:

(1) the President, in consultation with the Secretary of Defense, the Secretary of the Navy, the Chief of Naval Operations, and the Commandant of the Marine Corps, reviews the certifications regarding the readiness of the battle group and the expeditionary unit made by the Commander of the Second Fleet of the Navy and the Commander of the Marine Forces in the Atlantic, as the case may be; and

(2) the President determines and so notifies Congress that the battle group and the expeditionary unit are free of [any] serious deficiencies in major warfare areas.

Mr. President, I feel very serious about this issue. I thank the indulgence of my colleagues and the Senate to come before you this afternoon to introduce this resolution.

I draw this resolution to the attention of all of my colleagues because this great body of the Senate, together with the House of Representatives, is a coequal—is a coequal—partner with regard to the training, the safety, above all, and the missions undertaken by the men and women of the U.S. Armed Forces.

Today's military has been put to one of the highest peaks of stress, stress on the actual men and women at sea and in the air and under the sea and on the land, stress on their families at home because of the high tempo, the high number of deployments of these forces all over the world.

Statistically, President Clinton—and this is pure statistics—has deployed the men and women of the Armed Forces of the United States into more contingency operations than any other President prior. I repeat that: More times. I am not questioning, in any way, his authority or his judgment. The fact is, he has done this.

The simple sense of the Senate says: Mr. President, in your own letter you talked about the seriousness of this situation at Vieques. The Senate is on notice that you, your Secretaries of Navy and Defense, and the military are working to resolve this. But we, the Senate, exercising our coequal responsibility, are placing the concern we have for the welfare of the men and women undertaking this deployment, and the risks they share with their families at home, we, Mr. President, most respectfully say to you we want to see absolute clarity in the certifications from those military commanders and those civilian bosses of the military commanders.

We have a system in our country which is the right system. We have civilian control of the military. They have the joint responsibility—the civilian/military control, fleet commanders—to make those certifications to our President that this group is ready, or, Mr. President, respectfully this group is not ready, to undertake this mission and assume those risks.

That is what we ask.

I request all Senators, as an obligation to those men and women of this battle group—and I daresay there are soldiers and Marines and airmen from every one of the 50 States in that battle group—so I ask all Senators to review this and hope you will join me as a cosponsor.

According to Article II, section 2, of the Constitution of the United States, the President is the Commander in Chief of the U.S. Armed Forces. As such, he bears the ultimate responsibility for ensuring that the men and women in uniform he orders into harm's way, receive the training necessary to protect their lives.

I have been working to preserve the access of the United States Navy and Marine Corps to the essential training facility on the island of Vieques, since I was Secretary of the Navy. This facility is absolutely vital to the readiness of our naval forces.

Over the past several weeks, the Armed Services Committee has held a series of hearings on this important issue. Over the course of these hearings, I have become increasingly convinced that it would be irresponsible to deploy our naval forces without the training provided by the Vieques facilities.

On Tuesday, September 22, 1999, the Readiness and Management Support

Subcommittee, under the leadership of Senator INHOFE, held a hearing to review the need for Vieques as a training facility and explore alternative sites that might be utilized. At that hearing both Admiral Fallon, commander of the Navy's Second Fleet, and General Pace, commander of all Marine Forces in the Atlantic, testified that the Armed Forces of the United States need Vieques as a training ground to prepare our young men and women for the challenges of deployed military operations.

On October 13th, the Seapower Subcommittee, under the leadership of Senator SNOWE, heard from Admiral Murphy, commander of the Navy's Sixth Fleet and the commander who receives the naval forces trained at Vieques, who stated that a loss of Vieques would ''cost American lives.''

Earlier this month, after the release of the report prepared by the Special Panel on Military Operations on Vieques, I held a hearing of the Senate Armed Services Committee to discuss with Administration and Puerto Rican officials the recommendations of that report, and to search for a compromise solution that addresses the national security requirements and the interests of the people of Vieques. At that hearing, Secretary Danzig, the Secretary of the Navy, stated that only by providing the necessary training can we fairly ask our service members to put their lives at risk. Admiral Johnson, Chief of Naval Operations, stated that the *Eisenhower* Battle Group would not be able to deploy in February without a significant increase in risk to the lives of the men and women of that battle group unless they are allowed to conduct required training on Vieques. Furthermore, General Jones, Commandant of the Marine Corps, testified that the loss of training provided on Vieques ''will result in degraded cohesion on the part of our battalions and our squadrons and our crews, decreased confidence in their ability to do their very dangerous jobs and missions, a decreased level of competence and the ability to fight and win on the battlefield.''

At that hearing, I asked Admiral Johnson and General Jones ''Is there any training that can be substituted for Vieques live fire training between now and February that will constitute, in your professional judgment, a sufficient level of training to enable you to say to the Chairman of the Joint Chiefs of Staff, the *Eisenhower* Battle Group and the 24th Marine Expeditionary Unit are ready to go.'' In the response they stated ''no, sir, not without—not without greatly increasing the risk to those men and women who we ask to go in harm's way, no, sir.''

I remain convinced that the training requirement is real and will continue to directly affect the readiness of our Carrier Battle Groups and Marine Expeditionary Units. As General Shelton recently testified before the Senate Armed Services Committee, the training on Vieques is ''critical'' to military readiness. He further stated that he ''certainly would not want to see our troops sent into an area where there was going to be combat, without having had this type of an experience. We should not deploy them under those conditions.''

All of the military officers with whom we have spoken on this issue have informed us that the loss of Vieques would increase the risk to our military personnel deploying to potential combat environments. The Rush Panel, appointed at the request of the Resident Commissioner from Puerto Rico and at the direction of the President, recognized the need for Vieques and recommended its continued use for at least five years.

What we have learned in these hearings is that Vieques is a unique training asset, both in terms of its geography with deep open water and unrestricted airspace and its training support infrastructure. The last two East Coast carrier battle groups which deployed to the Adriatic and Persian Gulf completed their final integrated live fire training at Vieques. Both battle groups, led by the carriers U.S.S. *Enterprise* and U.S.S. *Theodore Roosevelt*, subsequently saw combat in Operations Desert Fox (Iraq) and Allied Force (Kosovo) within days of arriving in the respective theater of operations. Their success in these operations, with no loss of American life, was largely attributable to the realistic and integrated live fire training completed at Vieques prior to their deployment.

Those calling for the Navy and Marine Corps to cease training operations on the island and convey Navy-owned land to the Government of Puerto Rico often point to the struggling economy of Vieques and the banter posed by Navy training to the local citizens as supporting evidence. They express disappointment in the Navy's failure to more fully implement the terms of the 1983 Memorandum of Understanding which outlined the responsibilities of the Navy for assisting the economic development and safety of the local community. To address those concerns, we can, and should, work together to initiate new programs to assist the Navy and the residents of Vieques in stimulating the local economy and ensuring that all possible safety measures are adopted. However, economic concerns and correctable safety concerns should not force the Navy to cease vital training when that would increase the risk to the safety and security of our men and women in uniform.

Mr. President, as long as we are committing our nation's youth to military operations throughout the world; and as long as Vieques is necessary to train these individuals so that they can perform their missions safely and successfully; it would be irresponsible to deploy these forces without first allowing them to train at their vital facility. I hope that all of my colleagues will support this resolution.

## AMENDMENTS SUBMITTED

## AFRICAN GROWTH AND OPPORTUNITY ACT

### DEWINE AMENDMENT NO. 2413

(Ordered to lie on the table.)

Mr. DEWINE submitted an amendment intended to be proposed to amendment No. 2398 submitted by him to the bill (H.R. 434) to authorize a new trade and investment policy for sub-Sahara Africa; as follows:

On page 4, line 5, of the matter proposed to be inserted, strike all through line 13 and insert the following:

''(E) RETALIATION LIST.—The term 'retaliation list' means the list of products of a foreign country or countries that have failed to comply with the report of the panel or Appellate Body of the WTO and with respect to which the Trade Representative is imposing duties above the level that would otherwise be imposed under the Harmonized Tariff Schedule of the United States.

''(F) FAILURE TO IMPLEMENT WTO DISPUTE RESOLUTIONS.—The Trade Representative shall include on the retaliation list and on any revised lists reciprocal goods, of the industries affected by the failure of the foreign country or countries to implement the recommendation made pursuant to a dispute settlement proceeding under the World Trading Organization except in cases where existing retaliation and its corresponding preliminary retaliation list do not already meet this requirement.''.

### MACK AMENDMENT NO. 2414

(Ordered to lie on the table.)

Mr. MACK submitted an amendment intended to be proposed by him to amendment No. 2361 submitted by Mr. CONRAD to the bill, H.R. 434, supra; as follows:

At the appropriate place in the amendment insert the following:

**SECTION 1. ENFORCEMENT OF CERTAIN ANTI-TERRORISM JUDGMENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Justice for Victims of Terrorism Act''.

(b) DEFINITION.—

(1) IN GENERAL.—Section 1603(b) of title 28, United States Code, is amended—

(A) in paragraph (3) by striking the period and inserting a semicolon and ''and'';

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(C) by striking ''(b)'' through ''entity—'' and inserting the following:

''(b) An 'agency or instrumentality of a foreign state' means—

''(1) any entity—''; and

(D) by adding at the end the following:

''(2) for purposes of sections 1605(a)(7) and 1610 (a)(7) and (f), any entity as defined under subparagraphs (A) and (B) of paragraph (1), and subparagraph (C) of paragraph (1) shall not apply.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 1391(f)(3) of title 28, United States Code, is amended by striking ''1603(b)'' and inserting ''1603(b)(1)''.

(c) ENFORCEMENT OF JUDGMENTS.—Section 1610(f) of title 28, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A) by striking ''(including any agency or instrumentality or such state)'' and inserting ''(including any

agency or instrumentality of such state)''; and

(B) by adding at the end the following:

''(C) Notwithstanding any other provision of law, moneys due from or payable by the United States (including any agency, subdivision or instrumentality thereof) to any state against which a judgment is pending under section 1605(a)(7) shall be subject to attachment and execution, in like manner and to the same extent as if the United States were a private person.''; and

(2) by adding at the end the following:

''(3)(A) Subject to subparagraph (B), upon determining on an asset-by-asset basis that a waiver is necessary in the national security interest, the President may waive this subsection in connection with (and prior to the enforcement of) any judicial order directing attachment in aid of execution or execution against the premises of a foreign diplomatic mission to the United States, or any funds held by or in the name of such foreign diplomatic mission determined by the President to be necessary to satisfy actual operating expenses of such foreign diplomatic mission.

''(B) A waiver under this paragraph shall not apply to—

''(i) if the premises of a foreign diplomatic mission has been used for any nondiplomatic purpose (including use as rental property), the proceeds of such use; or

''(ii) if any asset of a foreign diplomatic mission is sold or otherwise transferred for value to a third party, the proceeds of such sale or transfer.

''(4) For purposes of this subsection, all assets of any agency or instrumentality of a foreign state shall be treated as assets of that foreign state.''.

(d) TECHNICAL AND CONFORMING AMENDMENT.—Section 117(d) of the Treasury Department Appropriations Act, 1999 (Public Law 105–277; 112 Stat. 2681–492) is repealed.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to any claim for which a foreign state is not immune under section 1605(a)(7) of title 28, United States Code, arising before, on, or after the date of enactment of this Act.

## MACK AMENDMENT NO. 2415

(Ordered to lie on the table.)

Mr. MACK submitted an amendment intended to be proposed by him to amendment No. 2401 submitted by Mr. ASHCROFT to the bill, H.R. 434, supra; as follows:

At the appropriate place insert the following:

**SECTION 1. ENFORCEMENT OF CERTAIN ANTI-TERRORISM JUDGMENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Justice for Victims of Terrorism Act''.

(b) DEFINITION.—

(1) IN GENERAL.—Section 1603(b) of title 28, United States Code, is amended—

(A) in paragraph (3) by striking the period and inserting a semicolon and ''and'';

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(C) by striking ''(b)'' through ''entity—'' and inserting the following:

''(b) An 'agency or instrumentality of a foreign state' means—

''(1) any entity—''; and

(D) by adding at the end the following:

''(2) for purposes of sections 1605(a)(7) and 1610 (a)(7) and (f), any entity as defined under subparagraphs (A) and (B) of paragraph (1), and subparagraph (C) of paragraph (1) shall not apply.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 1391(f)(3) of title 28, United States Code, is amended by striking ''1603(b)'' and inserting ''1603(b)(1)''.

(c) ENFORCEMENT OF JUDGMENTS.—Section 1610(f) of title 28, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A) by striking ''(including any agency or instrumentality or such state)'' and inserting ''(including any agency or instrumentality of such state)''; and

(B) by adding at the end the following:

''(C) Notwithstanding any other provision of law, moneys due from or payable by the United States (including any agency, subdivision or instrumentality thereof) to any state against which a judgment is pending under section 1605(a)(7) shall be subject to attachment and execution, in like manner and to the same extent as if the United States were a private person.''; and

(2) by adding at the end the following:

''(3)(A) Subject to subparagraph (B), upon determining on an asset-by-asset basis that a waiver is necessary in the national security interest, the President may waive this subsection in connection with (and prior to the enforcement of) any judicial order directing attachment in aid of execution or execution against the premises of a foreign diplomatic mission to the United States, or any funds held by or in the name of such foreign diplomatic mission determined by the President to be necessary to satisfy actual operating expenses of such foreign diplomatic mission.

''(B) A waiver under this paragraph shall not apply to—

''(i) if the premises of a foreign diplomatic mission has been used for any nondiplomatic purpose (including use as rental property), the proceeds of such use; or

''(ii) if any asset of a foreign diplomatic mission is sold or otherwise transferred for value to a third party, the proceeds of such sale or transfer.

''(4) For purposes of this subsection, all assets of any agency or instrumentality of a foreign state shall be treated as assets of that foreign state.''.

(d) TECHNICAL AND CONFORMING AMENDMENT.—Section 117(d) of the Treasury Department Appropriations Act, 1999 (Public Law 105–277; 112 Stat. 2681–492) is repealed.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to any claim for which a foreign state is not immune under section 1605(a)(7) of title 28, United States Code, arising before, on, or after the date of enactment of this Act.

## HOLLINGS AMENDMENTS NOS. 2416–2424

(Ordered to lie on the table.)

Mr. HOLLINGS submitted nine amendments intended to be proposed by him to the bill, H.R. 434, supra; as follows:

### AMENDMENT NO. 2416

At the appropriate place insert the following:

**SEC. . TERMINATION OF BENEFITS IF DOMESTIC INDUSTRY SUFFERS.**

The benefits provided by this Act and the amendments made by this Act shall terminate immediately if the Bureau of Labor Statistics determines that United States textile and apparel industries have lost 50,000 or more jobs at any time during the first 24 months after the date of enactment of this Act.

This section shall become effective one day after enactment.

### AMENDMENT NO. 2417

At the appropriate place insert the following:

**SEC. . ENVIRONMENTAL AGREEMENT REQUIRED.**

The benefits provided by the amendments made by this Act shall not be available to any country until—

(1) the President has negotiated with that country a side agreement concerning the environment, similar to the Border Environment Cooperation Agreement (as defined in section 533(c)(1) of the Trade Agreements Act of 1979 (19 U.S.C. 3473(c)(1)); and

(2) submitted that agreement to the Congress.

This section shall become effective one day after enactment.

### AMENDMENT NO. 2418

At the appropriate place insert the following:

**SEC. . RECIPROCAL TRADE AGREEMENTS REQUIRED.**

The benefits provided by the amendments made by this Act shall not be available to any country until the President has negotiated, obtained, and implemented an agreement with that country providing tariff concessions for the importation of United States-made goods that reduces any such import tariffs to a rate that is within 20 percent of the rates applicable to Mexico under the North American Free Trade Agreement for imports of United States-made goods.

This amendment shall become effective one day after enactment.

### AMENDMENT NO. 2419

At the appropriate place insert the following:

**SEC. . LABOR AND ENVIRONMENTAL AGREEMENTS REQUIRED.**

The benefits provided by the amendments made by this Act shall not be available to any country until the President has negotiated with that country a side agreement concerning—

(1) labor standards similar to the North American Agreement on Labor Cooperation (as defined in section 532(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 3471(b)(2)), and

(2) the environment similar to the Border Environment Cooperation Agreement (as defined in section 533(c)(1) of the Trade Agreements Act of 1979 (19 U.S.C. 3473(c)(1)), and submitted those agreements to the Congress.

This section shall become effective one day after enactment.

### AMENDMENT NO. 2420

Strike all after the first word and insert the following:

**SEC. . MINIMUM WAGE.**

(a) INCREASE.—Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

''(1) except as otherwise provided in this section, not less than—

''(A) $5.65 an hour during the year beginning on November 1, 2000; and

''(B) $6.15 an hour beginning on January 1, 2001;''.

(b) APPLICATION TO COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.—The provisions of section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) shall apply to the Commonwealth of the Northern Mariana Islands.

### AMENDMENT NO. 2421

At the appropriate place insert the following:

**SEC. . MINIMUM WAGE REQUIREMENT.**

The benefits provided by the amendments made by this Act shall not be available to any country unless the President determines that—

(1) the country has established by law a requirement that employees in that country who are compensated on an hourly basis be compensated at a rate of not less than $1 per hour; and

(2) the goods imported from that country that are eligible for such benefits are produced in accordance with that law.

This section shall become effective one day after enactment.

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AMENDMENT NO. 2422

Strike all after the first word and insert the following:

**SEC. . MINIMUM WAGE.**

(a) INCREASE.—Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

''(1) except as otherwise provided in this section, not less than—

''(A) $5.65 an hour during the year beginning on January 1, 2000; and

''(B) $6.15 an hour beginning on January 1, 2001;''.

(b) APPLICATION TO COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.—The provisions of section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) shall apply to the Commonwealth of the Northern Mariana Islands.

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AMENDMENT NO. 2423

At the appropriate place insert the following:

**SEC. . LABOR AGREEMENT REQUIRED.**

The benefits provided by the amendments made by this Act shall not become available to any country until—

(1) the President has negotiated with that country a side agreement concerning labor standards, similar to the North American Agreement on Labor Cooperation (as defined in section 532(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 3471(b)(2)); and

(2) submitted that agreement to the Congress.

This section shall become effective one day after enactment.

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AMENDMENT NO. 2424

At the appropriate place insert the following:

**SEC. . CHILD LABOR LAW REQUIREMENT.**

The benefits provided by the amendments made by this Act shall not be available to any country unless the President determines that—

(1) the country prohibits by law the employment of children under the age of 14 in the manufacture and production of goods; and

(2) no goods exported from that country to the United States produced in violation of that law received those benefits.

This section shall become effective one day after enactment.

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## HELMS AMENDMENT NO. 2425

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to amendment No. 2401 submitted by Mr. ASHCROFT to the bill, H.R. 434, supra; as follows:

Strike section 2(a)(1) and insert the following:

(1) AGRICULTURAL COMMODITY.—

(A) IN GENERAL.—The term ''agricultural commodity'' has the meaning given that term in section 402(2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732(2)).

(B) EXCLUSION.—The term does not include any pesticide, fertilizer, or agricultural machinery or equipment.

Strike section 2(c)(1) and insert the following:

(1) against a foreign country with respect to which—

(A) Congress has declared war or enacted a law containing specific authorization for the use of force;

(B) the United States is involved in ongoing hostilities; or

(C) the President has proclaimed a state of national emergency; or

At the end of section 2(c)(2)(C), add the following:

(C) used or could be used to facilitate the development or production of a chemical or biological weapon or weapons of mass destruction.

Strike section (2)(d) and insert the following:

(d) COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.—This section shall not affect the prohibitions in effect on the date of enactment of this Act under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), on providing, to the government, or a corporation, partnership, or entity owned or controlled by the government, of any country supporting international terrorism, United States Government assistance, including United States foreign assistance, United States export assistance, or any United States credits or credit guarantees.

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## HELMS AMENDMENT NO. 2426

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to amendment No. 2361 submitted by Mr. CONRAD to the bill, H.R. 434, supra; as follows:

Strike section 2(a)(1) and insert the following:

(1) AGRICULTURAL COMMODITY.—

(A) IN GENERAL.—The term ''agricultural commodity'' has the meaning given that term in section 402(2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732(2)).

(B) EXCLUSION.—The term does not include any pesticide, fertilizer, or agricultural machinery or equipment.

Strike section 2(c)(1) and insert the following:

(1) against a foreign country with respect to which—

(A) Congress has declared war or enacted a law containing specific authorization for the use of force;

(B) the United States is involved in ongoing hostilities; or

(C) the President has proclaimed a state of national emergency; or

At the end of section 2(c)(2)(C), add the following:

(C) used or could be used to facilitate the development or production of a chemical or biological weapon or weapons of mass destruction.

Strike section (2)(d) and insert the following:

(d) COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.—This section shall not affect the prohibitions in effect on the date of enactment of this Act under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), on providing, to the government, or a corporation, partnership, or entity owned or controlled by the government, of any country supporting international terrorism, United States Government assistance, including United States foreign assistance, United States export assistance, or any United States credits or credit guarantees.

## AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, October 29, 1999, at 10 a.m. to hold a hearing.

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

# ADDITIONAL STATEMENTS

## UNITED NATIONS DAY

• Mr. GRAMS. Mr. President, as Chairman of the International Operations Subcommittee, which has United Nations oversight responsibilities, and having been appointed by the President to serve two terms as a congressional delegate to the United Nations, I have focused significant attention on the United Nations. On the anniversary of the founding of the United Nations, I think it is appropriate to take time for us all to reflect on that important institution.

Fifty-four years ago this week, the members of the United Nations' founding delegation met in San Francisco for the signing ceremony that created the United Nations. There was great anticipation and a collective enthusiasm for this new, global institution. Delegates spoke of hope, of expectation, of the promise of peace. President Truman echoed the thoughts of those founding members when he told the delegates they had, ''created a great instrument for peace and security and human progress in the world.'' Fifty-four years later, however, the United Nations is struggling to meet its potential.

In Congress, the need for the United Nations to reform itself often overshadows the activities United Nations does well. As we saw in the Persian Gulf war, the United Nations can play a useful role in building coalitions to address matters of international security. Moreover, the United Nations has the ability to effectively conduct traditional peacekeeping operations, such as those in Cyprus and the Sinai Peninsula, where hostilities have ceased and all parties agree to the U.N. peacekeeping role. In the areas of humanitarian relief, child survival, and refugee assistance, much of the work of UNICEF and the U.N. High Commissioner for Refugees deserves praise. And many of the U.N. agencies that focus on technical cooperation play a crucial role in establishing and coordinating international standards for governments and businesses, including the International Civil Aviation Organization, the International Telecommunications Union, the Universal Postal Union, and the World Intellectual Property Organization.

However, the ability of the United Nations to live up to the goals stated

at its founding has been stymied by its massive, uncoordinated growth. Fortunately, a consensus appears to be building that the United Nations needs to reform in order to be a viable institution. As Secretary-General Annan noted, ''a reformed United Nations will be a more relevant United Nations in the eyes of the world.'' To this end, the United States must help shape the United Nations to be an organization that the United States needs as much as the United Nations needs the United States.

In an effort to push the United Nations toward reform, the Senate has passed a comprehensive package that links the payment of arrears to the achievement of reform benchmarks. These are achievable, common-sense reforms. We are calling for a code of conduct with an anti-nepotism provision; a mechanism to sunset outdated and unnecessary programs; and transparency in the budget process. We do not need to micro-manage the United Nations, but we need to make sure a proper structure is in place for the United Nations to be able to manage itself.

We must pay our arrears to the United Nations. In doing so, however, we should put the arrears in perspective. Throughout the history of the United Nations, the United States has always been its most generous donor. The United States contributes around $2 billion to U.N. organizations and activities every year. This is three times more generous than any other permanent member of the Security Council. I do not believe success in any of the areas where the United Nations excels would be possible without a high level of U.S. support.

The U.S. mission will have a difficult job implementing reforms when a massive U.N. bureaucracy and numerous member states have a vested interest in resisting reform and maintaining the status quo. And I recognize the U.S. mission's job is more difficult without the arrears package signed into law. But Ambassador Holbrooke has shown that it can be done. He has already won a seat for an American on the budget committee of the United Nations and is making progress in getting our assessment rates reduced.

As I renew my commitment to champion the arrears package in the Congress, I want to underscore that the reforms proposed by the United States are critical to ensure the United Nations is effective and relevant. Any reforms that improve the effectiveness of the United Nations must be viewed in this light. We must reform the United Nations now and the United States has the responsibility to play a major role. If we do nothing, and the United Nations collapses under its own weight, then we will have only ourselves to blame.●

## A SAND COUNTY ALMANAC

● Mr. FEINGOLD. I rise to commemorate the 50th Anniversary of the publication of Aldo Leopold's A Sand County Almanac. The publication of this work has been celebrated in my home state throughout 1999, most recently with a major national conference on the future of the land ethic at the beginning of this month. However, October 27, 1949 is the date that Oxford Press released the first edition of the book.

Aldo Leopold is considered to be the father of wildlife ecology. He was a renowned scientist and scholar, exceptional teacher, philosopher, and gifted writer. It is for this book, A Sand County Almanac, that Leopold is best known by millions of people around the globe. The book has been acclaimed as the century's literary landmark in conservation. It led to a philosophy that has guided many to discovering what it means to live in harmony with the land.

When Leopold died in 1948, he had yet to see his Sand County Almanac in print, and it was through the efforts of his son Luna that the first version of A Sand County Almanac was made available to the public.

Aldo Leopold's authority as a philosopher of conservation came from a lifelong love of wilderness and the recognition of his need to be surrounded by ''things natural, wild, and free.'' Upon graduation from Yale University, Leopold went to work for the United States Forest Service in 1909, helped to found the Wilderness Society, and in 1924 was responsible for the institution, through administrative action, of the first of the United States' Wilderness Areas, the Gila National Forest in New Mexico. From 1933 until his death, Leopold held a chair in game management at the University of Wisconsin.

Although Leopold's love of the land is apparent in the book, his book does not cry out in defense of particular tracts of land about to go under the axe or plow. Rather Leopold deals with the minutiae of often unnoticed plants and animals, all the little things that one might overlook in the task of managing lands but which must be present to add up to healthy ecosystems.

Part I of A Sand County Almanac is devoted to the details of a single piece of land: Leopold's 120-acre property in central Wisconsin, abandoned as a working farm years before because of the prevalence of sandy soil from which the ''Sand Counties'' took their nickname. It was at this weekend retreat, Leopold says, ''that we try to rebuild, with shovel and axe, what we are losing elsewhere.''

Month by month, Leopold leads the reader through the progression of the seasons with descriptions of such things as skunk tracks, the songs, habits, and attitudes of dozens of bird species, cycles of high water in the river, the timely appearance and blooming of several plants, and the joys of cutting one's own firewood. Part of Leopold's request, toward the end of the book, that we attach values to the things in nature that have no apparent economic worth. At the time Leopold's Wisconsin sand farm itself was economically valueless because of its unsuitability for crops, timber or pasture. However, from Leopold's essays one comes to realize that here is a parcel of land that is anything but worthless; the property that yields to its owner the multitude of joys and insights that Leopold describes is a rich piece of ground indeed.

In Part II of A Sand County Almanac, titled ''The Quality of Landscape,'' Leopold takes his reader away from the farm; first into the surrounding Wisconsin countryside and then even farther. Leopold describes an Illinois bus ride, a visit to the Iowa of his boyhood, on to Arizona and New Mexico where he first worked with the U.S. Forest Service, across the southern border into Chihuahua and Sonora, Mexico, north to Oregon and Utah, and finally travel across the northern border into Manitoba, Canada.

In each of these places, Leopold outlines the natural history of the region. Leopold understood the difficulty of the choices before us, and certainly knew the paradox with which we are faced: ''But all conservation of wildness is self-defeating,'' he writes, ''for to cherish we must see and fondle, and when we have seen and fondled, there is no wilderness left to cherish.''

In the final pages of A Sand County Almanac, Leopold introduces the concept of a ''land ethic'' and a plea that such an ethic be adopted. Leopold defines philosophical ethics as ''the differentiation of social from anti-social conduct'' for the common good of the community, and declares that a land ethic, wherein the ecologies in which we erect our developments would be considered an integral part of the community, amounts to the same thing as social ethics. A land ethic, in the author's terms, means a ''willing limitation on freedom of action in the struggle for survival.''

A Sand County Almanac was not written specifically for wilderness activists. It was written for everyone, regardless of vocation. I recommend this book to colleagues not only because it is enjoyable, but also because it raises important questions that the Senate will eventually be forced to address. As members of the Senate, the decisions we will make regarding land use are critically important. The responsibility is there, as well as the rewards, for those who seek to conduct themselves in a fashion consistent with Leopold's vision.

A Sand County Almanac continues to inspire new generations of Americans to take up the cause of conservation. And 50 years later, the land ethic continues to serve as the guiding beacon for American conservation policy. We do well in the Senate to mark this Anniversary, and to dedicate ourselves to Leopold's legacy.●

## COMMENDING PATRICIA MOULTON POWDEN AND SUE DAVENPORT

• Mr. JEFFORDS. Mr. President, I rise to commend the service of Patricia Moulton Powden and Sue Davenport, two New Englanders who are ending their terms on the Board of Directors for the Northeast-Midwest Institute. Both have provided exceptional service to the Institute, and in the process helped to improve our region's economic development and environmental quality. The Northeast-Midwest Institute provides policy analysis for the bipartisan Northeast-Midwest Senate Coalition, which I co-chair with Senator Daniel Patrick MOYNIHAN from New York.

Patricia Moulton Powden is a fellow Vermonter who has served for the past 4 years as Treasurer of the Northeast-Midwest Institute's Board of Directors. In that capacity, she provided careful oversight and helped the group's finances improve significantly. Within Vermont, Patricia is executive director of the Springfield Regional Development Corporation. She also has served as Commissioner of Economic Development for the State of Vermont and Director of the St. Johnsbury Area Economic Development Office.

Sue Davenport has performed a variety of public service activities throughout New England. Currently, she is Executive Director of the Spurwink Schools-New Hampshire, which provide residential/day treatment programs for youngsters with emotional and behavioral handicaps, and their families. She has served as Commissioner of mental health and mental retardation for the State of Maine; adjunct faculty member at Suffolk University; Regional Director of the U.S. Department of Health and Human Services; and Acting Director of HHS's Regional Administrative Support Center.

Mr. President, I again want to thank these distinguished New Englanders for their leadership on the Northeast-Midwest Institute's Board of Directors. They have provided valued service and helped increase that organization's reputation and effectiveness.•

## IN HONOR OF HEAD START AWARENESS MONTH

• Mr. DODD. Mr. President, I rise today to join with thousands of Americans who this month are celebrating Head Start Awareness Month.

There are few federal programs like Head Start. Since its creation in 1965, this marvelous program has provided comprehensive education, health, social and nutritional services to over 17 million young children and their families. Today, over 835,000 children are involved in Head Start, benefitting from the commitment of nearly 170,000 staff people and just over 2,000 Head Start agencies nationwide.

Head Start is clearly much more than a program. It is a community organized around the principle that we must together take care of our young children. Head Start brings together parents, teachers and others in the community to support young children and meet their needs. Sometimes that means health screenings and eye glasses; other times it means linking a parent up with job training services. The actions are diverse but the effects are the same—enriching and improving the child's life.

Next year, we will celebrate the 35th anniversary of this powerful program. And there is clearly much to celebrate. The anniversary will also provide us with an appropriate opportunity to reflect on Head Start and consider how to continue to promote, improve and expand this crucial program. In some ways, we began this process last year with the enactment of the 1998 Head Start reauthorization bill. This legislation increased support for additional staff training and professional development, authorized further research into the long term benefits of Head Start, improved program accountability measures, and expanded Early Head Start to serve more infants and toddlers, laying a strong foundation for Head Start in the next century.

However, I believe there remains unfinished business with Head Start. Most notably, the program still serves just 40 percent of those eligible. The President has proposed the laudable goal of serving one million children by 2002—but I think we must do more. We must also look to Head Start for further models of how to serve young children. For the last 35 years, the program has been a laboratory for the development of practices that are now commonplace in child care and preschool programs across the country. We must continue to build on the success of Head Start to better serve Head Start children as well as other young children.

One of our key partners in this effort is the National Head Start Association (NHSA). This organization is the voice of Head Start, representing parents, children and staff. Beyond being an active advocate for young children and Head Start, NHSA is focused on a strong and vibrant future for Head Start, providing technical assistance, professional development opportunities, training tools and policy guidance to programs across the country. I am honored to join with NHSA and all in the Head Start community to celebrate Head Start Awareness Month—October 1999.•

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mrs. HUTCHISON. Mr. President, I ask unanimous consent the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Nos. 294 through 320, and all nominations on the Secretary's desk in the Air Force, Army, Marine Corps, and Navy. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to the nominations be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF DEFENSE

John F. Potter, of Maryland, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring May 1, 2005.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

A.J. Eggenberger, of Montana, to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 2003.

Jessie M. Robertson, of Alabama, to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 2002.

DEPARTMENT OF DEFENSE

The following named officer for appointment as Vice Chairman of the Joint Chiefs of Staff and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 601 and 154:

*To be general*

Gen. Richard B. Myers, 7092

IN THE AIR FORCE

The following Air national Guard of the United States officers for appointment in the Reserve of the Air Force to the grades indicated under title 10, U.S.C., section 12203:

*To be major general*

Brig. Gen. Harold A. Cross, 0000
Brig. Gen. Paul J. Sullivan, 0000

*To be brigadier general*

Col. Dwayne A. Alons, 0000
Col. Richard W. Ash, 0000
Col. George J. Cannelos, 0000
Col. James E. Cunningham, 0000
Col. Myron N. Dobashi, 0000
Col. Juan A. Garcia, 0000
Col. John J. Hartnett, 0000
Col. Steven R. McCamy, 0000
Col. Roger C. Nafzinger, 0000
Col. George B. Patrick III, 0000
Col. Martha T. Rainville, 0000
Col. Samuel M. Shiver, 0000
Col. Robert W. Sullivan, 0000
Col. Gary H. Wilfong, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Charles H. Coolidge, Jr., 0000

The following named officer for appointment as Surgeon General of the Air Force and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 601 and 8036:

*To be lieutenant general*

Maj. Gen. Paul K. Carlton, Jr., 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Charles F. Wald, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Lt. Gen. Ronald C. Marcotte, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Lt. Gen. Thomas J. Keck, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Lt. Gen. Hal M. Hornburg, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Lt. Gen. Walter S. Hogle, Jr., 0000

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

*To be brigadier general*

Col. Myron G. Ashcraft, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Norton A. Schwartz, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be general*

Gen. Joseph W. Ralston, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be general*

Gen. Ralph E. Eberhart, 0000

IN THE ARMY

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

*To be brigadier general*

Col. Daniel B. Wilkins, 0000

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

*To be major general*

Raymond D. Barrett, Jr., 0000
James J. Grazioplene, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be general*

Gen. Thomas A. Schwartz, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be general*

Lt. Gen. John W. Hendrix, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Kevin P. Byrnes, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. James C. Riley, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. John A. Van Alstyne, 0000

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

*To be major general*

Brig. Gen. Anders B. Aadland, 0000

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

*To be major general*

Brig. Gen. John T.D. Casey, 0000

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

*To be major general*

Brig. Gen. Hans A. Van Winkle, 0000

IN THE MARINE CORPS

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 624:

*To be lieutenant general*

Maj. Gen. Gary S. McKissock, 0000

DEPARTMENT OF JUSTICE

John W. Marshall, of Virginia, to be director of the United States Marshals Service, vice Eduardo Gonzales, resigned.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY

Air Force nominations beginning Edwin C. Schilling, III, and ending Celinda L. Van Maren, which nominations were received by the Senate and appeared in the Congressional Record of October 12, 1999.

Air Force nomination of Ronald J. Boomer, which was received by the Senate and appeared in the Congressional Record of October 12, 1999.

Army nominations beginning Robert E. Wegmann, and ending Sandra K. James, which nominations were received by the Senate and appeared in the Congressional Record of September 23, 1999.

Army nominations beginning John H. Belser, Jr., and ending Thomas R, Shepard, which nominations were received by the Senate and appeared in the Congressional Record of September 23, 1999.

Army nominations beginning *Kathleen David-bajar, and ending Dean C. Pedersen, which nominations were received by the Senate and appeared in the Congressional Record of September 23, 1999.

Army nominations beginning Gary A. Benford, and ending Kenneth A. Younkin, which nominations were received by the Senate and appeared in the Congressional Record of October 12, 1999.

Army nominations beginning David A. Couchman, and ending Charles R. Nessmith, which nominations were received by the Senate and appeared in the Congressional Record of October 12, 1999.

Army nominations beginning Rex H. Cray, and ending Lawrence A. West, which nominations were received by the Senate and appeared in the Congressional Record of October 12, 1999.

Army nominations beginning *David M. Abbinanti, and ending X379, which nominations were received by the Senate and appeared in the Congressional Record of October 12, 1999.

Marine Corps nomination of Wendell A. Porth, which was received by the Senate and appeared in the Congressional Record of September 23, 1999.

Marine Corps nomination of Fredric M. Olson, which was received by the Senate and appeared in the Congressional Record of October 12, 1999.

Navy nominations beginning Robert C. Adams, and ending Daniel L. Zimmer, which nominations were received by the Senate and appeared in the Congressional Record of September 27, 1999.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

## HISTORY OF THE HOUSE AWARENESS AND PRESERVATION ACT

Mrs. HUTCHISON. Mr. President, I ask unanimous consent the Rules Committee be discharged from further consideration of H.R. 2303, and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2303) to direct the Librarian of Congress to prepare the history of the House of Representatives and for other purposes.

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

Mr. DODD. Mr. President, I rise in support of H.R. 2303, the History of the House Awareness and Preservation Act, and wish to take a moment of the Senate to congratulate the author of this legislation, the Honorable JOHN B. LARSON of the First Congressional District of Connecticut.

JOHN has proven himself to be a skilled legislator and an articulate and creative advocate for the people of his district, the State of Connecticut, and indeed the entire Nation. For twelve years JOHN served with distinction in the Connecticut State Senate, serving as President Pro Tempore for eight years. It is altogether fitting that this initiative is JOHN'S first legislative accomplishment. As a former high school teacher, JOHN is in a unique position to understand the significance and importance of recording the deliberations and history of the House for the benefit of future generations.

As a newly elected member of the House of Representatives, JOHN arrived in Washington at a time when it appeared that partisanship and acrimony

would be the order of the day. True to his reverence for our system of government, and his respect and admiration for the institution he now serves in, JOHN initiated this idea in response to calls for a return to civility in the House of Representatives. It is a testament to his skill and effectiveness that this legislation garnered 313 cosponsors, including both the Speaker of the House, Mr. HASTERT, and the House Minority Leader, Mr. GEPHARDT, and was adopted by the House in just a little over four months from its introduction on June 22 of this year. The United States Senate is deeply indebted to our distinguished colleague, Senator ROBERT C. BYRD, for his considerable efforts to preserve the history of the Senate through his four-volume history. The House of Representatives, and students of government across this Nation, will be indebted to JOHN LARSON for his efforts as well.

I am privileged to count JOHN as a friend and an advisor and I commend him on the enactment of this, his first, legislative initiative. It is an honor for me, as the Ranking Member of the Committee on Rules and Administration, to play a small role in assisting his efforts to preserve the rich history of the House of Representatives for future generations. I urge the adoption of this legislation.

Mrs. HUTCHISON. I ask unanimous consent the bill be read three times, passed, the motion to reconsider be laid on the table, and any statements relating thereto be printed in the RECORD.

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

The bill (H.R. 2303) was read the third time and passed.

## REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 106–15

Mrs. HUTCHISON. Mr. President, as in executive session, I ask unanimous consent the injunction of secrecy be removed from the following convention transmitted to the Senate on October 29, 1999, by the President of the United States:

Tax Convention with Ireland (Treaty Document No. 106–15).

I further ask the convention 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 Senate advice and consent to ratification the Convention Amending the Convention Between the Government of the United States of America and the Government of Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains signed at Dublin on July 28, 1997. The Convention, which was negotiated pursuant to the Senate's resolution of October 31, 1997, granting advice and consent to the 1997 Convention, modifies the tax treatment of dividends received from Real Estate Investment Trusts.

I recommend that the Senate give early and favorable consideration to this Convention and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 29, 1999.*

## RECOGNIZING AND HONORING THE NEW YORK YANKEES

Mrs. HUTCHISON. I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 210, recognizing and honoring the New York Yankees, introduced earlier today by Senators SCHUMER and MOYNIHAN.

I will withhold my objection and make it a unanimous consent request.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 210) recognizing and honoring the New York Yankees.

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

Mr. SCHUMER. Mr. President, it is with great pride that I rise today with my distinguished colleagues, Senator MOYNIHAN and Senator LIEBERMAN, to introduce a resolution honoring one of the greatest franchises in American sports history, the New York Yankees, or as so many of us endearingly refer to them as—the Bronx Bombers.

Having grown up in New York during the 1950's, I am full of fond memories of a team that as a child I idolized. After school, time after time, I rode the dynamite D train with my friends from Sheepshead Bay to Yankee Stadium in the Bronx, sitting in the bleachers eating hot dogs and munching on peanuts, watching my idol Mickey Mantle play like no one else could, then returning home happy as a kid could be, all for less than three dollars At that time, the only thing in life I wanted to be was Mickey Mantle. Since I never reached that achievement, it is only proper for me to honor the team in which he became a baseball icon.

The Yankee were then, and are now, the toast of the town. They have become a franchise synonymous with greatness, a team full of heroes, playing in the greatest city in the world. Players such as Babe Ruth, Mickey Mantle, Joe DiMaggio, Yogi Berra, and Lou Gehrig are some of the many Yankee legends of the past. Players like Bernie Williams, Derek Jeter, and David Cone are our Yankee legends of the future. The Yankees are typified by character, commitment and achievement, values that represent all that is great about baseball, the State of New York, and America. I can still remember listening to one of the greatest games of all time, Don Larsen's perfect game in Game 5 of the 1956 World Series. But the memories do not stop there, five years later in 1961 Roger Maris hit a then-astonishing 61 homeruns, breaking the previous record of 60 set by the legendary Babe Ruth.

Sixteen Hall of Famers, countless nohitters, and 25 World Championships later, I stand before you to honor an American icon, a team of this century, and also the next, the New York Yankees.

Mr. LIEBERMAN. Mr. President, it is with considerable glee that I rise today to commend a true titan of our national pastime, the New York Yankees, who earlier this week cemented their legacy as the preeminent dynasty of 20th century American sports.

The Yankees four-game sweep of the Atlanta Braves in this year's World Series earned the franchise its 25th championship of the 1900s, proving that the Yankees belong right up there with Uncle Sam and Mom's apple pie as inspirational symbols of America's greatness.

In Connecticut, the loyalties of baseball fans are split between the Yankees, the New York Mets, and the Boston Red Sox. This made the 1999 Major League Baseball season truly memorable, as all three teams advanced to their respective league championships and vied for the pennant.

I confess that I was once a Brooklyn Dodgers backer, but I have been cheering the Bronx Bombers for decades—since my eldest son, Matt, caught Yankee fever at an early age. Some of my fondest memories are watching games at Yankee Stadium with my family. Yet I cannot recall any of the teams' accomplishments being more impressive or fun to watch than this world championship, the Yankees' third in four years, capping a string of World Series triumphs that dates back to 1923.

I tip my pinstripe cap to Manager Joe Torre, Series MVP Mariano Rivera, the indomitable Roger Clements, Orlando ''El Duque'' Hernandez, the valiant Paul O'Neill, the heroic Chad Curtis, and the entire Yankees organization for their inspirational and dominating play this October. The Yankees' remarkable success has brought untold joy to their neighbors in Connecticut.

Mrs. HUTCHISON. I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD.

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

Mrs. HUTCHISON. I also add, the Texas Rangers will rise again.

The resolution (S. Res. 210) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 210

Whereas the New York Yankees is 1 of the greatest sports franchises ever;

Whereas the New York Yankees are the winningest sports franchise in professional sports history;

Whereas the New York Yankees have won 25 World Series, the most by any major league franchise;

Whereas the New York Yankees have played 86 seasons in the city of New York;

Whereas the New York Yankees became a baseball icon in the 1950's by winning 5 World Series in a row;

Whereas the New York Yankees' dominance was ignited in 1920 by the appearance of the indomitable Babe Ruth in pinstripes;

Whereas the New York Yankees have retired 11 numbers for 12 baseball legends;

Whereas the New York Yankees have had a player win the American League batting title 9 times;

Whereas the New York Yankees are represented in the Baseball Hall of Fame by 16 players who were inducted wearing the distinctive New York Yankee cap;

Whereas the New York Yankees have fielded teams such as the 1927 ''Murderers' Row''; and

Whereas the New York Yankees have finished the 20th century meeting the standards they set throughout it: Now, therefore, be it

*Resolved,*

**SECTION 1. CONGRATULATION AND COMMENDATION.**

The Senate recognizes and honors the New York Yankees—

(1) for their storied history;

(2) for their many contributions to the national pastime; and

(3) for continuing to carry the standards of character, commitment, and achievement for baseball and for the State of New York.

**SEC. 2. TRANSMITTAL OF RESOLUTION.**

The Senate directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the New York Yankees owner, George Steinbrenner, and to the New York Yankees manager, Joe Torre.

## DR. MARTIN LUTHER KING, JUNIOR, PAPERS PRESERVATION ACT

Mrs. HUTCHISON. Mr. President, I ask unanimous consent the Rules Committee be discharged from further consideration of S. 1791 and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1791) to authorize the Librarian of Congress to purchase papers of Dr. Martin Luther King, Junior, from Dr. King's estate.

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

Mr. CAMPBELL. Mr. President, I support passage of the pending bill, S. 1791, that Senator LIEBERMAN and I introduced. This legislation would authorize the Librarian of Congress to acquire Dr. Martin Luther King, Junior's personal papers from his estate.

Dr. King, as a minister, civil rights leader, prolific writer and Nobel Price winner, was deeply committed to nonviolence in the struggle for civil rights. He is quite possible the most important and influential black leader in American history.

When Dr. King was tragically assassinated on April 4, 1968, he was in his prime, after having emerged as a true national hero and a chief advocate of peacefully uniting a racially divided nation. He strove to build communities of hope and opportunity for all. He recognized that all Americans must be free if we are to live in a truly great nation.

The acquisition of Dr. King's papers would permanently place them in the public domain. People from all over the United States, and the entire world, would have direct access to these important historic documents. Those people studying his life's work would have access to his messages of justice and peace, and also to reflect on the civil rights struggle. The Library of Congress would be the perfect place for these papers which already houses other great works of original American freedom fighters such as Frederick Douglass and Thurgood Marshall. It is altogether fitting that these documents be together under one roof.

Dr. King was a person who wanted all people to get along regardless of their race, color or creed. His call to all of us, that we should judge by the content of one's character rather than by the color of one's skin, sums up the very core of how we can all peacefully live together as well as any other words ever spoken.

The establishment of Martin Luther King, Jr. Day as a national holiday was the result of the work of many determined people who wanted to ensure that we and future generations duly honor and remember his legacy. In fact, our tradition of honoring Dr. King took another step forward when on October 25, 1999, the President signed into law S. 322, a bill I introduced earlier this year that authorizes the flying of the American flag on Martin Luther King Day, in addition to all of our Nation's national holidays. This legislation builds on this work and will ensure that Dr. King's legacy is preserved for generations to come.

I urge my colleagues to support passage of this important bill.

Mrs. HUTCHISON. I ask unanimous consent 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 be printed in the RECORD.

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

The bill (S. 1791) was read the third time and passed, as follows:

S. 1791

*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 ''Dr. Martin Luther King, Junior, Papers Preservation Act''.

**SEC. 2. PURCHASE OF MARTIN LUTHER KING PAPERS BY LIBRARIAN OF CONGRESS.**

(a) IN GENERAL.—The Librarian of Congress is authorized to acquire or purchase papers of Dr. Martin Luther King, Junior, from Dr. King's estate.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Librarian of Congress such sums as may be necessary to carry out this Act.

## ORDERS FOR MONDAY, NOVEMBER 1, 1999

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that when the Senate completes its business today it adjourn until the hour of 12 noon on Monday, November 1. I further ask consent that on Monday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business with Senators speaking for up to 5 minutes each, with the following exceptions: Senator DURBIN or designee, 12 noon to 1 p.m.; Senator THOMAS or designee, 1 p.m. to 2 p.m.

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

DIVISION OF TIME

Mrs. HUTCHISON. I further ask the time reserved prior to the 10 o'clock vote on Tuesday be divided as follows for the majority side: Senator STEVENS, 5 minutes; Senator HUTCHISON of Texas, 5 minutes; Senator SPECTER, 5 minutes.

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

## PROGRAM

Mrs. HUTCHISON. For the information of all Senators, the Senate will be in a period of morning business from 12 noon to 2 o'clock p.m. on Monday. Following morning business, the Senate will resume debate on the conference report to accompany the D.C./Labor-HHS appropriations bill. Debate on the conference report is expected to consume the majority of the day. However, it may also be the majority leader's intention to resume consideration of the Caribbean Basin Initiative/African trade bill or resume discussion on the nuclear waste bill at some point during Monday's session of the Senate.

As a reminder, cloture was filed on the substitute amendment to the African trade bill as well as on the bill itself. Under the rule, those votes will occur on Tuesday, 1 hour after the Senate convenes or at a time to be determined by the two leaders.

By previous consent, a vote on the D.C./Labor-HHS appropriations conference report has been scheduled to occur at 10 a.m. on Tuesday, and the majority leader has announced that vote will be the first vote of the week.

## IN HONOR OF SENATOR JOHN CHAFEE

Mr. KYL. John Chafee was a gentleman with every quality that term connotes. He always treated everyone with the utmost respect. He was unfailingly courteous to everyone. I never heard him utter a bad word

about anyone. He took his job very seriously, but he did not take himself seriously. He always evaluated proposals, first asking what his constituents would think about them. He always sought to accommodate me, personally. I recall the last request I made of him to break some precedents and quickly get a bill through to name a U.S. courthouse in Phoenix for U.S. Supreme Court Justice Sandra Day O'Connor because we did have to break some precedents in order to accomplish that. He did it with no problem whatever.

Others have detailed his considerable service to this country, and I will not repeat that. However, it runs the gamut from military service to service in the Senate and much, much more.

I simply want to recall John Chafee, the marine, the gentleman. If every one of us in this Chamber comported ourselves as Senator Chafee did, the Senate would be a much better place. That is a legacy that any person, I believe, would be proud to have. It is John Chafee's legacy. He will be missed. But he will be remembered.

God bless John Chafee and his family.

Mr. SESSIONS. Mr. President, I wish to say a few words about an outstanding American who has left us. The flowers in this Chamber now recall for us the life of John Chafee, the distinguished Senator from Rhode Island who was 77 years of age. He served his country in an extraordinary number of ways.

I served for my first 2 years in this body on the Environment and Public Works Committee that he chaired. He was a wonderful person, a gentleman of the highest order, a man of propriety and decency, a classic Yankee, a leader who loved his country. He not only loved it, he proved his love to it.

He served in World War II in the Marines, landed on Guadalcanal with the first invasion forces, and a few years later he was recalled as a rifle platoon leader in Korea. He served 4 years as Secretary of the Navy and 6 years as Governor of Rhode Island.

They wrote a book a few years ago entitled ''In Defense of Elitism.'' John, I want to say, was not an elitist. In fact, he wasn't an elitist but he was of a higher standard than most of us will ever achieve. He cared about what was right and wrong. He fought for what he believed in.

He was highly intelligent, and he was blessed in a lot of different ways. He went to the finest schools in America. He went to Deerfield Academy in Massachusetts as a high school student, was a Yale undergraduate, Harvard Law—the very best education he could have. That was during a time prior to World War II when there wasn't any doubt what those young men and women were taught. They were taught duty, honor, humility, integrity, frugality, service to their country and fellow man, courage, and manliness. Those are traits that were part of his growing up, traits he never gave up until he took his last breath.

He was not part of the ''do your own thing'' crowd. John Chafee was part of the crowd who won World War II and defeated the Soviet Union, preserved freedom and democracy around the world, and eliminated totalitarian communism virtually from the face of the Earth.

John was helpful to me personally. I never had a harsh word with him. He loved environmental issues. He was a strong environmentalist. We didn't always agree. I came here from Alabama having talked to a lot of people who were a little bit irritated every now and then about governmental regulations that seemed to have no benefit to the environment and caused great burdens on farmers and business people. I am at this moment quite prepared to consider improving those acts. But John was part of the drafting and crafting, and he didn't give them up easily. He knew the Clean Air Act and the Clean Water Act had historic benefits in improving our Nation's environment. He would not give them up easily. He had to be convinced that you were right in every way before he would move toward any change in those laws.

He really was an effective public servant. He was effective as chairman of a committee. He was effective as an environmentalist. And he was certainly able to keep that committee together in a most harmonious way, with Republicans and Democrats able to work together with great harmony. It is a rare thing we see here when we have that kind of harmony. We had that kind of friendship.

His grandfather was Rhode Island's Governor. His great uncle was a Senator from Rhode Island. He had a great ancestry of personal service.

He announced a year ago that he himself would not seek reelection to the Senate. But he was extraordinarily proud that his son Lincoln, the mayor of a city in Rhode Island, was going to seek the seat he had so long and ably held. That was a source of great pride for him. And I talked to him about that race.

I think many of our brethren in the Senate have shared here our own thoughts about John Chafee and the quality of life he led. Many knew him much longer than I and knew him better than I. But my experience with him was personal, it was real, and it was very positive.

I think he is one of the finest people I have known. He exemplified high ideals, the kind of high ideals with which he was raised and from the community of which he was a part. He reflected that and carried it out with great integrity and ability.

We will all mourn his loss, and our sympathies are extended to his family, his daughter, and his four sons.

Mr. BURNS. Mr. President, tomorrow, most of us will make our way toward Rhode Island. We will attend the memorial services for John Chafee, our colleague and friend who we have all known and grown to respect in our work in the Senate.

As I look across this Chamber and I notice the black pall and the flowers that grace the desk of Senator Chafee, my memory is triggered to the first time I ever met him.

When I first ran for the Senate back in 1988, he called me up. I was going through this agonizing process of making the decision whether to stand for election to the Senate. I received a call from Senator Chafee inviting me to a gathering of prospective candidates at Williamsburg, VA. I accepted that invitation. I met for the first time this giant of a man from Rhode Island. I do not use the term ''giant'' loosely. He has not diminished. This was the impression he made on me at our first meeting, and over the years that has been the lasting impression.

In our daily work here in the Senate, did we agree on everything? No. Did I have a true understanding of his constituency in his State? No. Nor did he of mine. So we did not agree on everything, nor should we. Men of substance do not need to agree but be men of honesty, of civility, and of integrity.

When we refer to the legions of great Americans who have answered above and beyond the normal call, John Chafee rightfully takes his place among the most distinguished: A marine in the South Pacific, Guadalcanal, all during World War II; and, if that wasn't enough for his country, he came home, graduated from law school, got his law degree, and he answered his country's call again, serving in Korea. I, a former marine, understand that. But that was not enough for this man yet who took public service very seriously—a Governor, Cabinet Secretary, Secretary of the Navy, and Senator. At every station, he distinguished himself, his State, his Nation, and his family.

Though the voice has been silenced, his words of wisdom and leadership will echo through these Halls for generations. He was one who quietly went about his way in making America a better place. What a legacy we would all like to leave.

He was a leader of a generation. Tom Brokow got it right. It was a generation that quietly built a nation no matter their station in life.

So we say thank you, John Chafee. May we be men and women who protect and respect what you have done. You were a giant among men.

Mr. BAYH. Mr. President, this week, with the passing of Senator John Chafee of Rhode Island, we lost a dear colleague and a friend. John Chafee was a real statesman. His passing is a tragedy, and a loss for America.

As a new member of this body, I regret that my time serving with Senator Chafee was brief. Fortunately, the lessons I learned from working with him will last a lifetime. Senator Chafee was an all-too-rare voice for bipartisanship in the U.S. Senate. He was a force for common sense, and someone who always put politics aside and tried to do what was right for America.

For those of us who value consensus over partisan politics, Senator Chafee's approach to service will remain the standard we strive towards. His central goal, he said, was to ''operate through consensus and cooperation wherever and whenever possible in order to get things done.''

And ''get things done'' he did: after what for most men would be a full and distinguished life in public service—World War II duty, company commander in Korea, Minority Leader in the Rhode Island State House, three-term Governor, Secretary of the U.S. Navy—after all that, John Chafee began his service in the U.S. Senate.

In twenty-two years as U.S. Senator from Rhode Island, John Chafee's most remarkable accomplishments came when he managed to bring others to the middle-ground on contentious issues such as budget and tax policy, environmental protection, and health care.

Senator Chafee understood the responsibility we shoulder here when we write a budget for the nation, and he had the vision to act responsibly on behalf of future generations. He was a leader in efforts to reduce the federal budget deficit. In 1996 he co-chaired the Centrist Coalition which produced a bipartisan balanced budget plan. More recently, as Democrats and Republicans fought bitterly over their respective $300 billion and $800 billion tax-cut proposals, I had the pleasure of working with Senator Chafee as part of a bipartisan group fighting to pass a reasonable $500 billion tax cut. For me, working with Senator Chafee reinforced the value of his consensus-building approach, and my desire to emulate that approach.

Senator Chafee was a longtime advocate for clean air and water, wetlands conservation, and open space preservation. As a result of his dedication to preserving our natural heritage, Senator Chafee was the recipient of every major environmental award.

As a senior member of the Finance Committee, Senator Chafee worked successfully to expand health care coverage for women and children, and to improve community services for persons with disabilities.

John Chafee served his country for many years and in many roles. Perhaps his most important legacy is the way he served America: ''operating through consensus and cooperation wherever and whenever possible in order to get things done.''

We're all going to miss him very much.

Mr. GRASSLEY. Mr. President, I rise to say some words about the loss of our mutual friend, John Chafee from Rhode Island.

His passing away this week was obviously sad for all of us in this body, as well as his family and his friends.

He has left an impressive legacy both for this body and for his service to the United States.

I would like to take a few moments to express my thoughts about this truly heroic person.

When I came to the Senate in 1981, Senator Chafee was already one of the body's giants. He was well respected. I remember the budget battles we had in those years in the early 1980s, and the impact he had as a leader of moderate Republicans—usually about half dozen or so Senators who always had a major influence on the budget process. Disagree though some of us might with Senator Chafee's position on these issues, there was no disagreement among any of us that the results of his efforts were always a moderating influence on what this body did.

I served with Senator Chafee on the Finance Committee for many years—the committee that has jurisdiction over taxes, over Social Security, Medicare, Medicaid, foreign trade, and welfare. He had a passion; that was to preserve the safety net programs, and especially in the health sector. He was a strong supporter of the Community Health Center Program of Medicaid, and most importantly children's health programs.

In fact, one of the last meetings in which I joined Senator Chafee was his handling of a hearing a week ago in which he was proposing and forwarding legislation to make sure that people who were part of the foster care system did not fall through the cracks as far as their health care was concerned once they were forced out of the system because of age.

Above all else, Senator Chafee, as demonstrated by that hearing last week and his promotion of that legislation, was committed to the proper amount of health care and quality of health care. He also worked long and hard in a very generic area we call health care reform, sometimes minuscule fine-tuning, but also Senator Chafee was in the middle of the big battles of health care reform.

During the time the Senate was considering the Clinton health care plan, then-majority leader Bob Dole appointed Mr. Chafee to chair a Republican health care reform task force. Senator Chafee for several months convened meetings every Thursday in his Capitol office. During those meetings, he led discussions on various aspects of health care reform. I had an opportunity to participate in a lot of those meetings and know firsthand Senator John Chafee's commitment not only to informing and providing the procedure for informing fellow Members about the issue but also his efforts working toward compromise that would eventually get the votes to bring legislation to the floor and through the Senate.

The work we did in this task force culminated in a major health care reform bill that had the support of most of our Republican colleagues. It was a major achievement, needless to say. It wasn't something that finally was passed by this body because the whole Clinton health care issue got so overburdened with so many controversial aspects that the Clinton health care proposal went down, and compromises, more moderate and more bipartisan, obviously, were taken off the Senate's agenda at the same time.

That still does not denigrate in any way the hard work of John Chafee on health care generally. In fact, it is a very good example of his hard work and, most importantly, his commitment to the overall issue, over a long period of time, leading up to that last hearing he chaired just 1 week ago.

More recently, Senator Chafee urged the modernization of the traditional Medicare fee-for-service program. It is likely, as we go further down the road, that Senator Chafee will have had much influence on what we as a body produce even though he is no longer with us. In that regard, his influence will certainly have outlived his own life. That is a hallmark of a truly great man and a great Senator.

I, along with my colleagues, will miss Senator Chafee for many reasons. I respected him. I liked him. I listened to him. I looked to him as a leader. He spoke with authority and with credibility. Most importantly, he was a very compassionate person. Above all, what is important in political leadership is that he was very independent. He stood up for what he believed in, sometimes in the face of opposition from even his own party, my party, the Republican Party. That is the quality of John Chafee I grew to admire most.

Senator Chafee's legacy is his extraordinary service to his country. The way he knew to serve was in a very mighty way, whether it was on the battlefield as a genuine war hero or his service as Governor, Secretary of the Navy, or for 23 years as a Member of the Senate from Rhode Island. Not everyone is capable of making a big difference in this world, but John Chafee did. We salute him. I salute him, his life, and his accomplishments. I join my colleagues in remembering his greatness and appreciating the contributions he made to this country.

Mr. HARKIN. Mr. President, I want to reflect on the passing of one of the true giants in the Senate, someone with whom I was privileged to work for the last 15 years I have been in the Senate—Senator John Chafee, a good man with a great heart and a great soul, a statesman in every sense of the word, a public servant unequaled, a man who dedicated his entire professional life to the service of his country.

He was a good friend of people on both sides of this aisle. He was respected by all who knew him and served with him, and he returned that respect in kind. During all the efforts with which I had worked with him through the years, he always returned respect. If you did not agree with him, he respected your position. I never once heard John Chafee belittle a

Member of this body or the other body because of a position that was taken by that Senator or Congressman. He respected people's views. He respected the fact you come from a different viewpoint.

He was a great bridge builder. He would reach out to people, always looking for a way to craft a consensus, always having in mind ''I am not right all the time and you are not right all the time, but if we work together, we can build a consensus and find a middle way.''

He set aside partisanship. He put his energies into working for the greater good. He won high praise from a wide spectrum of admirers, from the American Civil Liberties Union to the U.S. Chamber of Commerce. You cannot get much broader than that.

He is a true American hero. He never talked about it. He left college in 1942 and joined the Marine Corps and fought in one of the bloodiest battles of the U.S. Marine Corps in Guadalcanal. If that was not enough, he fought during the invasion of Okinawa. Those were two of the bloodiest battles of World War II.

He left military service, but came back to fight, once again, in Korea in 1951. I do not mean sitting behind a desk either; I mean as a soldier in the field. Between his tours of duty, he had already earned his bachelor's degree at Yale and his law degree at Harvard. A career of distinguished service followed: Rhode Island House of Representatives, Governor of the State, Secretary of the Navy, and United States Senator. He was the first Republican Senator elected in Rhode Island in 46 years.

Having known him well, I know, no matter where his public service took him, his heart was always in Rhode Island. In talking with him when he announced he was retiring, he said he looked forward to retiring to his home State of Rhode Island.

He wore many titles in his lifetime—lieutenant, captain, Governor, Secretary, Senator, but he was proudest of being a husband, a father, and a grandfather. He was devoted to his family: Virginia, 5 children, 12 grandchildren. I know their loss is tremendous, but I hope in the days, weeks, and months ahead they will take comfort in John Chafee's magnificent legacy.

When the major achievements of the 20th century are recounted, many will bear his mark: the Clean Air Act, Superfund, Social Security improvements, fair housing, civil rights. He played a major role in every major piece of environmental legislation that has been passed in the last two decades. He fought for health care coverage for low-income families and expanded coverage for uninsured children. He fought hard for the Family and Medical Leave Act. John made it his mission to make sure no American fell between the cracks. America's women, children, and families are the beneficiaries.

I had the privilege of working with John Chafee on a couple of major issues. I worked very closely with him for over a year tackling our Nation's leading public health problem: the use of tobacco. With Senator GRAHAM from Florida, we introduced the first bipartisan bill. We called it the KIDS Act to protect our children from tobacco.

Senator Chafee had the courage to take on the tobacco industry and provided great leadership on this issue. He did it because of his unwavering dedication to improve health, save lives, and protect our kids.

While we did not succeed with our bill, we did succeed on another important effort, and that is combatting teen smoking. Senator Chafee and I offered an amendment to fully fund FDA's initiative to have store clerks check the IDs of children and young people before they sell cigarettes.

And as you walk up to the counter in your 7–Eleven and other stores, right now you will see they have put in place an ID check. They check IDs before selling cigarettes.

Senator Chafee led that initiative.

Senate passage of this amendment was the first big defeat of big tobacco in the Senate in 10 years, since we passed the ban on smoking on airlines. That effort has had a big impact. Thousands and thousands of kids have been prevented from buying a deadly addictive product.

As I said, that important victory would not have been possible without John Chafee and his skill at forming a bipartisan coalition and crafting a creative solution to this very pressing problem.

I also had the privilege of working with John Chafee on disability issues. As the chief sponsor of the Americans with Disabilities Act, which passed and was signed into law by President Bush in 1990, Senator Chafee and I formed a working relationship on this issue. He was a major champion for creating alternatives to institutions for people with disabilities, to get people out of institutions and into their homes and into their communities where they could be fully integrated into all aspects of American life.

Senator Chafee's work to create the Medicaid home and community-based waivers opened the door for independent living for tens of thousands of people with disabilities across our country.

I can tell you this has been a movement that has taken hold in our country. It has provided so much joy to families. It has provided opportunities for people with disabilities.

I had a family in my office the other day from Iowa, the Piper family, Sylvia and Larry Piper, and their son Dan. I have known Dan for a long time, since he was in high school. Dan has Down's syndrome, but he was mainstreamed in school, after his parents had told him they probably would have to put him in institutions for the rest of his life. They got him in high school. He was the captain of the football team. He acted in school plays. And after he got out of high school, he went out and got a job. He has been working now for several years, and he lives in a community setting. He has his own apartment. He has his own job, pays taxes, buys his own TV set. He told me he just bought a VCR. Community-based living. His parents are proud of him. They are happy he is out there on his own. They know his future is going to be bright. He is not stuck in an institution someplace.

Well, sitting in my office with my friends, the Pipers, and my long-time friend, Dan, I had to think of Senator Chafee and his leadership to create the community-based waivers that allow people with disabilities to live independently.

He also worked in a true bipartisan manner to promote maternal and child health programs. John Chafee's commitment to fighting for what he believed in was matched by the dedication of his long-time and loyal staff. My heart goes out to all of them. I have worked with them for a long time. They are a great staff.

John Chafee was a very humble, unassuming giant in the Senate. He had a broad, inclusive vision. He was a principled and thoughtful person. He was kind and generous. He asked and gave the best of himself in everything he did. He never sought recognition. He rolled up his sleeves and went to work. His spirit and his voice will be sorely missed. I am privileged to have called him my friend.

In closing, at times such as this I always remember the question that was put to John Kennedy one time. A reporter once asked President Kennedy how he wanted to be remembered. President Kennedy gave it a momentary thought, and he said he believed the highest tribute that could be paid to anyone would be to be remembered as a good and decent human being. So if I could use that as the highest tribute that can be paid to anyone, we remember John Chafee as a good and decent human being.

I yield the floor.

Mrs. HUTCHISON. Mr. President, I want to end this session of this week by once again remembering our colleague, John Chafee. We started this week, Monday morning, with the tragic news of the passing of clearly one of the most beloved of all Senators sitting in this Chamber.

During the week, Senator Chafee's desk has been draped in black with flowers on his desk. We have all talked in this Chamber about this wonderful man. We have all related so many of the great deeds he did, from his service in World War II to his service in the Korean war as a marine who truly exemplified what ''Semper Fi'' means. We have talked about what a wonderful human being he was and I think have renewed our efforts to make this a more civilized Senate because of him.

Today the people of Rhode Island began to pay their respects to their

former Governor and their three-term Senator. He is lying in state as I speak in the capitol he loved so much. All of us remember when he announced that he would not seek reelection. He simply said: ''I want to go home.'' John Chafee is home.

## ADJOURNMENT UNTIL MONDAY, NOVEMBER 1, 1999

Mrs. HUTCHISON. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order in further memory of our dear colleague, Senator John Chafee.

There being no objection, the Senate, at 4:56 p.m., adjourned until Monday, November 1, 1999, at 12 noon.

## NOMINATIONS

Executive nominations received by the Senate October 29, 1999:

DEPARTMENT OF STATE

ANTHONY STEPHEN HARRINGTON, OF MARYLAND, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERATIVE REPUBLIC OF BRAZIL.

FEDERAL HOUSING FINANCE BOARD

BRUCE A. MORRISON, OF CONNECTICUT, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM EXPIRING FEBRUARY 27, 2007. (REAPPOINTMENT)

J. TIMOTHY O'NEILL, OF VIRGINIA, TO BE A DIRECTOR OF THE FEDERAL HOUSING BOARD FOR A TERM EXPIRING FEBRUARY 27, 2004. (REAPPOINTMENT)

ASIAN DEVELOPMENT BANK

N. CINNAMON DORNSIFE, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES DIRECTOR OF THE ASIAN DEVELOPMENT BANK, WITH THE RANK OF AMBASSADOR, VICE LINDA TSAO YANG.

## CONFIRMATIONS

Executive nominations confirmed by the Senate October 29, 1999:

DEPARTMENT OF DEFENSE

JOHN F. POTTER, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING MAY 1, 2005.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

A. J. EGGENBERGER, OF MONTANA, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM EXPIRING OCTOBER 18, 2003.

JESSIE M. ROBERSON, OF ALABAMA, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM EXPIRING OCTOBER 18, 2002.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF DEFENSE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS VICE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 154:

*To be general*

GEN. RICHARD B. MYERS, 0000.

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIG. GEN. HAROLD A. CROSS, 0000.

BRIG. GEN. PAUL J. SULLIVAN, 0000.

*To be brigadier general*

COL. DWAYNE A. ALONS, 0000.
COL. RICHARD W. ASH, 0000.
COL. GEORGE J. CANNELOS, 0000.
COL. JAMES E. CUNNINGHAM, 0000.
COL. MYRON N. DOBASHI, 0000.
COL. JUAN A. GARCIA, 0000.
COL. JOHN J. HARTNETT, 0000.
COL. STEVEN R. MCCAMY, 0000.
COL. ROGER C. NAFZIGER, 0000.
COL. GEORGE B. PATRICK III, 0000.
COL. MARTHA T. RAINVILLE, 0000.
COL. SAMUEL M. SHIVER, 0000.
COL. ROBERT W. SULLIVAN, 0000.
COL. GARY H. WILFONG, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. CHARLES H. COOLIDGE, JR., 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS SURGEON GENERAL OF THE AIR FORCE AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601 AND 8036:

*To be lieutenant general*

MAJ. GEN. PAUL K. CARLTON, JR., 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. CHARLES F. WALD, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. RONALD C. MARCOTTE, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. THOMAS J. KECK, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. HAL M. HORNBURG, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. WALTER S. HOGLE, JR., 0000.

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be brigadier general*

COL. MYRON G. ASHCRAFT, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. NORTON A. SCHWARTZ, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be general*

GEN. JOSEPH W. RALSTON, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be general*

GEN. RALPH E. EBERHART, 0000.

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be brigadier general*

COL. DANIEL B. WILKINS, 0000.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be major general*

RAYMOND D. BARRETT, JR., 0000.
JAMES J. GRAZIOPLENE, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be general*

GEN. THOMAS A. SCHWARTZ, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be general*

LT. GEN. JOHN W. HENDRIX, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. KEVIN P. BYRNES, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. JAMES C. RILEY, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. JOHN A. VAN ALSTYNE, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be major general*

BRIG. GEN. ANDERS B. AADLAND, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be major general*

BRIG. GEN. JOHN T.D. CASEY, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be major general*

BRIG. GEN. HANS A. VAN WINKLE, 0000.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. GARY S. MCKISSOCK, 0000.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING EDWIN C. SCHILLING III, AND ENDING CELINDA L. VAN MAREN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 12, 1999.

AIR FORCE NOMINATION OF RONALD J. BOOMER.

IN THE ARMY

ARMY NOMINATIONS BEGINNING ROBERT E. WEGMANN, AND ENDING SANDRA K. JAMES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 23, 1999.

ARMY NOMINATIONS BEGINNING JOHN H. BELSER, JR., AND ENDING THOMAS R. SHEPARD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 23, 1999.

ARMY NOMINATIONS BEGINNING *KATHLEEN DAVID-BAJAR, AND ENDING DEAN C. PEDERSEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 23, 1999.

ARMY NOMINATIONS BEGINNING GARY A. BENFORD, AND ENDING KENNETH A. YOUNKIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 12, 1999.

ARMY NOMINATIONS BEGINNING DAVID A. COUCHMAN, AND ENDING CHARLES R. NESSMITH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 12, 1999.

ARMY NOMINATIONS BEGINNING REX H. CRAY, AND ENDING LAWRENCE A. WEST, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 12, 1999.

ARMY NOMINATIONS BEGINNING *DAVID M. ABBINANTI, AND ENDING X379, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 12, 1999.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF WENDELL A. PORTH.
MARINE CORPS NOMINATION OF FREDRIC M. OLSON.

IN THE NAVY

NAVY NOMINATIONS BEGINNING ROBERT C. ADAMS, AND ENDING DANIEL L. ZIMMER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 27, 1999.