United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, SECOND SESSION

Vol. 144 WASHINGTON, TUESDAY, JULY 7, 1998 *No. 88*

House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, July 14, 1998, at 12:30 p.m.

Senate

TUESDAY, JULY 7, 1998

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:

Gracious God, our prayer is not to overcome Your reluctance to help us know and do Your will, for You have created us to love, serve, and obey Your guidance. Rather, our prayer is to lay hold of Your willingness to accomplish Your plans through us. You have told us to call on You, to trust You completely, to put You first in our priorities, and to express our devotion to You in our patriotism. Sometimes, pride blocks our response, and we who want to keep control find it difficult to turn the control of our lives over to You. When we are self-sufficient, we do not pray; when we are self-satisfied, we will not pray; when we are self-righteous, we cannot pray. And yet, Father, when we are honest with ourselves, we know that, by ourselves, we are insufficient. We admit our profound need for Your presence, Your wisdom, and Your solutions to our problems. May this be a great day, lived to the fullest, trusting You each step of the way. Through our Lord and Savior. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Thank you, Mr. President. Welcome back.

SCHEDULE

Mr. LOTT. Mr. President, this morning the Senate will immediately proceed to a vote on a motion to invoke cloture on the motion to proceed to the product liability bill. If cloture is invoked, the Senate will debate the motion to proceed until the policy luncheons at 12:30 p.m., and following the policy luncheons, it is expected the Senate will resume consideration of the HUD–VA appropriations bill. It is hoped that Members will come to the floor this afternoon to offer and debate amendments to the HUD–VA bill. I understand there are some amendments and some very legitimate amendments. I hope we will get started on those early in the afternoon so that we can have a reasonable debate, but under a time agreement, and get to a conclusion as soon as we can this week on the VA–HUD bill.

The Senate also this week will consider the IRS reform conference report. We are not sure exactly when that will begin. We thought about possibly tonight. It will depend on what happens on product liability and the HUD–VA bill, but we are definitely taking up the IRS reform and restructuring conference report before the end of the week to get a vote. I think this will be a tremendous reward for the American people for their patience, and also to help address the serious problems we have had with the IRS in recent years.

I also remind Members that July is expected to be a very busy month with late-night sessions and votes, and votes on most Fridays and Mondays. If anything develops to the contrary, of course, we will notify Members as soon as we can. Members have to expect votes late on Monday afternoons and on Fridays also. We certainly need all Senators' cooperation to get this work done. We did get time agreements at the end of the session before we went out for the Fourth of July recess period on higher education and also on a package of energy bills. So we will work those in at the earliest possible opportunity this week or next week. I yield the floor, Mr. President.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. FRIST). Under the previous order, leadership time is reserved.

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 assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provision of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 90, S. 648, the products liability bill:

Trent Lott, Don Nickles, Slade Gorton, Phil Gramm, John McCain, Spencer Abraham, Daniel Coats, Richard G. Lugar, Lauch Faircloth, John H. Chafee, Sam Brownback, Ted Stevens, Jon Kyl, Jeff Sessions, Michael B. Enzi, and Judd Gregg.

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

CALL OF THE ROLL

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

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 648, the product liability bill, shall be brought to a close? The yeas and nays are required under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mrs. HUTCHISON) is necessary absent.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from Maryland (Ms. MIKULSKI), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

The yeas and nays resulted—yeas 71, nays 24, as follows:

[Rollcall Vote No. 184 Leg.]

YEAS—71

Abraham	Faircloth	Lugar
Allard	Frist	Mack
Ashcroft	Glenn	McCain
Bennett	Gorton	McConnell
Bingaman	Gramm	Moynihan
Bond	Grams	Murkowski
Brownback	Grassley	Nickles
Bryan	Gregg	Reed
Bumpers	Hagel	Reid
Burns	Hatch	Robb
Byrd	Helms	Roberts
Campbell	Hutchinson	Rockefeller
Chafee	Inhofe	Santorum
Coats	Jeffords	Sessions
Cochran	Johnson	Smith (NH)
Collins	Kempthorne	Smith (OR)
Coverdell	Kerrey	Snowe
Craig	Kohl	Stevens
Daschle	Kyl	Thomas
DeWine	Landrieu	Thompson
Dodd	Lautenberg	Thurmond
Domenici	Leahy	Warner
Dorgan	Lieberman	Wyden
Enzi	Lott	

NAYS—24

Akaka	Durbin	Kerry
Baucus	Feingold	Levin
Biden	Feinstein	Moseley-Braun
Boxer	Ford	Murray
Breaux	Graham	Roth
Cleland	Harkin	Shelby
Conrad	Hollings	Torricelli
D'Amato	Kennedy	Wellstone

NOT VOTING—5

Hutchison	Mikulski	Specter
Inouye	Sarbanes	

The PRESIDING OFFICER (Mr. ROBERTS). On this vote, the yeas are 71, the nays are 24. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

PRODUCT LIABILITY REFORM ACT OF 1997—MOTION TO PROCEED

The PRESIDING OFFICER. The question is on the motion to proceed. Is there further debate on the motion?

Mr. THURMOND addressed the Chair.

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

Mr. THURMOND. Mr. President, I ask unanimous consent to speak for twelve minutes as in the morning hour.

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

(The remarks of Mr. THURMOND pertaining to the introduction of S. 2266 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Washington is recognized.

Mr. GORTON. Mr. President, is the business before the Senate the motion to proceed to S. 648?

The PRESIDING OFFICER. The Senator is correct.

Mr. GORTON. Mr. President, S. 648 is a bill relating to product liability reported about 1 year ago by the Senate Commerce Committee. That bill is identical or nearly identical to the product liability legislation that passed both Houses of Congress in the last Congress and was vetoed by President Clinton.

As and when the motion to proceed is agreed to, Senator ROCKEFELLER and I will propose an amendment in the nature of a substitute on the same subject, product liability, somewhat more modest in scope than the bill that was vetoed by the President. It is the result of more than 1 year of careful and detailed negotiation involving myself, other members of this party, Senator ROCKEFELLER and various of his allies, and the Office of the President of the United States.

The willingness of the President of the United States to sign a product liability bill in the form of this substitute is due to the untiring and diligent efforts of the junior Senator from West Virginia, who has literally been tireless in pursuing a solution to a question that involved his time and my time for well over a decade, and a willingness to pursue it in a White House from which a veto emanated almost 2 years ago.

The bill, of course, is not as broad as the one that was then vetoed or the bill that was passed out by the Commerce Committee. Nevertheless, it does bring a significant degree of rationality and predictability to product liability litigation. It removes a number of severe inhibitions that stand in the way of research and development for new and approved products in the commerce of the United States. That may be its most important single feature, because we have an economy in which litigation has provided a severe inhibition to the improvement of our products, to the development of new products. Perhaps the single most vivid illustration of the value of product liability litigation is in the field of piston-driven aircraft, a subject with which the Presiding Officer is more than familiar, where a limitation on product liability litigation, a modest limitation, passed half a dozen years ago, has resulted in the recovery of an industry that had almost disappeared in the United States of America. So we are not speaking about a theory when we talk about the inhibitions placed on various forms of business enterprise, industrial and otherwise, by the present state of the law varying from State to State through 50 States and several other jurisdictions.

While I would prefer broader product liability legislation, and while I believe the Senator from West Virginia might prefer it to be somewhat broader than it is at this point, this legislation nevertheless is good for the economy of the United States, and it is good for those who are injured by the actual or real negligence of manufacturers or sellers. It does, however, say that in the case of the seller, the seller is only going to be liable when the seller itself is negligent. It does put some rational basis on the award of punitive damages with an actual cap on punitive damages for modest and for small businesses. In that regard, it sets a uniform national standard for punitive damages in those States that allow punitive damages—my own, for example, does not—raising the bar to require clear, cogent, and convincing evidence for the award of punitive damages, a higher standard than exists in most States at the present time, with a cap on punitive damages for small businesses.

The National Federation of Independent Business has just come out with a study as to who is impacted by that, and while the definition of a small business in this bill is 25 employees or $5 million a year in sales, their table shows that 73 percent of all the manufacturers in the United States have fewer than 20 employees, 88 percent of all the retailers in the United States have fewer than 20 employees, and 85 percent of the wholesalers in the United States fall within the same category. So, for the vast majority of business enterprises in the United States, there will be a cap on punitive damages that is realistic in nature and is something that the business might conceivably be able to pay, rather than simply being driven out of business by such a verdict.

With respect to product sellers, it simply states that the product seller avoids liability if the product seller is not itself negligent or otherwise liable. Manufacturers, under those circumstances—since they can't be joined in litigation with the product seller—can almost always achieve what amounts to fraudulent joinder and thus get diversity of citizenship, a diversity of citizenship that allows them to get into a Federal court rather than into State courts where the great majority of notorious and unwarranted verdicts in product liability cases have taken place in the past.

Product manufacturers have been frustrated by the unavailability of a ''misuse'' defense. They have that, to a greater extent, as a result of this bill. The bill includes a statute of repose, a very modest and narrow statute of

repose but a statute of repose nevertheless, one of 18 years for durable goods used in the workplace where the plaintiff already has available to that plaintiff workers compensation or industrial insurance.

Finally, a strong biomaterials bill, particularly important, in my view, as the materials that go into implants—for example, heart monitors and the like—are often very inexpensive. They are various forms of plastic tubing and the like. Yet the biomaterials manufacturer almost always finds itself as a defendant in a product liability suit directed primarily at the manufacturer or the assembler of the implant. And the cost, in the case of many relatively large corporations, of successfully defending lawsuits based on those implants literally exceeds the total sales price of the materials that they have sold that go into those items. So a rational manufacturer of the materials that go into various very important cutting-edge medical devices—the rational manufacturer simply won't sell them. There is not much point in selling $100,000 worth of materials in a year if it is going to cost you $1 million a year successfully to defend yourself against lawsuits directed primarily at the person who has used the materials that you have manufactured.

Some of those companies have continued in the business just as a matter of being good citizens, but we cannot call on them or believe that they will continue to do so for an extended period of time. To the best of our knowledge, we do not have any who have actually lost these lawsuits, but the defense against these lawsuits is important in any event.

We have a system that is sick, a system in which the greater percentage of the money that goes into product liability litigation goes to lawyers, insurance companies, insurance agents and the like, and only a relatively modest portion of it ever gets to the actual victims of actual negligence. We have a situation in which there are highly publicized and outrageously large punitive damage awards in a handful of States of the United States, but where, in the vast majority of cases in which some at least modest compensation is due, the compensation is less than actual damages.

This bill is a modest attempt to improve the compensation system for defective products in the United States and it modestly improves it. It is a modest move in the direction of uniformity. It certainly doesn't create uniformity everywhere, but at least it is a modest step in that direction. And it is a significant step in the direction of encouraging companies to continue to be at the cutting edge of the development of new products, new products used both in the workplace and by individuals all across the United States—the kind of innovation and development which have marked the United States from the very beginning of our history and of our economy, and the kind of innovation and leadership in the world economy that is vitally important. So I hope we will be soon able to move to the bill, to pass the bill in the form as it has been worked out by the Senator from West Virginia and myself with the cooperation of the White House, its passage by the House, and its signing by the President of the United States.

I dare not say in a body like this that this issue has occupied us for more years than any other in which there has not been any actual legislation passed, but if it doesn't rank No. 1 in that score, it ranks very, very close to No. 1. We now have a real opportunity, if we are constructive, to see to it that we are modestly successful, and I hope in the course of the next week or 10 days that is exactly what we will do.

The PRESIDING OFFICER. The distinguished Senator from West Virginia is recognized.

PRIVILEGE OF THE FLOOR

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that Rosalind Wood, of my staff, be accorded floor privileges for the duration of the consideration of the pending product liability bill.

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

Mr. ROCKEFELLER. Mr. President, here we are again. As always, I am very proud to be standing across the aisle from my dear colleague, Senator GORTON. Senator LIEBERMAN is very much a part of this. There are many who are very much a part of this.

I can report that we are in a position, as the Senator from Washington has indicated, to pass and to have signed a product liability bill for the first time in my living memory, at least, in the Senate. This is, I guess, my 11th year on this subject.

We have a chance to have the bill signed, however, by the President, only if we maintain the bill in its current very limited form. I, obviously, congratulate Senator GORTON—who does a prodigious job in all events—on this subject and many others, but he has also been extraordinary in the way that he has accepted and rejected and negotiated not only with myself, but also with the White House in his discussions with the majority leader to, in effect, finally bring a product liability bill to the floor which actually can pass, and if it does pass, will be signed by the President, provided that it is in its current limited form.

It is a good feeling to have a bill that can be signed. I am much more accustomed to being here promoting a bill that I know would be a good bill, but, on the other hand, which I know in the end isn't going to be signed. When you know something is going to be signed, that says two things: One is that you are dealing with some folks in the White House who have been very honorable and consistent; and, second, you have a very limited bill.

The Senator from Washington used a much more tactful phrase. He said a ''somewhat more limited bill.'' I will be more direct and say that it is a very much more limited bill. The logic for that is very simple. If it was other than its current form, we might be able to pass it, but it would not be signed. I just somehow fail to see the logic or the wisdom of, once again, passing a bill that is vetoed. I don't see the point in that. It takes up a lot of our time.

We have all worked at this for years and years. If we are going to do something, let's get what we can. I think that is one of the lessons we learned from health care reform—one which I myself did not learn easily—that when we try to do the whole job, or at least a large chunk of the job, the Congress is not willing to accept it. I now refer to myself on health care reform as a ''raging incrementalist.'' I have had to accept that position. On product liability reform, I now think the more limited approach makes a great deal more sense.

I say again to my colleagues and those who work with them, that when I say there is not a lot of room for deviation in this bill, the Senator from West Virginia really means that. This is a process in which I worked for a very long period of time negotiating with the White House, knowing that it was fruitless to come forward with a bill which would not meet with their approval. In essence, we had to look at all of those things which were displeasing to the White House last year when the veto took place and then simply excise all of those or anything related to those, and proceed to craft a bill which did not meet their objections. They were very tough about it, but they were very fair about it. They were very consistent. I really respect them for that. I can name the people who did that, and I will at the appropriate time, but I really honor them for their consistency and their willingness to let it be known where they stood.

Then, my obligation is to let my colleagues know that this is not one of those bills where we can come in and do all kinds of things to it or else it will be vetoed, and only the President holds the pen. He always does, but sometimes there is more room for movement. On this one, I think there is very little room for movement.

Senators know our legislative calendar is growing very short. That is why I have been so adamant about urging floor consideration for the reform agreement that has been reached with the White House and which will be signed if passed. Senator GORTON and I recently completed work on some technical changes which the White House had agreed to accept but, again, technical, no substantive changes. No substantive changes were contemplated by the White House; no substantive changes were agreed to by the White House, only some technical changes.

Why? Because they are the controlling element here. They are the ones who have the pen. They can veto it, or they can sign it. Therefore, their leverage is considerable. I can pretend we

are otherwise, but it doesn't do me much good. That is the case. Therefore, if we are going to have some form of bill, then let's proceed to get what we can. That is the way Senator GORTON and I have proceeded on this bill.

I reemphasize to my colleagues that the White House has publicly committed to signing this bill if it remains in this form. That will grate on some of my colleagues. I have also had private assurances this bill will be signed if it is unamended. It is now up to the full Senate to decide if they want a campaign issue or if they want to pass a moderate, balanced, responsible reform bill that helps small business, product sellers, renters, lessors, as well as consumers, but which, in the end, is a fairly modest bill.

My colleagues know there are many of us who have worked very hard to gain a meaningful and fair reform. I have taken on this task, not because I am a lawyer, which I am not; not because I am heavily involved in following these matters in the trade press, but for a very simple reason. And that is I genuinely believe that in an international global economy, we have to keep up with the competition.

I just returned from 10 days in China with the President. It is just absolutely stunning to see what is going on there, the way that economy, in spite of the Asian troubles, is leaping ahead. This is true all over Asia. The Asia crisis is going to pass. It is going to be a couple of years. It is going to pass. They are going to come back. The Asian countries are predestined to be successful economically.

All the European Union nations have a single product liability law. I know, just as a matter of common sense, that when something is manufactured in a State, if it is an average State, 70 percent of the manufactured products will be exported on an interstate, if not international, basis. Therefore, State law, having had meaning at some point, has much less meaning when it comes to interstate commerce, much less international commerce. Again, it is not just a question of the laws, but it is also a question of are we being competitive or not. What is the added cost for liability insurance to our products as we compete in Europe and Japan now, for example, which has also taken on a single national uniform product liability law.

All of these things are extremely important. I also think having 50 States with separate laws is confusing. It means that people forum shop. They go to the State where they can get the best deal. I think it is true—I am not sure it is true this year—but it is true that last year, 85 percent of all of the punitive damages awarded in this country came out of Alabama, Texas, and California. That means that people knew where to go to get into a court system which would, in a sense, respond sympathetically. I don't think that is a wise way to carry on the business of our country or the commerce of our country.

All of these States having different laws is very, very complex and very difficult in allowing us to compete, and in fact, in even allowing us to adjudicate in product liability cases where people have, in fact, been injured and do, in fact, deserve payment and, in some cases, punitive damages.

The plain fact to this Senator's way of thinking is that our current system is simply unable to handle this problem in the modern marketplace and much less—or more so, really—in the global marketplace. States cannot deal with product liability problems that occur out of their borders. They can't do that.

In contrast to the circumstances that existed when our tort system was evolving, most goods, as I indicated, move outside of the State. That is important. When our tort system was evolving, the States could handle it. The States did handle it. Exporting from McDowell County, WV, to Braxton County, WV, was the way life went on some time ago. Now if you export to Ohio, much less the State of California, much less Indonesia, Japan, or China, you have to be much more sophisticated in the way you handle these problems. I think a Federal product liability law does make sense. That does not mean in all respects, and this bill does not do that in all respects, and I think that is an important point.

I was a member of the National Governors' Association for 8 years, and, like other companies, I was protective of States rights on all issues. But they have fairly consistently recognized the importance of establishing a Federal statute on product liability. I think that is very significant and deserves the consideration of my colleagues.

There is another bipartisan group called the American Legislative Exchange Council, a group of over 3,000 State legislators from all over the country. They have repeatedly urged Congress to enact Federal product liability reform—Federal product liability reform.

The bill we are proposing would address the problems in our product liability reform system which we know exist. It would provide increased predictability for business. It would improve the system for consumers at the same time. Is it gigantic on any side? No, because it is not a big bill. That we constantly bear in mind, because if it were a bigger bill, it would not get signed. We want to get the bill signed. This is not the ''nose under the tent'' theory. It simply would be nice to get some sort of uniform Federal standards on product liability going.

Under today's product liability system, companies have a disincentive to invent, to innovate. That means there are a lot of beneficial upgrades that are not done. People do not undertake certain kinds of biomedical research or pharmaceutical production or other things just because they fear the result of getting sued. It isn't really so much the number of suits. Those who oppose this Senator's position are always talking about, ''The Senator from West Virginia is always talking about the explosion of litigation.''

I have never talked about explosion of litigation. There is no explosion of litigation. But the psychological factor of a company sitting down and trying to decide whether it will go into a line of research and development which could lead to a cure for some disease, the present laws pull them back. Look at Viagra. It now has had about 300 deaths. I don't know what will happen with Viagra. Maybe they deserve to get sued, maybe they don't, I don't know. But you can see when people are looking at doing some kind of research that they want to pull back. In the case of Viagra, maybe they should have in the first place. Or maybe their warnings were not adequate.

I am not here to defend Viagra, as I was never here to defend Ford Pinto—that was always the example. Ford Pinto is undefendable. They should have been sued, they were sued, and that was the right thing to do.

Keeping products off the market that can do remarkable good for people is not in the American tradition; protecting consumers is in the American tradition. But we have always managed to find a balance where we both protect consumers and we move forward, strongly, in terms of innovation. We have always been the country of basic research. Other countries have been the countries of applied research. Basic research is not undertaken unless you can foresee it ending up someday in the marketplace. If you don't, then you don't do it.

We can help all of this by establishing a set of Federal rules for product liability cases. The compromise bill that Senator GORTON and I were able to work out with the White House, and which was introduced on June 25, creates a national framework for a more rational process for litigation regarding products, and products alone. If a manufacturer was, in fact, responsible for injury, it would remain accountable. If the seller of a product failed in its responsibility, it would be held accountable. The legislation is limited, meaningful, and signable.

I ask unanimous consent a section-by-section analysis of the bill appear in the RECORD at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. ROCKEFELLER. I will briefly run through a list of the bill's major provisions for my colleagues in the hope that some of them and some of their staff they work with are listening.

No. 1, the bill, as the Senator from Washington indicated, protects product sellers, renters, and lessors from suits that should be brought against manufacturers, not the product sellers, renters, or the lessors. Product sellers, renters, or lessors will be held liable

for their own negligence, make no mistake. For their own negligence they will be held accountable, or their failure to comply with express warranty, but not for the negligence that is beyond their own control. That comports, it seems to me, with common sense.

The product seller, renter, or lessor remains liable if the manufacturer cannot be brought into court. So, again, a consumer protection. Or they remain liable if the manufacturer is unable to pay judgments. All of this is in order to ensure that consumers retain a source of recovery. So, product sellers, renters, or lessors, et cetera, are protected, but they are not protected in the ultimate sense. That is, if manufacturers don't show up, are broke, can't pay, they—the consumer, injured consumer—will still get recovery.

No. 2, this bill will create a defense in a product liability case if a plaintiff is found to have been under the influence of illegal drugs or alcohol and was responsible for more than 50 percent of his or her own injuries. That has always struck me as a commonsense idea. We should help discourage abuse of illegal drugs or alcohol. Maybe it will, maybe it won't. But in any event, if people are responsible for their own use of alcohol or drugs and responsible for more than 50 percent of their injury, there should be an absolute defense against that.

No. 3, if a claimant's harm is attributable to the misuse or alteration of a product, defendant's liability will be reduced by whatever extent the harm is due to that misuse or alteration.

No. 4, consumers will have 2 full years to file a complaint from the time he or she discovers or should have discovered the harm and—this is new—the cause of the injury. A lot of States have the harm, the discovery of the harm, but there are not as many that have the cause. So, this is very, very strongly in favor of the consumer. This is particularly true—on the veterans committee, I have worked very hard on a variety of issues, including the Persian Gulf War Syndrome, all kinds of things in the world we are moving into, like toxic harm, et cetera, where the cause becomes much more important, because often things don't show up until much later.

No. 5, the bill's 18-year statute of repose applies to only durable goods in the workplace, and only in those situations which are covered by State worker compensation laws, and specifically excludes injuries caused by toxic harm. I just mentioned toxic harm. Well, toxic harm has no place, there is no remedy for it, in this bill. This means that only people who can recover for their injuries under State worker compensation laws are subject to the statute of repose. The statute of repose does not begin until after the product's express warranty expires. This provision is good for consumers, and, frankly, it is good for business. Businesses are relieved of unlimited liability, and consumers have a source of recovery.

No. 6, alternative dispute resolution—this is not the most potent part of the bill that I can imagine—we have an alternative dispute resolution that avoids protracted legal battles. That is encouraged under this bill. Either party can request alternative dispute resolution using existing State ADR procedures.

No. 7, one of the main provisions of this bill limits punitive damages for truly small businesses (under 25 employees with $5 million in revenue), individuals (with incomes of $500,000 or less), and local governments. It creates a Federal standard for awarding punitive damages which are reserved for the most egregious cases—clear and convincing. We simply take the Federal standard, uniform standard, and put it, frankly, where I think most people agree it should be. The bill sets the limit for these punitives for small businesses to $250,000, or two times the economic and noneconomic damages. This limit means that businesses will still have to pay punitives, should that be the judgment of the court, but they are less likely to be bankrupted by the cost of the penalty. This bill does not create punitive damages in States that do not permit punitive damages. That needs to be said clearly. If the State does not have it, this bill will not create it.

The bill includes a workplace safety incentive by affecting an employer's right to recover worker compensation benefits from a manufacturer whose product harms a worker if the employer's fault was a substantial cause of the injury.

Finally, Senator LIEBERMAN's biomaterials access assurance bill is the second title of product liability reform. I should say, in all due candor, this was something that was worked out between the White House, Senator LIEBERMAN, and other parties. I concentrated, as did Senator GORTON, on the products aspect of this. Senator LIEBERMAN did the biomaterial section of that and did a very good job. The White House has accepted it and it is part of the bill. This provision is designed to alleviate the shortage of certain biomaterials due to biomaterials suppliers who are increasingly unwilling—as those who would wish to do basic research—to supply products that produce very little revenue, but which would have high litigation costs attached to them. It should ensure the availability of life-saving and life-enhancing medical devices.

Specifically, the provision will protect suppliers of biomaterials by allowing them to seek early dismissal from claims against a medical device manufacturer, so long as the supplier did not manufacture or sell the device and met its contract requirements.

In sum, then, Mr. President, this bill, I think, is balanced in its treatment of consumers and business. Again, it is not a large bill. I think it should have strong, bipartisan support.

I believe in the need to develop a Federal-level framework. To me, the free flow of interstate commerce demands some form of a rational and fair approach. I think that involves, to a certain extent, Federal standards. We are, after all, in a global economy, and the world has changed almost totally in the last 10 years as regards to this product liability subject, and the need for the legislation is greater than ever.

I am not naive. As we head into this debate, there is long experience—over a decade—of filibusters and vetoes on products legislation. That is why I am so pleased that we have succeeded in negotiating a new bill with the President and his team. This bill has a firm commitment from the White House that it will be signed if it is unaltered. My colleagues do not like to hear the phrase ''if it is unaltered.'' The Senate does have a right to work its will, but if the Senate works its will and the White House is displeased, of course, there will be no bill. That is a choice the Senate will have to make.

So to hit the highlights again—one gives this speech only once during the course of debate—we would gain strong protections for product sellers, renters, lessors and suppliers; strong protections for biomaterials suppliers; uniform Federal statute of limitations and workplace durable goods statute of repose; uniform Federal rules on alcohol and drugs; uniform Federal rules on misuse or alteration; uniform Federal legal and evidentiary standard for punitive damages—the key word being ''uniform''—strong protections for small business from punitive damage awards; States' advances on joint and several liability determination would remain in place; more uniform rules of preemption (punitive damages and statute of repose changes). And then, as I indicated, there are incentives to resolve litigation, although they are not mighty in their nature. Nevertheless, they are there.

I am fully aware that some have reservations about the limited nature of the product liability compromise that we secured with the White House, believing that it does not go far enough. That is a view that in other places or at other times, perhaps, might have my concurrence. But we are not in other places and in other times; we are here and now. It is not my view that we will move forward toward enactment of anything if we make changes to this bill.

For the RECORD, let me acknowledge that we will face amendments that go beyond the compromise that Senator SLADE GORTON and I have now secured with the White House. That was true in the last attempt to move product liability reform, and it resulted in—guess what? A veto, and no law. Those expansions will not have my support. I will not support them, and they cannot be signed into law.

As I have stated many times before, I don't intend to support product liability reform provisions for the sake of doing it, so that I can say I did it. I want to see a law. I want to see something come from this process after all

these years. As the Senate proceeds with debate on product liability reform, I sincerely hope and believe that the majority leader will take advantage of what I consider to be virtually the last opportunity to enact limited Federal reform of our product liability laws in the foreseeable future.

Mr. President, that is all I have to say at the present time. I thank the Presiding Officer and yield the floor.

(EXHIBIT 1)

PRODUCT LIABILITY REFORM ACT OF 1998

SECTION-BY-SECTION SUMMARY

1. Short Title; Table of Contents.
2. Findings; Purposes.

TITLE I—PRODUCT LIABILITY REFORM

101. Definitions.
102. Applicability; Preemption.

The Act covers product liability actions brought in federal or state court on any theory for harm caused by a product, but excludes actions for: (i) commercial loss; (ii) negligent entrustment; (iii) negligence per se concerning firearms and ammunition; (iv) dram-shop; (v) harm caused by a tobacco product; or (vi) harm caused by a silicone breast implant.

State law is superseded only to the extent it applies to a matter covered by the Act. Matters not governed by the Act, including the standard of liability applicable to a manufacturer, continue to be governed by applicable federal or state law.

103. Liability Rules Applicable to Product Sellers, Renters, and Lessors

Product sellers, rentors, and lessors will be liable only for their own failures and misdeeds: a product seller, rentor or lessor is liable if the harm that is the subject of the action was caused by (i) his failure to exercise reasonable care, (ii) his intentional wrongdoing, or (iii) the product's failure to conform to his express warranty; failure to inspect the product will not constitute failure to exercise reasonable care if there was no opportunity to inspect the product or an inspection wouldn't have revealed the problem; product sellers are liable as manufacturers if the manufacturer is judgment-proof or not subject to service of process, in which case the statute of limitations is tolled until judgment is entered against the manufacturer; and rentors and lessors are not liable solely by reason of ownership.

104. Defense Based on Claimant's Use of Alcohol

It is a complete defense in a product liability action if the claimant was under the influence of drugs or alcohol and, as a result, was more than 50 percent responsible for the harm.

105. Misuse or Alteration.

Damages for which a defendant is otherwise liable under state or federal law are reduced in proportion to the percentage of harm caused by misuse or alteration of a product if such misuse or alteration was in violation of a manufacturer's warning or involved a risk that was or should have been known by an ordinary person who uses the product. Such damages are not reduced by the percentage of harm attributable to an employer who is immune from suit.

106. Statute of Limitations.

The Act creates a uniform, 2-year statute of limitations—product liability claims in all states must be filed within 2 years of the date the harm and the cause of the harm was, or reasonably should have been, discovered.

107. Statute of Repose for Durable Goods Used in a Trade or Business.

The Act creates a uniform 18-year statute of repose for harm (other than toxic harm) caused by durable workplace goods where the claimant has workers compensation coverage, with exceptions for general aviation, transportation of passengers for hire, and products with an express warranty of safety of life expectancy beyond 18 years.

108. Transitional Provision.

Claimants have a full year after enactment to bring a claim, regardless of the impact of the new federal statute of limitations or statute of repose.

109. Alternative Dispute Resolution.

Claimants and defendants are encouraged to use voluntary, non-binding ADR as available under state law.

110. Punitive Damages Reforms

Uniform Standard. The Act creates a uniform legal and evidentiary standard for punitive damages—the claimant must establish by clear and convincing evidence that the harm was the result of conduct carried out with a conscious, flagrant indifference to the rights or safety of others. Punitive damages are explicitly not created in states that do not otherwise allow them.

Bifurcation. Any party can request that punitive damages be determined in a separate proceeding and that evidence relevant only to the punitive damages determination not be introduced in the underlying action.

Small Business Limit. Punitive damages awards against small businesses may not exceed 2 times the amount of compensatory damages or $250,000, whichever is less. Small business is defined to cover entities with 25 or fewer employees and less than $5 million in annual revenue. Limitation also applies to local governments and individuals with net worth under $500,000.

111. Liability for Certain Claims Relating to Death.

Provisions regarding punitive damages will not apply for one year in states that, in wrongful death actions, permit recovery only for punitive damages.

112. Workers Compensation Subrogation

An employer or insurer may lose its lien against a judgment or settlement in a products liability case involving a workplace accident if the employer's conduct was a substantial factor in causing the claimant's harm—thereby providing an incentive for safer workplaces and ensuring workers receive full recovery for their injuries.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

A supplier of biomaterials (component or raw materials used in the manufacture of implantable devices) is permitted to seek early dismissal from claims unless he (i) manufactured the device; (ii) sold the device; or (iii) furnished materials that failed to meet contract requirements or specifications. In the event that the manufacturer or other responsible party is bankrupt or judgment-proof, a supplier will be brought back into the suit if there is evidence of his liability. Lawsuits involving silicone gel breast implants are expressly excluded.

TITLE III—LIMITATIONS ON APPLICABILITY; EFFECTIVE DATE

301. Federal Cause of Action Precluded.

No federal causes of action are created.

302. Effective Date.

The Act applies to all actions commenced on or after the date of enactment.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The distinguished Senator from South Carolina is recognized.

Mr. HOLLINGS. I thank the Chair. Mr. President, in a phrase, we ought to ''bail this buzzard.'' This bill ought to be killed outright. It is nothing more than a political farce. The distinguished Senator from West Virginia says 10 years; it is 20 years, really. What sustains a 20-year drive is nothing more than political polling. I was elected some 50 years ago, and if I have watched a dismaying trend, it is the lack of really addressing the true needs of a State or the Nation, and instead addressing the needs of the individual politician, as reflected in the political poll.

Now, Mr. President, right to the point. We all have heard Shakespeare's comment that Dick the butcher calls out in Henry VI, ''First, we must kill all the lawyers.'' That is in response to the intent of fomenting anarchy, imposing tyranny; and Dick the butcher, like Adolf Hitler himself, wanted to get rid of the lawyers first. Dick the butcher says, ''First, we must kill all the lawyers,'' because he knew that as long as you have lawyers standing for individual rights, you cannot have anarchy; you cannot have tyranny. But ask people about lawyers—until they need one; just like doctors, until they need one—and they will say get rid of all the lawyers. And over the 20-year period, I have kept my good friend Victor Schwartz in business. Maybe he will go out of business now with this jury-built nonsense called an amendment that we only got on yesterday, and I haven't had a chance—that is why I have been scurrying around here at the desk—to pick up the thrust of this latest assault.

But back to the initial point—we have been taken over by the pollsters.

Only the week before last, the House of Representatives, the most central organ of our representative government, the body that controls the purse strings, voted overwhelmingly to do away with tax revenues, some $970 billion—just gut the source to pay the bills—that we are going to spend and spend and spend. They use substitutes now of borrowing from yourself. We passed section 13301 of the Budget Act to forbid it. They disregard it regularly, borrowing so much from Social Security, the highway trust fund, the airport trust fund, the civil service pension fund, the military retirees pension fund, and the Federal Financing Bank—at this point over $111 billion—to bring about talks of surplus.

In fact, this year we are spending over $111 billion more than we are taking in—a deficit, if you please. But with all of the jargon around and the news media coverage that is supposed to educate and illuminate and keep us to the truth, politicians have joined in the conspiracy. They babble ''surplus, surplus''— everywhere they call ''surplus.'' Well, there isn't any surplus.

Of course, this bill here is intended strictly to get at the lawyers—not as the distinguished gentleman used the expression of ''in the American tradition.'' ''In the American tradition,'' Heavens above. The American tradition, Mr. President, has been for the

States to regulate our torts. They have done so commendably. There isn't any question. All the farcical preambles—they try to really get away from the preambles and just some dribble about interstate commerce. I use the expression ''dribble'' and otherwise, because we know otherwise.

The reality, heavens above, is that we have a great economy and booming small businesses. The National Federation of Independent Businesses says small businesses are having the best of times. My staff completed a Lexis-Nexis search for small businesses that couldn't operate on account of product liability. You know what—they couldn't find any large and serious cases against small businesses. But I presume during the debate this legislation's supporters will bring us some, and we will see how many they bring.

The fact remains that there isn't a problem. But there is a political interest. There is a political problem. Oh, yes. We have to say we did something—we did something to get rid of the lawyers. We showed those lawyers. And, as a result, they not only voted away the tax system—now here on the Senate side for a nonproblem they come up and talk about the American tradition whereby they ask, and the gentleman says, ''There goes that trial lawyer crowd.'' You are right. They are the ones who have really been keeping the system honest. They haven't succeeded but in 27 percent of the product liability cases. But they still, when they have the clients who have been injured, try to keep the system honest. And what happens is that we have the States here—not only the trial lawyers but we have the States—and the American Bar Association.

So I am very proud to stand here with the State legislature. Don't tell me about the Governors. I have been one of those, just like the Senator from West Virginia. And when we had Democratic Governors, then they voted against this thing right on down the line. Now the Republican Governors, the last time they got together and even bothered to take action was 6 or 7 years ago. They are not really bothered by it. But the State legislatures are bothered by it.

We have an update here of June 18, less than a month ago. Here is what they really said when this was proposed, again on this particular bill, before with the amendment, which is to be introduced, I take it, later on. This is from the National Conference of State Legislatures:

As you know, product liability legislation, in some form, may come to the Senate floor before Congress adjourns in November. I urge you, on behalf of the National Conference of State Legislatures, to vote against any such bill, for the simple reason that this is an issue best resolved by state legislatures.

A good deal of lip service is given today to the advantages of our constitutional system of federalism and to the advantages of devolving authority to the states. But, from the point of view of state legislators, this rhetoric belies the reality of an accelerating trend toward concentration of power in Washington. Every year, Congress passes more laws and federal agencies adopt more rules that preempt state authority. Little consideration is given to the cumulative effect of preemption piled upon preemption. Little thought is given to the shrinking policy jurisdiction of state legislatures.

Moreover, little consideration is given to whether state legislatures are responsibly exercising their authority. The threat to preempt state product liability law, for example, comes at a time when state legislatures have been particularly active in passing reform bills. As the attached article from the June issue of The States' Advocate shows, over the past ten years, thirty-three product liability reform bills have been enacted in the states. In addition, states have been reforming their tort law generally. As of December 1996, 34 states had revised their rules of joint and several liability and 31 had acted to curb punitive damages.

Just as the preemption contemplated by a national products law is unprecedented, so the intrusion on the operation of state courts is both unprecedented and disturbing. National products standards would be grafted onto state law. In a sense, Congress would act as a state legislature to amend selected elements of state law, thus blurring the lines of political accountability in ways that raise several Tenth Amendment issues. Given the Supreme Court's recent interpretation of the Tenth Amendment in Printz v. United States, the legislation might even be unconstitutional.

Our constitutional tradition of federalism deserves more than lip service. It's time to vote ''no'' on product liability and similar proposals to unjustifiably preempt state law.

That is from the president of the conference and the president-elect of the National Conference of State Legislatures, which now has been updated in a letter to this Senator dated June 18, 1998.

DEAR SENATOR HOLLINGS: I write on behalf of the National Conference of State Legislatures in opposition to S. 648, a bill that would supplant state liability laws with federal standards.

For the National Conference of State Legislatures, this is a simple matter of federalism and states' rights. Tort reform is an issue for state legislatures, not Congress. There is no precedent for such a federal intrusion into such an important area of civil law. Moreover, we regard it as highly inappropriate and perhaps unconstitutional for the state courts to be commandeered as instruments of federal policy in the fashion contemplated by S. 648.

The states have made considerable progress in reforming their state law, including product liability law, over the past decade. State legislatures are in a good position to balance the needs of the business community and those of consumers, not just in the abstract but in a way that reflects local values and local economic conditions. This is as the Founders intended it when they established a federal republic rather than a unitary state.

The issue then is not finding the right compromise between consumer and business interests in crafting the language of S. 648. The issue is whether we will take a giant step toward nationalizing the civil law, to the detriment of our constitutional system of Federalism. Again, please oppose S. 648.

That is from the Conference of State Legislatures, which, of course, is once again over this 20-year period bolstered by the American Bar Association in a letter dated July 1, 1998.

DEAR SENATOR: We understand that on July 7, broad federal product liability legislation will be the subject of a cloture vote on the Senate floor. I am writing to you to express the American Bar Association's opposition to S. 648, the bill reported by the Commerce Committee, and S. 2236, the compromise proposal introduced by Senators GORTON and ROCKEFELLER. The ABA believes that improvements in the tort liability system should continue to be implemented at the state level and not be preempted by broad Federal law.

S. 648 and S. 2236, which would federalize portions of tort law, would deprive consumers in the United States of the guidance of the well-developed product liability laws of their individual states. This legislation would also deprive the states of their traditional flexibility to refine carefully the product liability laws through their state courts and state legislatures.

The ABA has worked extensively to improve our civil justice system, including developing extensive recommendations on punitive damages and on other aspects of the tort liability system for consideration at the state level. Broad federal product liability legislation, however, would constitute an unwise and unnecessary intrusion of major proportion on the long-standing authority of the states to promulgate tort law. Such preemption would cause the whole body of state tort law to become unsettled and create new complexities for the federal system. Unequal results would occur when product liability litigation is combined with other types of law that have differing rules of law. An example of this would be a situation where a product liability claim is joined with a medical malpractice claim. If state tort laws differ from the federal law in areas such as caps on punitive damages, conflicts and uncertainly would likely result; one defendant in an action could well be treated entirely different than another. Having one set of rules to try product liability cases and another set of rules to try other tort cases is not consistent with the sound and equitable administration of justice.

The ABA opposes the product seller provisions of section 103 of S. 648 and S. 2236 because those provisions remove the motivation of the only party with direct contact with the consumer, the seller, to ensure that the shelves in American businesses are stocked only with safe products. Seller liability is an effective way of maintaining and improving product safety. Manufacturers traditionally rely on sellers to market their products. Through their purchasing and marketing power, sellers have influenced manufacturers to design and produce safer consumer goods.

Ambiguity in the language of S. 648 and S. 2236 may result in unintentionally eliminating grounds for liability which promote safety. For example, the two bills expressly eliminate a product seller's liability for breach of warranty except for breach of express warranties. This Uniform Commercial Code, long regarded as a reasonable, balanced law, holds sellers responsible for breach of implied warranties as well. By their vague and ambiguous language, S. 648 and S. 2236 may result in preempting these long established grounds of liability.

We urge you to vote no on federal product liability legislation as it is an unwise and unnecessary intrusion on the long-standing authority of the states to promulgate tort law.

Now, Mr. President, we all know the majority crowd and how they came to power in 1995. The election in 1994 said that Contract sounds pretty good, and

one of the big things about that Contract was regulation, regulation, regulation. They wanted to diminish regulation. Well, heavens above, as they said in the American Bar Association letter, you have two bills expressly eliminating a product seller's liability and thereby coming and taking the Uniform Commercial Code and standing it on its head.

So we surgically are running into the Uniform Commercial Code, tried and true at the State level, and you have the most complex regulatory mess you have ever seen. All in the attempt to diminish litigation, they compound it. Oh, yes, all in essence to protect the 10th amendment.

The first vote we had was the particular vote with respect to unfunded mandates upon the States, and what-have-you. And here is an unfunded mandate, constitutional mandate, if you please, because they don't give a Federal cause of action. They come with an unfunded mandate on the States and say we know best up here in the Congress in the light of the most dynamic economy we have ever seen.

Where is Mr. Greenspan's statement.

Federal Reserve Board Chairman Alan Greenspan offered a decidedly upbeat assessment of the Nation's economic health yesterday—

This is dated June 11—

pronouncing the current expansion ''as impressive as any I have witnessed in nearly half a century of daily operation.''

Where is the small business response? Let's get the rebound. This is another quote.

''The rebound in the optimism index, coupled with other national economic indicators, suggests economic growth for this year will be a lot closer to last year's level than many have predicted,'' said National Federation of Independent Business Foundation Chief Economist William Dunkelberg.

Far from worrying the expansion has just about played itself out, more and more small business owners feel the best is yet to come.

Dunkelberg noted that, ''Small business capital investment remains exceptionally strong.''

On and on, on and on, Mr. President. There is no foundation for claims that trial lawyers are undermining small business entrepreneurs. That is why I say this is a political farce responding to the political poll. It is not responding to the needs of small business. It is not responding to the needs of the States, their inability to handle product liability law. It is in response to the needs of the political poll and the drive of trying to get rid of trial by jury and lawyers.

They know, in business, they are in their heyday here, and they are onto a real binge here, having a wonderful time—that they can come in now with this particular Congress ready to do away with the income tax—let's do away with the lawyers and trial by jury. Whoopee. They get Gallup at the White House, and the White House follows the polls too, so they get together on this jury-built thing that is really an embarrassment for a lawyer to read.

They have a statute of repose in here for the individual but not for the business, so the individual injured is barred by the statute of repose, but the business he is working for, they can sue for the particular product and get a verdict. I never heard of a more selfish instrument than that presented here, just crassly selfish, trying to do away with trial by juries, the States and lawyers. Pell-mell, in a rush, this body now just writes in such things.

And what about tobacco? Here we have been debating for a month one of the most injurious products that everybody agrees upon. Do you know what? This bill says exempt tobacco. The unmitigated gall of the White House and these authors that write this thing—it is just unforgivable to come forth here, now, after 4 weeks and everybody charged up, we are going to do something about the victims of tobacco; how it is habit-forming and everything else of that kind, so many deaths, more than heart attacks, more than cancer, more than all the rest, the injury—the unmitigated gall to come and have a product liability that exempts tobacco. You would never get my name on such a charade, a political farce as this, all in the name of the political poll. Kill all the lawyers, that is right. Just kill all the lawyers. So we really got it.

Small businesses are not asking for it. The States are not asking for it. They are trying to force Federal law upon the States over their objections. I was just amazed when the distinguished Senator from West Virginia started talking about competition with Japan. I cannot keep them out of my State. They are running all over me. We just broke ground for Honda at Timmonsville. We just broke ground for another division of Fuji photographic equipment and the little speed cameras. They make 60,000 a day. This is the fourth increment of Fuji, a $1 billion investment there. There are 58 Japanese plants, 100 German plants—foreign competition? They are buying us up. Yet they find out we cannot compete with the foreigners.

I make a habit of visiting these industries. We shake hands, of course, with all, if they will allow us in the plant. I went through the GE plant.

Incidentally, they think we are nothing but textiles. Tell them keep on thinking. We lost, since NAFTA, 24,000 textile and apparel jobs in South Carolina. Little South Carolina lost 24,000 textile and apparel jobs. That is from the National Bureau of Labor Statistics as of the end of April this year. And we have had, in May-June, several other closings. So that is the April figure by the Bureau of Labor Statistics. We were proud of those jobs. We hate to lose them. But we have these other industries here and they are exporting like gangbusters.

I was in that GE plant. I would say of those gas turbines, almost 100 percent are exported. One turbine was ready for delivery at Riyadh, Saudi Arabia; another one was ready for delivery to Tokyo, Japan. The same is true for all of these Torrington and other industries. They are in the context of manufacture.

I said do you have any problem here with product liability? They almost—well, at Bosch they got insulted. ''What do you mean, product liability?'' They went over there and showed me the antilock brake that they got a contract for from Mercedes, Toyota, and all of General Motors. They said, ''Here is a number. We know it immediately. We never have had product liability. We practice safety, Senator.'' As if I had insulted them with the question.

We have a result from these wonderful trial lawyers that nobody wants to talk about. We have the safest society in the entire world. Let's talk about competitiveness. We have Europe. The Pacific Rim—economically, competitively on the ropes. And here they want to put in a bill to compete with Japan, and Japan is coming here and saying we love it in America. The other States have always had Japanese plants coming. I have yet to have one of them say I can't come because of your product liability and the litigation explosion and all, torts. What is all these silly expressions they have here in these preambles? Here is what they have been referring to ever since last year: that the civil justice system is overcrowded, sluggish, and costly.

Mr. President, what is the actual fact? The National Center for State Courts, on State civil filings, their most recent statistics show that product liability cases constitute only 4 percent of all State tort filings, and a mere 36/100 of 1 percent of all civil cases. Explosion? Come on. Where is the support? They just use this language around here that the distinguished Senator from Washington put in, these preambles here, ''excessive, unpredictable and often arbitrary damage awards.''

What does the Justice Department say here? In a recent report, they validate all the studies and the witnesses who appeared before our committees, and said, ''Juries nationwide have become much tougher on plaintiffs.'' According to the Department of Justice report, ''Plaintiffs prevailed in only 27 percent of the product liability cases that were filed in Federal court between 1994 and 1995.''

In 1992, Professors James Henderson, a supporter of tort reform, and Theodore Eisenberg, of Cornell University, released a study, ''Inside the Quiet Revolution in Products Liability,'' which also found ''notable declines in the number of product liability cases filed, as well as significant decreases in the size of awards.'' The study concludes that:

By most measures, product liability has returned to where it was at the beginning of the decade.

The study confirmed Professors Henderson and Eisenberg's findings in an earlier study which found:

A quiet revolution away from extending the boundaries of products liability and toward placing significant limitations on plaintiffs' rights to recover in tort for product-related injuries.

And then the other preamble about all the punitive damages.

There is another study. The American Bar Foundation conducted a nationwide study overseen by Dr. Steven Daniels of 25,000 civil jury awards, and it found that punitive damages were only awarded in 4.9 percent of the cases reviewed. Can you imagine that, only 4.9 percent?

He stated that the debate over punitive damages ''changed in the eighties as the part of an intense, well-organized and well-financed political campaign by interest groups seeking fundamental reforms in the civil justice system benefiting themselves.''

Did you hear that?—A ''political campaign by interest groups.''

Then the American Bar Foundation went on to state that this ''politicization of the punitive damages debate makes the debate more emotional and manipulative and less reasoned. The reformers appeal to emotions, fear and anxiety in this political effort, while avoiding reason and rational discourse.''

He concluded that punitive damages were not routinely awarded, were awarded in modest amounts, were awarded more often in financial and property harm cases than in product liability cases, which, of course, is like Pennzoil suing Texaco with a $12 billion award in Texas, which was more than all the oil product liability verdicts given cumulatively since the beginning of product liability law. Just add them all up, and you will never get to $12 billion. But there it goes from the American Bar on down.

I think there was one particular study that showed there were only 350 punitive damage awards. I want to find out the exact period of time. This is Professor Rustid of the Suffolk University Law School and Professor Thomas Kearney of Northeastern University. The Supreme Court recently referred to this report. This is our U.S. Supreme Court:

The most exhaustive study of punitive damages . . .

Professors Rustid and Kearney reviewed all product liability awards from 1965 to 1990 in both State and Federal courts. During that time, punitive damages were awarded in only 355 cases—355 cases. That is what we find, as a matter of Federal interest, to violate the tenth amendment, to violate the Republican contract of trying to get Government back to the people, trying to preserve and not have unfunded mandates upon the States.

We can go on and on, Mr. President. But what really has happened—and it is why this Senator is somewhat disarmed because I have seen it occur over the past 20 years—Mr. Victor Schwartz with the National Association of Manufacturers has buddied up now with the Chamber of Commerce, my friend, Tom Donahue. He is a fighter, and I respect him. Also, the Business Roundtable and the Conference Board, they seek out the candidates before they even get here.

They say, ''We would like to help you, but are you for tort reform?''

''Of course.''

With respect to the general expression ''tort reform'' and ''torts''—''Yeah, yeah, yeah, I'm for tort reform.'' So you see them marching like sheep up to the voting table down in the well voting, by gosh, to stop debate on one of the most heinous bills that has ever been presented in the U.S. Senate, because politically they remember their campaigns and politically they were asked and politically they answered, ''Yes, I'm for reform,'' and they know that if they don't vote that way, some opponent is going to come and say, ''Here is what you said and then flip-flopped.''

They didn't even know the facts of the case. In essence, the jury is fixed. The jury is fixed, Mr. President, before I can get to them, before the National Conference of State Legislatures can get to them, before the American Bar Association can get to them, before the Supreme Court citing the most exhaustive study on punitive damages can get to them.

There are no facts to support this particular initiative. This is just jerry-built from the word go. They say, ''Let's remove the seller from strict liability on toxic''—by the way, they have some very dangerous language in here, because some of the lawyers know how to word this language to get rid of the Dalkon Shield cases.

Let me quote this particular finding:

The difficulty in using the toxic nature of a product as a means of statutorily differentiating between products covered by the statute of repose is highlighted by the following scenario that occurred in an asbestos case brought against Owens-Corning Fiberglas Corp. In their opening statement, the Owens-Corning Fiberglas Corp.'s counsel pronounced that their product, Kaylo [K-A-Y-L-O, Kaylo] an insulation product containing 1.5 percent amosite and chrysotile [C-H-R-Y-S-O-T-I-L-E] asbestos was not toxic. OC's counsel relied on the 1964 article in the Journal of the American Medical Association that stated that asbestos was not considered toxic because it does not produce systemic poisoning.

I can tell you right now, that is trying to get rid of the asbestosis cases and the Dalkon Shield cases, when they give to women $250,000 for the stay-at-home mom. Where have I heard that expression, the ''stay-at-home mom''? Oh, they were so disturbed on tobacco for the stay-at-home mom who doesn't economically win anything. I never heard of the husband paying the wife a salary. Maybe that happens somewhere else. It doesn't happen in South Carolina, I can tell you that.

So there is no economic loss. You can come in with a Dalkon Shield case, be injured for life, never be able to reproduce, never have that family, and buy it off for $250,000. That is easy pickings, easy pickings.

Let me tell you, Mr. President, this thing is a dangerous measure, as well as a political farce. When they come out with, for example, punitive damages, I go back to that 1978 case. I remind my colleagues of the wonderful result of punitive damages.

In 1978, Mr. Mark Robinson in San Diego brought the Pinto case against Ford Motor Co. The verdict—the Presiding Officer is a good trial lawyer—the verdict, I think, was $3.5 million actual damages and $125 million punitive damages.

Now, Mr. Robinson had not been able to collect a red cent of that $125 million, but, boy, oh, boy, hasn't that brought safety practices galore, saving lives, saving injury galore over the past 20 years.

They had a recall; it was on the radio this morning; Ford Motor just recalled—I know they recalled about 1.5 million about 2 months ago because the wheels were coming off, but they had another recall, here, of how many vehicles involved in this—another 11,200 recalled yesterday. I remember Chrysler, at the end of the year, recalled 1.5 million hatchbacks. We will get in the debate the National Safety Transportation Administration's statistical recalls, but recall upon recall upon recall didn't impoverish the businesses but it sure made safer this society in which we live.

I came when we were talking about toxic fumes of the Love Canal up there in Buffalo, NY. We put in the Environmental Protection Agency, the impact statements, and they are a matter of habit now. We look environmentally, and we have the dump costs and everything else that has to take care of in this Congress, I hope before we leave. But it has been a wonderful result, so that environmentally we know now that we are not inhaling the fumes and otherwise on account of the Environmental Protection Agency.

We then had the little babies burning up in the cribs—flammable blankets. Since my time, we have instituted a Consumer Product Safety Commission. At one time, J.C. Penney's took me up to their safety lab in New York and showed how, not just blankets, but toys and the various products that they sold, they were testing in this particular lab to make sure, so they put in safety ahead of giving it to the seller and otherwise. So we got the Consumer Product Safety Commission.

And right to tobacco. Of course, they haven't won a class action. That was an individual suit down in Florida; all the rest have been turned aside. So when they whine on the floor of the U.S. Senate, ''Why could you give this particular industry immunity from liability? Why are we doing this?''—because the jurors of America have given them, time and time and time again, immunity. They say, look, the Congress, in its wisdom, has required ''smoking is dangerous to your health''

notification on every one of those packs of cigarettes. It is your assumption of risk. You could have stopped. More people have stopped smoking than have started smoking in America this minute.

So the jurors, in their wisdom—but, oh, no, they want to exempt tobacco on the one hand here, and the cases brought by the attorneys general and the trial lawyers have done more to save people from cancer than Dr. Koop and Dr. Kessler and the American Cancer Society for the last 30 years that I have been up here. They really have gotten us aware, and more people have stopped smoking, like I say, than are smoking this minute in the United States of America.

So when we go to the hearings where we used to have an ashtray and the room was clouded with smoke and my distinguished beloved former chairman, the Senator from Washington, Senator Magnuson, with that cigar right there—we don't have that anymore. But we don't have it not on account of Dr. Koop and Dr. Kessler but on account of the trial lawyers. They are the ones who got into the records. They are the ones bringing the truth out. They are the ones bringing the class action suits, bringing about settlements in Florida, Mississippi, Texas, and Minnesota, and they continue to bring the cases.

They had an orderly process to end all litigation and get a sweetheart deal in the interest of society whereby they would advertise negatively—we can't control their advertising under the first amendment, but they agreed to it—whereby they would have a lookback provision whereby we could come in and control that and fine them if they didn't control it. But instead, that case now is temporarily on hold—tobacco—and these particular authors want to make sure that tobacco, the most injurious of products, is exempted from this so-called product liability bill.

Mr. FAIRCLOTH. Mr. President, I rise in strong support of this bill, and it is long overdue. In a way, this is a tax cut bill, because it will cut the ''trial lawyer tax'' often referred to as the ''tort tax.''

The ''trial lawyer tax'' is equivalent to the amount of liability insurance that people pay to protect themselves from trial lawyers. They pay it because no one is safe anymore.

We're looking at product liability cases here, but the problem extends far beyond product liability, and I remain committed to broad civil justice reform.

If any Senators think this narrow bill is sufficient, let me mention a few recent verdicts from the tort capital of the United States, New York City. I am convinced that Senators will think twice before they put civil justice reform on the back burner after they hear these horror stories.

A mugger on the New York City subway who was preying on the elderly became a multimillionaire when a Manhattan jury awarded him $4.3 million for being shot as he fled from the scene of a crime. A Bronx jury gave $500,000 to a woman who broke her toe in a pothole. Another Bronx jury awarded $6 million to the family of a drunk who fell in front of a subway train after the jury found the drunk wholly without fault. Another jury in a medical malpractice case awarded $27 million to an injured patient and another $6 million to the members of his family—even though they hadn't even sued.

Mr. President, let me return to the subject at hand, which is limited product liability reform. The tort system is really a ''trial lawyer tax'' that costs American consumers more than $132 billion per year.

This is a 125 percent increase over the past 10 years. In fact, between 1930 and 1994, tort costs grew four times faster than the growth rate of the economy.

This tort tax costs the average American consumer $616 per year. The civil justice system, in effect, deputizes the trial lawyers as tax collectors. Further, because they often sue under a contingent fee arrangement, the trial lawyers are bounty hunters.

They all want to bag the big case—the trophy case—and raid those ''deep pockets.''

The U.S. tort system is the most expensive in the world and costs 2.2 percent of gross domestic product.

This is a jobs issue, Mr. President, because tort reform is good for economic development. The evidence is clear: when States pass tort reform, productivity increases, and employment rises. Let me offer a few examples of the ''trial lawyer tax'' in action. A heart pacemaker costs $18,000; $3,000 of that is the ''trial lawyer tax.'' A motorized wheelchair averages $1,000; $170 of that is the ''trial lawyer tax.'' A doctor's fee for removing tonsils averages $578; $191 of that is the ''trial lawyer tax.'' A two-day maternity stay averages $3,367; $500 is the ''trial lawyer tax.''

These are the costs of the ''trial lawyer tax.'' Now let's contrast that with the benefits of product liability reform.

Before federal legislation was enacted, production of single engine aircraft had fallen 95 percent from the previous highs of the late 1970s.

Plants were closed and more than 100,000 jobs were lost. In 1986, Cessna Aircraft Company discontinued production of the single engine aircraft. However, Cessna pledged that it would resume production if Congress passed product liability legislation to protect the general aviation industry from the predatory practices of the trial lawyers.

When the Congress finally passed the General Aviation Revitalization Act, Cessna invested $55 million in facilities and equipment, and it now employs 650 people and plans to double that number.

That is the choice, Mr. President, jobs or lawsuits. Money for working Americans or rapacious trial lawyers. Productivity or litigation.

I'll side with working Americans, not fat-cat trial lawyers, and I hope the Senate will invoke cloture on this landmark bill.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

JUVENILE CRIME

Mr. BROWNBACK. Mr. President, Today, Senator LIEBERMAN and I will host a policy forum entitled ''The Young and the Violent: What is Behind the Spread of Juvenile Violence—and What Can Be Done About It?''

The horror of the killings in Jonesboro, Arkansas; Paducah, Kentucky; Edinboro, Pennsylvania, Springfield, Oregon; Fayetteville, Tennessee, among other places, shattered forever the illusion that ''it can't happen here.'' The young and the violent are found in small towns as well as big cities, and their numbers, as well as their crimes, are growing.

We will hear today from some of the most respected criminologists in the nation—as well as those who are working to transform their communities and solve their problems locally. Their insights on the causes, catalysts and consequences of the spread of juvenile crime are helpful in grappling with the most important questions of our time, namely: why has crime risen and civility declined? How have we failed to civilize our children? What is happening to our national character?

Make no mistake, our culture has changed radically over the past few decades. Since the mid-1960s, violent juvenile crime has increased more than 500 percent. And even though teen violence has dropped over the past three years, teen murders have jumped dramatically since even the early 1980s—and there is reason to believe that they will continue to increase.

Not only have the rates and number of juvenile crimes increased, but they have changed in nature as well. Juvenile crime has grown increasingly predatory—where teens kill strangers for the most trivial of matters—a jacket, or a dirty look—or even worse, for sport.

Moreover, the young and the violent are found in rural and suburban areas, as well as the inner cities. Gangs and guns are ever more visible in our schools. Fistfights begin to seem

quaint by comparison. Violence that was once unthinkable now fails to shock. In our schools, and across the nation, we have, to borrow a phrase from my colleague Senator MOYNIHAN, ''defined deviancy down.''

This forum seeks answers to the questions of why kids kill, why teen violence is on the rise, and what can be done about it. Of course, there are no easy answers. But there are a lot of contributing factors.

Perhaps the single most important factor is the continued breakdown of the American family. Today, almost a third of all children are born out of wedlock. Around half of all children will live in a broken home before they turn 18. Tens of millions of little boys and girls will grow up without a loving and committed father.

There are other cultural warning signs. Popular entertainment continues to glamorize violence. Movies and computer games grow ever more gory and grisly. Chart-topping songs feature lyrics celebrating torture, rape, and murder.

Glorifying violence in popular entertainment—whether it be music, or movies, or video games—is dangerous. It is dangerous because a society that glorifies violence will grow more violent.

We had a hearing recently on the issue of music lyrics. One person made the point along this line and said that if John Philip Sousa's music makes us feel patriotic, and if other music, like Frank Sinatra's, makes us feel romantic, what does music that is violent make us feel? If it is hateful, if it is anti-women, if it is oriented towards death and destruction, we think that is going to make us feel that way—that music will just wrap around your soul and cause some distortions to take place.

But most importantly, this discussion will focus on ways to prevent, curtail, and combat teen violence—whether on the Congressional, state, local, or societal level.

I hope that we will gain insight not only on the proper government policies to deter and combat crime, but also on non-governmental initiatives—including those by churches, faith-based organizations, and charities—that have reached out to troubled youth, and succeeded where government has failed.

One of the great things about our nation is that for each of our problems, there are people who are living and working the solution. In churches, youth groups, schools, charities, and families across the nation, miracles are every day taking place. These groups show what is possible by what is actual—that is, their real-life success stories should inspire us with the possibilities.

We in Congress need to enact wise and prudent crime-fighting policies. But we also need to allow these small, often faith-based groups to touch the souls and transform the lives of those in need.

Mr. President, I know that you, as the Presiding Officer and a Senator in this body, know full well the problems that we are facing in this culture and in this society, and the increase in the violent nature of what is happening here. We are all troubled and very perplexed by it.

What we are hoping with this discussion and policy forum that Senator LIEBERMAN and I have today is that we will be able to begin the national dialog—actually not only begin but continue the national dialog—about what each of us can do now to become a more civilized country to stop the violence from growing.

Abe Lincoln made a point that the United States frequently is a nation that moves to a common thought. I think today we have decided we have focused in on saying this is a major problem. Youth violence is a major problem. What can each of us in our individual capacities and our capacities in this body, or in other places—in our communities and homes, in our churches and synagogues—do to solve this problem?

That is what we are going to focus on today—some of the individual solutions that have taken place, what are appropriate governmental policies. But, more importantly, let's get to the common thought on how to start solving this growing problem in America.

I invite my colleagues to tune in to this policy forum that we will have starting today at 2:30. I hope some of them will be willing to join us and follow the subsequent proceedings as we pick up this debate and try to carry it on forward.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. 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. ROCKEFELLER. Mr. President, I ask unanimous consent that the session be put into recess until after the caucuses.

The PRESIDING OFFICER. Is there objection to that request?

Mr. BROWNBACK. I object to that.

The PRESIDING OFFICER. Objection is heard.

Mr. ROCKEFELLER. I withdraw the request.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. 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. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is debating a motion to proceed on S. 648.

Mr. LEAHY. I thank the Chair.

JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, I noticed we were in a quorum call. I was going to mention a situation that we have today that we may want to think about as we consider moving to proceed. Tonight much of America is going to observe a midsummer tradition, the major league baseball All-Star Game.

A number of teams are having outstanding seasons, including the New York Yankees, Atlanta Braves and San Diego Padres. Adding special interest to this season is the possibility that the single-season records for home runs and runs batted in may be broken.

Now, when Roger Maris and Mickey Mantle were chasing the home run record in 1961, they finished the first half of the season at 33 and 28 homers, respectively. At this year's All-Star break, Mark McGwire already has 37 homers, Ken Griffey, Jr., 35, and Sammy Sosa 33, as they head toward Maris' record of 61.

Some may recall from baseball history what Babe Ruth said when he was asked about his $80,000 contract for 1930—it was 10 years before I was born—and at the time it was the highest salary ever agreed to be paid to a baseball player. In a response to a reporter's comment that he was earning more money than the President of the United States, the Babe remarked, ''Why not? I had a better year than he did.''

So, too, when the American people consider how the Senate is meeting its responsibilities with respect to judicial vacancies, we are going to have to conclude that Mark McGwire is having a better year than the Senate. In light of the All-Star Game being played tonight, let us compare the Senate's pace in confirming much-needed Federal judges to Mark McGwire's home run pace. The Senate got off to an early lead this year. From January through the end of April, the Senate confirmed 22 judges. The Senate's pace, though, slowed in May. We have not been able to generate any real momentum through the spring and early summer. The number of Federal judges confirmed all year is only 33.

Of course, the Senate's early lead on McGwire started to vanish once the baseball season started on March 31, which happens to be my birthday. It took ''Big Mac'' only 10 weeks to match the Senate's total. By June 8 he had caught and passed the Senate's total and he has been looking back at us ever since. McGwire is on a pace to shatter Maris' record and total 70 home runs in a single season.

You can see on my chart: July—judges confirmed by the Senate, 33; McGwire's home runs, 37; October projections—for the Senate only 51; but for McGwire, 70.

Unfortunately, the Senate is nowhere near a record pace. As recently as 1994—coincidentally, the last year in which the Senate majority was Democrats—the Senate confirmed 101 judges. It has taken the Republican Senate three years to reach the century mark and to do what a Democratic Senate was able to achieve in a single session.

As Chief Justice Rehnquist—and I have no idea if like Justice Blackmun, he is a baseball fan or not—but he correctly observed: ''The Senate confirmed only 17 judges in 1996 and 36 in 1997, well under the 101 judges it confirmed in 1994.''

This chart also shows you where the Senate is today as compared to our total of judges confirmed in 1994, when we had confirmed 44 judges in July on our way to 101 confirmations. That out paced even Mark McGwire. Here again are our October projections: Judges confirmed at the current pace, probably around 51. I think Mark McGwire is on a pace to get 70. And, of course, the Congress, when last controlled by the Democrats confirmed 101.

I hope that some think about this when we are watching the All-Star Game tonight. Would not the Senate be more productive if we could do just a little more and get a bit closer to the pace being set by some of our favorite baseball players? We are supposed to be the stars of the legislative firmament, but we certainly aren't All-Stars when it comes to this.

We began this year with the criticism of the Chief Justice of the U.S. Supreme Court ringing in our ears: ''Vacancies cannot remain at such high levels indefinitely without eroding the quality of justice that traditionally has been associated with the federal judiciary.''

Both the Second Circuit and the Ninth Circuit have had to cancel hearings over the past couple of years due to judicial vacancies. Chief Judge Winter of the Second Circuit has had to declare a circuit emergency and to proceed with only one circuit judge on their three-judge panels.

In response to the criticism of the Chief Justice, the Republican leadership has argued that the Senate is on a steady course and making steady progress. So was the Titanic as it headed towards the icebergs. It was only in the last 9 weeks of the last session that the Senate achieved any real progress. In that period, in conjunction with the President's national radio address on the crisis, the Senate confirmed 27 judges in 9 weeks.

I began this year challenging the Senate to maintain that pace. Instead, we confirmed only 33 judicial nominees in 18 weeks in session instead of the 54 we would have confirmed if we had maintained last year's pace.

I have reissued my challenge for the last 10 weeks in session, which are all that remain to the Senate this entire year. We can confirm another 30 nominees by the end of the session if the Senate will work at the pace it achieved at the end of last year.

We have held only seven judicial nomination hearings all year. I recall in 1994, the most recent year in which the Democrats constituted the majority, the Judiciary Committee held 25 judicial confirmation hearings, including hearings to confirm a Supreme Court Justice, which automatically take far, far more time than others. That is 25 hearings as compared with seven.

They had no vacancy on the Supreme Court this year, but nine of the current nominees for the courts of appeals need their hearings and they need them promptly. We have 25 currently pending nominees to the district courts, and only one of those is less than 30 days old.

We should not tolerate upwards of 73 vacancies in the Federal courts, with more on the horizon. Almost one in 10 judgeships remains unfilled, and from the looks of things, they are going to remain unfilled into the future. The Judiciary Committee needs to do a better job, and the Senate needs to proceed more promptly and to consider nominees reported to it.

The nomination held the longest on the Senate calendar is Judge Sonia Sotomayor for a critical vacancy in the Second Circuit. I have already mentioned that in that circuit, which is my own, the Chief Judge has declared an emergency situation. Chief Judge Winter recently issued his annual report in which he notes that the court now has the greatest backlog it ever had.

Ironically, it was Judge Sotomayor who issued a key decision in 1995 that brought an end to the work stoppage in major league baseball. How wonderful it would be if today, at the time of this year's All-Star Game, the Senate would end its work stoppage with respect to her nomination and proceed to consider and confirm her.

This brings me back to the All-Star Game, Mr. President. We will applaud these outstanding players and we will cheer the baseball teams represented. As a New Englander, I historically applaud the Red Sox, no matter how they do—although they had a pretty good first half. Every one of us has favorite players and teams. We stick with them even when they fall behind. But none of these teams has fallen as far behind where they should be as the U.S. Senate has, none has been so disappointing.

Let us try harder. Let us try to confirm at least as many judges as Mark McGwire is going to hit home runs. If we do not want to use the Constitution as an inspiration, if we do not want to use judicial vacancies and the harm they cause as an inspiration, if we do not want to use the potential collapse of the Federal judicial system as an inspiration, maybe some can take inspiration from America's pastime and say, ''If Mark McGwire can do it, so can the U.S. Senate.''

We have not yet, but hope springs eternal. Let us take his effort and commitment as inspiration. Let us not keep hitting foul balls. Let the Senate hit a home run now and then. It would be a home run for the American people if the Senate stopped holding the Federal judiciary hostage. We should help fill these vacancies. Let's do it.

We have 45 judicial nominations pending, some of whom were first received over three years ago. There are currently nine qualified nominees on the Senate calendar who have been reported favorably by the Judiciary Committee.

In addition, there are 36 nominees pending before the Judiciary Committee and more nominees are being received from the President every week. I hope that the Committee will schedule prompt hearings for each of the judicial nominees currently pending in Committee and for the nominees we expect to be receiving over the next several weeks so that they may have an opportunity to be considered by the Committee and confirmed by the Senate.

At the conclusion of the debate on the nomination of Merrick Garland to the United States Court of Appeals for the District of Columbia, as 23 Republicans were preparing to vote against that exceptionally well-qualified nominee whose confirmation had been delayed 18 months, Senator HATCH said ''playing politics with judges is unfair, and I am sick of it.'' I agree with him. I look forward to a return to the days when judicial nominations are treated with the respect and attention that they deserve.

I calculate that the average number of days for those few lucky nominees who are finally confirmed is continuing to escalate. In 1994 and 1995 judicial nominees took on average 86 or 87 days from nomination to confirmation. In 1996, that number rose to a record 183 days on average. Some would discount that number because it was a presidential election year, but even they cannot ignore that it shattered the previous record.

Last year, the average number of days from nomination to confirmation rose dramatically yet again, and this in 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 is still growing and the average is still rising to the detriment of the administration of justice. The average time from nomination to confirmation is now over 260 days. That is three times the time it took before this partisan slowdown began in earnest.

The Chief Justice of the United States Supreme Court has called the number of judicial vacancies ''the most immediate problem we face in the federal judiciary.''

I have urged those who have been stalling the consideration of the President's judicial nominations to reconsider and work to fulfil this constitutional responsibility. Those who delay

or prevent the filling of these vacancies must understand that they are delaying or preventing the administration of justice. Courts cannot try cases, incarcerate the guilty or resolve civil disputes without judges.

The Republican Senate leadership seems to be operating under several false assumptions. As recently as June 22, they have stated that there is no problem with the scores of longstanding judicial vacancies because the federal judiciary has 767 active judges, which are more than the number of active judges sitting during the Reagan and Bush administrations.

Unfortunately, their statement fails to consider the enormous growth in the workload of the federal courts over the last two decades. The federal judiciary's workload was at least 60 percent lower than it is today when the Reagan-Bush administrations took office. The federal court's criminal docket alone is up from 28,921 cases in 1980 to 50,363 last year. That is an increase of over 70 percent in the criminal case filings in the federal courts.

Moreover, if the Republicans have their way, this Congress will add more and more cases to the federal courts' workload. Among their priorities are a products liability bill, a so-called ''takings'' bill and a version of a juvenile crime bill that each federalizes huge portions of what have traditionally been cases handled through state courts.

In recognition of the growing federal court workload, Congress authorized an additional 85 authorized judgeships back in 1984. The vacancies were then filed without delay by Congress, including the 100th Congress in which there was a Democratic majority. Indeed, in 1987 and 1988, the last two years of the Reagan administration, a Democratic Senate confirmed 96 judges, leaving only 23 vacancies at the end of that Congress.

In 1990, a Democratic Congress created 85 additional judgeships during the Bush administration. That brought an anomalous spike in the vacancy numbers. During the 102nd Congress, in 1991 and 1992, the last two years of the Bush administration, the Senate Judiciary Committee under the chairmanship of a Democrat, held 30 confirmation hearings and the Democratic Senate confirmed 124 Bush nominees to the federal bench. In fact, in 1992, during President Bush's last year in office a Democratic Senate confirmed 66 of his nominations.

Thus, during the Reagan and Bush years, both Democratic and Republican Senates not only promptly considered and confirmed judges but also authorized 167 new judgeships in response to the increasing workload of the federal judiciary. Authorized judgeships have increased in number by 25 percent since 1980 while the workload of the federal courts has grown by over 60 percent during the same period. That is why the prolonged vacancies being perpetuated by delays in the confirmation process are creating such strains within the federal courts.

Presidents Reagan and Bush were able to appoint 579 federal judges, including 291 confirmed by a Democratic Senate from 1987 through 1992. In the last two years of the Bush administration, 1991 and 1992, a Democratic Senate held 30 hearings and confirmed 124 judges nominated by a President of the other party, with 66 coming in 1992, a presidential election year.

When Republicans note that President Clinton has appointed 273 federal judges over the past six years, they invariably fail to mention that 129 of these nominees were confirmed by a Democratic Senate in 1993 and 1994. Over the past four years, Republican have confirmed a total of fewer than 145 federal judges, during a time in which the judicial vacancy rate has continued to hover between 70 and 110 longstanding vacancies and the workload of federal courts continues to grow.

So unlike other periods in which judicial vacancies could be attributed to newly-created judgeships, during the past four years the vacancies crisis has been created by the Senate's failure to move quickly to consider nominees to longstanding vacancies.

Republicans also suggest that maintaining as many as 60 vacancies is ''virtually full employment'' on the federal bench. I disagree. In the early and mid-1980's, vacancies were between 25 and 34 at the beginning of each session of Congress. By the fall of 1983, the vacancies for the entire federal judiciary had been reduced to only 16.

With attrition and the 85 new judgeships created in 1984, vacancies reached 123 at the beginning of President Reagan's second term, but those vacancies were reduced to only 33 within two years, by the fall of 1986. A Democratic Senate in 1987 and 1988 reduced the vacancies still further to only 23 at the end of the 100th Congress.

It was not until the additional judges were created in 1990 that the next significant spike in vacancies occurred and then, again, the Democratic Senate responsibly set about the task of helping fill those vacancies with qualified nominees. Although President Bush was notoriously slow to nominate, the Democratic Senate confirmed 124 nominees in President Bush's last two years and cut the vacancies in half.

Republicans also contend, erroneously, that the Clinton administration has stated that 63 vacancies is acceptable and ''virtually full employment.'' They misinterpret a press release from October 1994. That press release was pointing out that if the Senate had proceeded to confirm the 14 nominees then on the Senate calendar it would have brought the total judges confirmed during President Clinton's first two years to over 140 and would have reduced the judicial vacancy rate to 4.7 percent, which the press release then proceeded to compare to a favorable unemployment rate of under 5 percent.

This was not a statement of administration position or even a policy statement but a poorly designed press release that included an ill-conceived. Job vacancy rates and unemployment rates are not comparable. Judicial vacancy rates have significance beyond general unemployment statistics.

When I learned that some Republicans had for partisan purposes seized upon this press release, taken it out of context, ignored what the press release actually said and were manipulating it into a misstatement of Clinton administration policy, I asked the Attorney General, in 1997, whether there was any level or percentage of judicial vacancies that the administration considered acceptable or equal to ''full employment.''

The Department responded:

> There is no level or percentage of vacancies that justifies a slow down in the Senate on the confirmation of nominees for judicial positions. While the Department did once, in the fall of 1994, characterize a 4.7 percent vacancy rate in the federal judiciary as the equivalent of the Department of Labor 'full employment' standard, that characterization was intended simply to emphasize the hard work and productivity of the Administration and the Senate in reducing the extraordinary number of vacancies in the federal Article III judiciary in 1993 and 1994. Of course, there is a certain small vacancy rate, due to retirements and deaths and the time required by the appointment process, that will always exist. The current vacancy rate is 11.3 percent. It did reach 12 percent this past summer. The President and the Senate should continually be working diligently to fill vacancies as they arise, and should always strive to reach 100 percent capacity for the federal bench.

At no time has the Clinton administration stated that it believes that 60 vacancies on the federal bench is acceptable or a virtually full federal bench. Only Republicans have expressed that opinion. As the Department noted last year, the Senate should be ''working diligently to fill vacancies as they arise, and should always strive to reach 100 percent capacity for the federal bench.''

With respect to the question of vacancies, it is also important to note that in 1997 the Judiciary Conference of the United States requested an additional 53 judgeships be created and the Republican Congress has refused to consider that workload justified request. My bill to meet that request, S.678, the Federal Judgeship Act of 1997, has received no attention since I introduced it over a year ago. Had those additional judgeships been created, as they were in 1984 and 1990 under Republican Presidents, current judicial vacancies would number 123 and total almost 14 percent of the federal judiciary.

I hope that the Judiciary Committee and the Senate will proceed to consider and confirm judicial nominees more promptly and without the months of delay that now accompany so many nominations. I hope the Committee

will not delay in scheduling the additional hearings we need to hold to consider the fine men and women whom the President has nominated to fill these important positions.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RECESS

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate now stand in recess under the previous order.

There being no objection, the Senate, at 12:29 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

Mr. BOND. I ask unanimous consent that the Senate now resume consideration of the VA–HUD appropriations bill.

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

The clerk will report.

The legislative clerk read as follows:

A bill (S. 2168) making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1999.

The Senate resumed consideration of the bill.

Mr. BOND. Mr. President, I think the distinguished Senator from Arkansas is ready to proceed with an amendment.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 3062

(Purpose: To terminate the Space Station and provide additional funding for veterans and low-income housing)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. BRYAN, Mr. WELLSTONE, Mr. HUTCHINSON, Mr. LEAHY, Mr. KOHL, Mr. WYDEN, Mr. FEINGOLD and Mr. DURBIN, proposes an amendment numbered 3062.

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

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

The amendment is as follows:

Strike line 21 on page 76 through line 4 on page 77 and insert the following:

''For termination of the International Space Station project, $850,000,000. In addition to the other provisions of this Act, $1,000,000,000 shall be available for the Veterans Health Administration Medical Care account and $450,000,000 shall be available for the Housing Certificate Fund account within the Department of Housing and Urban Development's budget.''

Mr. BUMPERS. Mr. President, this will be the eighth year that I have stood here and debated whether or not America should go forward with a space station. I didn't like the idea of the Space Station *Freedom*, but it was probably a bargain compared to what the International Space Station is turning out to be.

First, I would like to pose a question to my colleagues: Why is it that we continue to fund a program called the International Space Station, when every cellular biologist, every medical researcher, and every physicist in America who isn't involved in the program itself is vehemently opposed to it? These are some of the most brilliant people in America. Before we start off spending $100 billion, we ought to ask ourselves, Why are they opposed? Well, for very good reasons, and I will come back to those in just a minute.

It is a mystery that here in Congress we talk seriously about a program which in the last 3 years has become almost laughable. If it weren't so serious and the amount of money so enormous, it would be almost a comedy—a comedy of errors.

The cost began to spiral in 1996—maybe before that, but that was the first time we really knew it. The Russians have had space stations up for almost 30 years. The Mir is the seventh space station that the Russians have had up since 1971. And what do they have to show for it? Absolutely nothing.

In a little while, I will come back and quote some of the top Nobel Prize winners, some of the top physicists in America, cellular biologists—you name it. I will come back and quote several of them and what they have had to say about the space station as a research vehicle.

Now, you should bear in mind throughout this debate that when you talk about research on the space station, there is only one reason—one reason—you have to believe that the kind of research we are going to do, which NASA says will cure ingrown toenails, warts, cancer, sties—it will cure everything—you have to believe that research of whatever kind—mostly medical, and some of it molecular biology—but you have to believe that something happens in a microgravity situation that you can't emulate on earth, and not only is something going to happen in a microgravity situation, but it is going to be good. Again, I will come back to what the top scientists in this country have to say about it. But right now I will quote Professor Bloembergen, who is a top physicist at Harvard University. When he was President of the American Physical Society, which consists of 40,000 physicists, and, he summed it up when he said, ''microgravity is of micro importance.''

JOHN GLENN came to the Senate with me. We developed a warm friendship the first day we met and we have remained friends. I consider him one of my dearest friends, except when I bring this amendment up. But Senator GLENN is not going to deny that about all you get out of this is whatever you can get from microgravity research that can be emulated on earth; but there is no need to emulate it on earth. You are going to hear all this business about gallium arsenide crystals, which is ''bunk.'' Even if you could build crystals on the space station, nobody on earth could afford to use them.

Well, Mr. President, why are all these people opposed? Why are the top people on whom we rely for all of our medical research, cellular research—the top scientists in America—why are they outraged by spending $100 billion on one orbiting space station with a crew of, at first three people, and subsequently six or seven people? Why are they outraged? Well, one reason might be that they come up here pleading for money for honest-to-God research every year, and we give them a few shekels and off they go to do the best they can with it.

Think about the National Institutes of Health getting about $13 billion a year, and they do research on everything—honest research. They send out money to every university in the country that has a medical school to do research. Well, if we ever get this thing in space, just the annual operating cost will be enough to fund 6,000 researchers at NIH and universities across America for a year. We are going to have six people on the space station doing what the National Research Council estimates to be 24 hours of research each day, at a cost at which we could hire 6,000 researchers on earth.

Do you want to hear another one? Once we get it deployed, we are going to leave it in space for 10 years. You multiply the man-hours by 10 years that we are going to get in research, and if you don't just divide the annual operating costs, which, as I said a moment ago, would produce 6,000 researchers on earth, but divide it into the entire $100 billion cost, which is a legitimate thing to do because, after all, we are spending $100 billion to put the space station up and do research—whether you are going to build crystals or cure ingrown toenails, it is all research. But when you do that, the cost

of each man-hour of research on the space station is $11.5 million per hour.

Now, if that doesn't stagger people, what would? Here we starve the National Institutes of Health, we starve the Food and Drug Administration, we starve the Centers for Disease Control, and we are embarking on a program that will cost $100 billion, which translates into $11.5 million for every hour of research that will be done on that thing over a 10-year period. So can you see why I raise my voice? I can't believe it. It is so patently absurd and outrageous. And the ordinary layman in America thinks the space station is a pretty good idea. The Russians did it, why shouldn't we?

But let's go to the original promises. Mr. President, not only are all of the scientists in America opposed to it, I will give you another reason that Congress ought to be opposed to it. It is because we have just had one broken promise after another from NASA. My good friend from Ohio has heard me say this many times. Let me get this off my conscience right now. I believe in NASA and I believe in the space program. I thought the Mars Pathfinder Program was wonderful. We sent an unmanned rover to Mars, and it took magnificent pictures and sent them back to earth. It gave us a much, much better comprehension, for whatever it may be worth, of what is on Mars. So I want everybody to understand that this is not an anti-NASA speech or amendment; this is an antispace station amendment.

In September 1993, there was a solemn promise that was made to Congress and, therefore, to the American people. This is what a briefing paper on NASA's Web site says:

> In September 1993, a program implementation program called PIP had been developed in the baseline for the new International Space Station. The plan was coordinated with and agreed to by all existing partners. Based on this PIP, NASA reached agreement with the Clinton administration and with Congress that the International Space Station would be implemented with a flat budget of $2.1 billion a year.

Let me indelibly ingrain that on your brain. NASA said we will do this for $2.1 billion a year.

And we will build it. Bear in mind, there are three stages: Building it, deploying it, and operating it. The NASA briefing paper goes on to say:

> NASA promised that the program would remain on schedule and within the annual $2.1 billion and the runout $17.4 billion budget and that no additional funds will be sought. In exchange the program will be required to redesign and rescope the station.

A solemn promise of $2.1 billion. But, as they say, something happened on the way to the forum. We are now up to $98 billion-plus and heading north.

They also promised us that this thing would be finished by June of 2002. Again, something happened on the way to the forum. I will come back to that in just a moment.

But we should have noticed back in 1996. If we had been paying attention in 1996, we would have known that something was happening. Precisely what was happening was, NASA transferred $235 billion from other programs within NASA to the space station. They did that with the approval of the appropriate committees of Congress here. I assume it was the Commerce and Appropriations Committees. But what else did they do? They then changed their accounting system so they could transfer another $100 million over to the space station. That $300 million didn't count against the $17.4 billion that the cost of this thing was supposed to be. It didn't count against the $2.1 billion they promised they would use every year and not ask for more.

In 1997, guess what. The same song, second verse. In 1997, they transferred $200 million from the shuttle program to the space station because they had decided that Russia was not going to be able to come through with its part of the bargain their very first component—building the service module. They decided they might have to build it. So they transferred $200 million from the shuttle program to build what they call an interim control module. Then they again transferred $100 million from other accounts—mostly scientific accounts.

So we are not going to get as much science as we planned, because they have already taken $100 million of that out, and this $300 million did not count against the annual $2.1 billion appropriations.

Then in a hearing before the Senate Commerce Committee last year—I think it was in May—Boeing, the prime contractor, and NASA both appeared before the Senate Commerce Committee. Boeing said, in a rare admission, that it their part of the program was going to cost $600 million more than we anticipated. That didn't include the $600 million that had already been transferred by NASA from other accounts. NASA said that is true. But in that same hearing, they said the figure was not going to be $600 million in cost overrun, it would be $817 million. They also said in 1998 that they are going to need still another $430 million extra.

I mean we are getting bombarded by transfers from other accounts, transfers with and without the permission of Congress, admitted cost overruns of $817 million on top of that. And we are going to need another $430 million in 1998.

So, Mr. President, the thing is beginning to sort of roll out of control. And Dan Goldin, Administrator of NASA, takes the extra precaution, with, I think, a little prodding by Congress, to appoint a task force to look into this whole thing. He made Jay Chabrow, one of the premier space technology analysts in America, chairman of what is called the Chabrow Commission. They were formulated, I think, and appointed in September and went to work in November. And on April 15, 1998, they came back to the Congress and to NASA and said that the $21.3 billion that NASA admitted the station would cost in its FY 1999 budget was not enough. I should have mentioned that before. In their budget for 1999 NASA admitted that the space station was not going to cost $17.4 but, rather, $21.3 billion. They wish.

Jay Chabrow, in whom Dan Goldin obviously put a great deal of confidence, comes back and says, ''Would you believe $24.7 billion?'' That is a $7.3 billion overrun—43 percent—just to build it on the ground before we have put the first piece of hardware in space. Chabrow went ahead to say you are not going to finish it in the year 2002. It is going to take 10 to 38 months longer to deploy the space station than you have been admitted, more likely 2 years. So, instead of the year 2003, it is going to be finished in late 2005, or early 2006 at best.

Do you know what those kinds of delays mean in a program like this? Billions. If this had been anybody other than somebody like Jay Chabrow, with the credibility and reputation he has, everybody could have swatted it like a fly. But you cannot ignore this prestigious commission.

Do you know what else? The Chabrow Commission went ahead to say this $7.3 billion overrun assumes that the Russians, our big partner in the space station, will perform on time.

Mr. President, let's go to the next stage, deploying the space station. It is going to take, according to the latest figures from NASA, about 83 launches to deploy it. That means taking all of these parts into space over the period of the next 63 months, putting them together in space, and becoming what we call the International Space Station. When Jay Chabrow's commission said the cost overrun is going to be $7.3 billion, he went ahead to say ''if the Russians fulfill their part of this bargain.'' The Russians were scheduled to deploy the service module—a very important element in the space station—April 1998. Then it was going to be December 1998. Now we are up to April 1999.

Do you know what those delays do? They cost billions.

Do you know something else? Colleagues, let me ask you. Do you think the Russians can fulfill their part of this program? The Russians, who just barely have enough money to get a rescue team up to the Mir and rescue them, and whose electricity has been cut off at their primary cosmodrome at Baikonur. The electricity has been cut off because they won't pay their bills, and the reason they don't pay their bills is that they do not have the money. The reason they don't have the money is that the central government doesn't have the money to send to the Russian Space Agency.

The Russians are our partners. I feel sorry for them. This statement is not intended to condemn the Russians. But to think that we are gambling $100 billion on assuming that the Russians will provide 49 of the 83 launches it is going to take to put this thing in orbit.

We are depending on the Russians to do that? Do you remember when the Vice President went over to talk to Chernomyrdin and Chernomyrdin told the Vice President not to worry, that the money is going to be coming?

The money did not come. The money has not come.

Now, Mr. President, there is one admission I want to make right now. I would tell Daniel Goldin and the administration at NASA, forget Russia. I don't know what it is going to cost for the United States to assume its share of this burden, but whatever it is will be less than waiting for them to perform. They cannot perform. It is sad, and I am sorry, but the Russians are not going to be able to hold up their share of the bargain.

The European Space Agency—I think there are 14 countries in the European Space Agency—is in this, and you are going to hear all these loud laments: We can't quit now; it is an international project.

It is an international project with the United States putting up $100 billion and everybody else putting up $15 billion. The French are members of the European Space Agency. They have a very clever Space Minister, Claude Allegre. Do you know what he said? ''It is time to get out. This was a mistake.'' He went ahead to say, ''People often do stupid things. There is no rule that says we have to applaud them.''

They are in for 27 percent of the European Space Agency's share, which is around $9 billion to $10 billion, and they want out. They do not want to hear all these patriotic songs on the Senate floor about how this international cooperation is just wonderful. They want to save their 27 percent and get out while the getting is good. And as Claude Allegre, the Space Minister, said, ''I have never seen any research that would justify this kind of expenditure.''

Mr. President, some studies have been done which indicate that even if Russia could perform right on time, out of those 83 launches, 5 of the Russian launches could be failures under the best of circumstances—5 of those launches would be failures and 1 United States launch would be a failure.

In addition there will be launch delays. You have a 5-minute window. Senator GLENN is familiar with all of this. You have a 5-minute window to launch those things. If you don't do it in the 5 minutes, Lord knows how long you have to wait. To assume that 83 launches to just get this thing into orbit are going to go off without a hitch, without a flaw, is naive and simplistic in the extreme.

Going back to NASA's promises, in 1993, they said that in order to assemble this thing in space, it is going to require our astronauts to engage in what they called ''extravehicular activity,'' space walks for short, and it will take 434 man-hours, 434 man-hours of space walking to assemble this thing.

In 1995, they said, no, it is going to take 888, a little over twice as many as we first said. In 1996, they said, no, it is going to take 1,104 hours of space walking. In 1997, in April, they said, no, it is going to take 1,520 hours. And in December of 1997, they said, no, it is going to take 1,729 hours. There is a nice, solid 400-percent increase or, if you choose, a 400-percent mistake.

Mr. President, we ought to expect something as a return on our investment. We send our children and grandchildren, our most precious possessions, off to school every morning. All of us got teary-eyed as we sent our children off to school the first time. And incidentally, we sent them for 7 or 8 hours that day to be with a teacher who was going to have almost as much, and possibly more, influence on that child than the parents.

How many debates have you heard in this Chamber about how the school buildings in this country are deteriorating? And how many debates have you heard about how we have to lower the size of the classes? Incidentally, that is a lot bigger issue. I haven't had any children in school in some time. I have grandchildren, and one of my daughters-in-law told me the other day my grandson was in a class with 34 students, and that is not extraordinary; that is fairly common, even though every educator will tell you anytime a classroom is bigger than 20 students, the chances of that child getting a decent education go down dramatically. Twenty is the optimum size for classrooms. So we wail endlessly on the floor of the Senate about our commitment to the education of these children, to teachers. That teacher to whom we send our child off to be with 7, 8 hours a day in my State, his or her entry level salary is in the $20- to $25,000 range.

Just as an aside—this doesn't cost anybody anything— if I were President Clinton, I would tell the American people I hope to raise teacher's salaries to $50,000 a year. I married a schoolteacher, and I can tell you categorically it is the roughest, toughest job in America. I would work for the Washington sanitation department before I would teach elementary and secondary education. And we pay tribute to them but we don't pay them money.

Around here you hear all of these things. When we were marking the Agriculture Appropriations bill, virtually every Member of the Senate came to Senator COCHRAN or me or both saying, please, help me with this little project back home; we just need $400,000 for this; if we could just get $1.5 million for that. Do you know what Senator COCHRAN and I were dealing with? A budget that was $1 billion less than last year, a little over $13 billion for the whole Agriculture Department of America. This cost overrun just to build the space station on Earth would fund 50 percent of the agriculture budget. Think what it would do to send children to college. Think what it would do to improve teacher's salaries. We tried to appropriate $5 billion to upgrade the classrooms in this country. And we are talking about a $7.3 billion overrun here.

Well, you trust the teacher with your child because oftentimes it is a joy to do it and sometimes because you have to.

I started off this debate by saying that Congress is arrogating to itself a knowledge it does not possess as to what kind of research is likely to go on on the space station. If you think it can only happen on a space station, or if you think there is something peculiar about microgravity that we have to do all of this research in a vacuum, let me read to you, at the expense of boring you to tears, a few quotes.

Here is Dr. Ursula Goodenough, a cell biologist from the University of Washington and past president of the American Society for Cell Biology. She wrote to Dan Goldin, the administrator of NASA, and said:

> The frontier of microgravity never did interest first-rate scientists, physical or biological. And this is all the more true now that it is clear that nothing of any real interest has emerged from the many in-flight studies on the effects of microgravity on this or that.

John Pike, of the American Federation of Scientists:

> As soon as the most visible justification for piloted space craft becomes science, you got BS detectors going off all over America.

Here is Marcia Smith. Marcia Smith is with the Congressional Research Service and probably knows as much or more about space than any person in America. She has done a report that is very current, issued in the month of July, that before any Senator votes to continue spending up to $100 billion or $150 billion, that Senator ought to read. Here is what she said in a publication in 1995:

> I don't know of any breakthroughs that have come out of Russian space station programs in terms of new or cheaper-to-produce materials or scientific discoveries. Mostly, they have learned how to operate a space station for longer periods of time.

Longer periods of time—nothing in there about cancer, AIDS, myopia—nothing. They say the Russians have had space stations up for almost 30 years, Mir being the last one, and what have they learned? They have learned how to keep space stations up for longer periods of time.

Here is a quote from Tim Beardsley, Scientific American. He, in turn, is quoting Elliott C. Levinthal, a former program director of the Defense Advanced Research Projects Agency. And he says:

> Levinthal, who has been a professor of genetics and mechanical engineering at Stanford University, asserts that no neutral committee handing out funds for basic research in biology would support microgravity studies.

James Ferris, Rensselaer Polytechnic Institute, June, 1996:

> Nothing has come out of microgravity research to convince me that a material can be fabricated in orbit that is going to be better than what you can make on Earth.

Why are we spending $150 billion if you believe that?

Here is Dr. James Van Allen. Did you ever hear of the Van Allen radiation belt? One and the same person.

With the benefit of over three decades in space flight, it is now clear that the conduct of scientific and applicational missions in space by human crews is of very limited value.

He goes on to say:

For almost all scientific and utilitarian purposes a human crew in space is neither necessary nor significantly useful.

That is pretty powerful stuff from a man like Van Allen, isn't it—not necessary or useful?

Here is Dr. Allen Bromley, Presidential Science Adviser, March 11, 1991, in a letter to the Vice President:

The space station is needed to find means of maintaining human life during long space flights. This is the only scientific justification, in our view, and all future design efforts should be focused on this one purpose.

That is George Bush's Vice President, Dan Quayle. That is back before AL GORE and Bill Clinton. And Dr. Bromley is writing to the Vice President, saying bear in mind that the only scientific justification should be focused on one purpose and that is maintaining human life during long flights.

The American College of Physicians—medical doctors. The American College of Physicians:

We agree that much, if not all, of the money slated for the space station, the superconducting super collider, SDI, and for Defense Intelligence could be better spent on improving the health of our citizens, stimulating economic growth, and reducing the deficit.

That was in 1992 when people thought the deficit was absolutely out of control and so was Congress. And sometimes I wonder about Congress today, when I see us appropriating money to keep this thing going.

Here is one from the American Physical Society, all the physicists in America:

The principal scientific mission of the station is to study the effects on humans of prolonged exposure to a space environment.

Listen to this:

Medical researchers scoff at claims that these studies might lead to cures for disease on Earth.

Why, you are going to hear all these things about, ''We don't know what is up there; we have to go up there and find out.'' We have been going up there for 30 years. We have been in space for 30 years. The space station will keep us there longer, but we have been there before.

On cancer research—that is one of the things you always hear about, cancer research. Everybody deplores and is so frightened of cancer and AIDS and other terminal diseases like that. All you have to do is throw ''cancer research'' out and you can have all the money you want. And here is what Dr. David Rosenthal at the Harvard Medical School said on behalf of the American Cancer Society:

We cannot find valid scientific justification for these claims and believe it is unrealistic to base a decision on funding the space station on that information. . . . Based on the information we have seen thus far, we do not agree that a strong case has been made for choosing to do cancer research in space over critically needed research [right] here on Earth.

Mr. President, I will save some of the other quotes. I know it gets a little tiresome listening to somebody read on the Senate floor. I get a little wrought-up in debating this issue. But you show me somebody who can't get wrought-up over an issue and he ought not to be on the floor of the Senate. If you don't feel strongly enough about it to get excited and agitated about it, maybe you should not offer it in the first place.

This is my last year in the Senate. This is my eighth and last effort to kill this program. But this year I am doing something a little different. Of the $2.3 billion we are talking about putting in the program for 1999—I would terminate the space station. It will cost roughly $800 million to terminate it. I would take $1 billion that is left over and put it in veterans medicine. The veterans have been squealing like a pig under a gate about how they have been mistreated this year, and they have been mistreated. If anybody in this body wants to redeem themselves, here is a chance to ingratiate themselves with every veterans organization in this country, who are totally wired to the fact that they have been shorted by the tune of about $1 billion.

So I will put $1 billion of this in veterans programs. And I will put $450 million into low-rent housing. We are doing a magnificent job during this unprecedented era of prosperity; 67 percent of the people in this country own their own homes, or like me, have a fighting interest in one. But people who are poor and people who work that are poor, 60 percent of them spend over 50 percent of their wages on a home, on a house, on rents.

The poor people always get the shaft, don't they? I have always thought they did. If it hadn't been for the Government providing me with the GI bill to go to a prestigious law school, I wouldn't be standing here right now. It was that mean old Government that everybody talks about how terrible it is that gave my brother and me a great education and gave us a fighting chance that we might otherwise not have had.

People don't like to admit it, but the truth of the matter is, most people who make it in this world make it because they had a little luck along the way or because the Government gave them a little hand with an education or a small business loan or some kind of Government assistance. A lot of them, like me, got all three—luck, Government help, and I chose my parents well. Everybody doesn't get that chance. A lot of people do a miserable job of choosing their parents, but they can't help it.

We can help it. We can do something for the least among us. I call on my colleagues for one time to rise above the politics of this. Eighty-five percent of the money goes to Alabama, California, and Texas. The rest don't have that much money in your State to warrant voting a bad vote. Anybody who can't justify a ''no'' vote on the space program doesn't have much business being here. Maybe you feel strongly about it, and I am not going to quarrel about that, but if you are looking for a political justification, anybody who can't justify voting to kill that thing has no business being in the debate on the floor of the Senate.

Mr. President, I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Ohio.

Mr. GLENN. Mr. President, I have listened very carefully to the statements made by my distinguished colleague from Arkansas, Senator BUMPERS. Some of his statements I agree with, and, obviously, some of them I do not agree with. One I agree with very strongly is, when he and I arrived here together, we became closest friends. He is one of my best friends, if not the best friend, I have in the Senate today. We vote in a very similar fashion on most things. But every year it seems we lock horns on this particular issue. I am sorry that is the case, but I feel as strongly in the other direction with regard to the space station as he does on the other side.

Let me put this in a little larger context perhaps. Let me start out with the big picture of this country and what made this country great, because I have always believed that there is one thing that does set this country apart from other nations around the world.

By the very nature of people coming to this country in the early days and their expansion across the unknown territory that we know today as America, they exhibited a questing curiosity, a questing spirit that led them not only to explore lands and oceans and skies and geography, but also to do not just the macro exploration, but the micro exploration in laboratories, classrooms of our Nation, and express our curiosity in learning new things. And that is at the heart of science. The heart of science is learning the new and putting it to use in ways to better our lives and understanding of the world around us—indeed, the universe around us.

This questing spirit is at the heart of our history, from those first settlers who landed on our rocky shores, to Lewis and Clark pushing into hostile lands west of the Mississippi, to Thomas Edison and the electric light, to the Wright brothers struggling to break the bond of gravity, to the past and present-day pioneers in our country's space program.

Along the way, there have always been plenty of doubters about our efforts to explore, to learn the new. There have always been those who said, ''Well, we haven't solved all of our problems yet, so we should spend our

money on the here and now until we get those answers and never look into other new areas; don't waste money on what might be.''

There have been plenty of doubters about our efforts to explore the new, and one of the most famous is one I have quoted on this floor before, a distinguished orator and Senator, Daniel Webster.

Daniel Webster used to get very impassioned. All you have to do is see the desk on the other side of the aisle which is always reserved for the senior Senator from New Hampshire. That is the only desk in the U.S. Senate that has a solid top on it. It does not raise. It does not have hinges. That is because Daniel Webster became so impassioned on the Senate floor, he used to bang so hard on the desks during his speeches, that he broke the tops of the desks. They finally got so tired of replacing the tops that they put on a solid top of additional thickness so he couldn't break it. That is how impassioned he became about some of the matters in which he believed.

He rose in the Senate when our Government was considering buying lands west of the Mississippi from Spain and Mexico, lands that now make up more than half of the area mass of today's United States. Daniel Webster would rise during floor debate to say words to the effect of these: ''What use can this area west of the Mississippi be, this area of cactus and prairie dogs, of blowing sand, mountains of snow, impenetrable snow to their very base? Mr. President, I will not vote one cent from the public Treasury to move the Pacific one inch closer to Boston than it now is.''

We can see in the past we have had some of our greatest statesmen who have taken a rather myopic view of branching out and looking into the new and unknown. The Wright brothers faced their skeptics, too. Some people said at that time that if God wanted us to fly, God would have made feathers on us so we could fly. Yet, their curiosity and persistence led to airplanes and the aviation industry and really have changed the nature of the world and commerce and how we do business over this Earth.

I hate to say we face reincarnation of some of those skeptics when debating our space program. I think people who take some of these views are just as misled as Daniel Webster and critics of the Wright brothers were years ago. Each year they ask, ''Why do we invest billions of taxpayers' dollars for space exploration and research''—even though it does have a great promise, which I will go into in a few moments—''while we still have other problems right here on Earth we haven't solved? It is not just exploring the West. So why do we put new money into research and laboratories when we haven't solved the problems on which we are already working?''

You can look at the macro research or micro research area, either one. We do research for one reason, and I can give a short answer for that: We do it to benefit people right here on Earth and to address those very problems they raise, and that has been true ever since I was involved in the space program many years ago during Project Mercury, and it is true today.

I cannot think of one area of our society, whether it is communications or transportation or medicine, manufacturing, agriculture, the environment, education—that has not demonstrably benefited from our space program.

I know my distinguished colleague from Arkansas, Senator BUMPERS, will say he is not against the space program—and that is true, he is not, he votes for it—that he is just against the space station. Yet, the space station, to my mind, is one of the most preeminent examples of where we stand the potential of benefits for the future beyond anything we can foresee at the outset right now. That is the nature of basic research. That is the nature of geographical research and exploration or research in laboratories.

This year, as in years past, we will debate what the benefits are of the International Space Station. Fortunately, we have continued to fund the space station. I think it is one of the greatest cooperative scientific enterprises in the history of this world—in fact, the greatest. A total of 16 nations have teamed up to launch the most ambitious technical undertaking known to man. The first components will be launched later this year. As a matter of fact, the scheduled date is December 3 when the first U.S. node will be put up. The Russians will their first component, the Functioning Cargo Block on November 20.

The station will be a laboratory in permanent orbit. Much of its research will be a continuation of work currently being done on the shuttle, which is more limited as a research facility because of several things, including space available inside it, and because of technical considerations and the length of time it can be in space. That is the main one, the length of time that it can actually stay in orbit.

Let me go into a little bit about some of this research that I do believe is important. We had a recent set of experiments called Neurolab in April of this year. It was started on the shuttle and will be continued on the space station to a greater extent. It will deal with probably the greatest single frontier, the greatest unknown, the greatest area for potential advancement of anything we could think about, and that is a study of our human brain and our nervous system and how they operate. It can't be much more important than that. That is the part of the human body that is most complex and least understood by scientists.

Neurolab flew this past April carrying seven astronauts and a whole host of different animals. It is NASA's view that it is the most complex and scientifically sophisticated research mission they have ever flown. Researchers used state-of-the-art techniques and technologies to gather information about how the nervous system's control of various body functions changes in the microgravity of space and how gravity influences the development of our nervous system right here on Earth—trying to get an insight from the lack of gravity as to how these whole systems work.

A Neurolab lab performed research in the area of our vestibular system, balance; cardiovascular functions; spatial orientation and development biology; and circadian rhythms. The lay person listening to me recite those might wonder what all these terms involving research with a bunch of astronauts have to do with me right here on Earth. That is a good question. But there are some very ready answers to that.

The vestibular system relates to how the inner ear links to our sense of balance which is disrupted when the astronauts are in microgravity and space. The research lab will help to better understand how balance is disrupted and then restored. Is that of importance here? There are 12.5 million Americans right now over the age of 65 who suffer from balance disorders just as a pure result of the aging process. In fact, balance disorders affect most people at some point in their lives, and hopefully this may give us a new approach to those problems.

Cardiovascular Functions: Blood pressure control is upset in space. Many astronauts faint or become dizzy when they come back to Earth. This ''orthostatic intolerance'' also affects 500,000 Americans. Neurolab's research will be helpful in developing treatments for those who suffer from inadequate regulation of their blood pressure.

Spatial Orientation and Development Biology—that s a big title: Research in this area examines the development of motor skills like walking and manual dexterity. Findings could be helpful in learning how the nervous system connects to motor development, which could have applications in treating children whose motor development is retarded by disease or genetic defect, or for people who are seeking to regain motor function after a stroke or an accident.

Sleep and Circadian Rhythms: Astronauts in space have trouble sleeping. So do millions of Americans, especially older Americans, and those who work night shifts. But trials on Neurolab examine the hormone Melatonin and its efficacy as a sleep aid. For those over 65 in this country, it is estimated about one-third of those people have serious enough sleep problems that it really interferes with their lives. So this may give us a handle on looking into some of those problems.

All of the Neurolab's research is not something NASA just dreams up and says, hey, I think we will put something on this flight that might be a good idea; it looks pretty cool. We will

try that next time out and see what we find out. No, that is not the way it is done. All the research has been peer reviewed and the Neurolab research involved collaboration between NASA and the National Institutes of Health, the Office of Naval Research, and some of the world's leading scientific experts in this area. Neurolab will be continued on the space station in a longer and more sustained way. I think we are only scratching the surface now of what will be learned.

Neurolab is not the only research being done that has benefits right here on Earth. One field of research we have talked about on the floor before that I find most intriguing and I know this is denigrated somewhat as being sort of esoteric, but it is anything but that. It is very important. That is protein crystal growth in space. Most people are probably not aware—outside of the medical profession, that is—most people are probably not aware of the importance of protein crystals or proteins in our bodies and the fact that in space there is a big difference.

Contrary to what was said on the floor a few moments ago, there are differences in microgravity, there are differences in ''zero-G'' as to the kind of research you can do. You can't do all these things on Earth. In space, the protein crystals grow to a larger size and a greater purity than anything you can do here on Earth because of disruption caused by gravity. Research going on now with drug companies is fascinating and it brings a whole new input to medicine, to the thousands of different proteins and combinations that make up our bodies and literally stands to transform the way medicine looks at itself and the way we treat disease and what we can do with regard to immunities by these things we are learning from changes in protein crystal growth in space. Some of our leading drug manufacturers are cooperating very, very closely in that particular area.

Let me give an example dealing with the treatment of flu. The flu remedy is being developed with space-grown crystals where you can find out how the flu bug itself reacts. As far as flu is concerned, the loss of productivity due to flu is staggering—with some estimates as high as $20 billion a year that it costs our economy—with the high mutation rates of the flu virus. New data from the protein crystals grown in space and on Earth appear to unlock some of the secrets of the flu bug and reveal its Achilles' heel. This gets rather technical, but the secret lies in a small molecule attached to the host cell surface and each flu virus, no matter what strain, must remove this small molecule to escape the host cell to spread infection. But using data from space and space-grown crystals, researchers from the Center for Macromolecular Crystallography are designing drugs to bind with this protein's site. In other words, they lock on this site, and this lock and key reduces the spread of flu in the body by blocking its escape route.

I think that is fascinating. It gets a little technical for discussion on the Senate floor, again, but for critics to say there is no benefit coming from this research is just not right. These are very, very promising medical breakthroughs that are coming from the fact that we can grow protein crystals in space of far greater purity and size than we can here on Earth in a one-G environment.

The Center for Macromolecular Crystallography, in collaboration with a private sector affiliate, has developed several potent inhibitors of viral influenza. It is anticipated that phase I human trials will begin this year. This is an excellent example of the kind of research in our space program that has direct relevance to us here on Earth. We have 20 to 40 million people every year that get the flu, causing some 20,000 deaths a year in the U.S. alone. This new data on space-grown crystals has helped unlock a secret to let us treat flu in a different way. That is just one example.

Another benefit from these same kind of space-grown crystals is trauma from open-heart surgery that can lead to complications due to massive inflammation of heart tissue. Factor D plays a key role in the biological steps that activate the immune response. Being able to block factor D's effects could enable heart-surgery patients to recover more rapidly, and data from space-grown crystals allowed researchers to develop inhibitors which specifically block factor D. The industrial partner for these activities recently received approval to start human clinical trials.

Another example is space crystals in the fight on AIDS. A new combination of drugs, including protease inhibitors, has proven immensely successful in treating AIDS. In an ongoing experiment with DuPont Merck, NASA has crystallized HIV protease enzymes with an inhibitor to support structure-based drug design research. This may be a successful second generation approach to treat this disease.

A final example: the CMC has determined the structure of NAD synthetase, a protein found in all bacteria. Several leading drug candidates have been developed that have shown positive effects against E. coli, salmonella, strep pneumonia and tuberculosis.

Think how helpful these discoveries might be. On E. coli alone, we have all become unfortunately aware in the last couple of years of its breakout in tainted meat and the resulting illnesses and deaths in many children across the country.

Protein crystal growth is only one field of research which has already benefited from access to space. Another area of research which shows great potential is advanced cell culture research. Researchers will take advantage of the weightless environment of space to study tissues as they grow and develop in three dimensions without settling to the bottom of the vessel. The rotating wall bioreactor, developed by NASA to mimic this capability on the ground is already finding wide application in medical research here on Earth. The bioreactor has the potential for changing disease treatment through tissue transplants.

Forthcoming experiments plan to grow human pancreatic islet cells in the bioreactor for possible transplantation into diabetic patients. If the upcoming experiments are successful, diabetic patients will not need to rely as heavily on insulin injections and will have less complications from their disease.

Another example: Modeling colon cancer with bioreactor. Mr. President, 166,000 cases of colon cancer are diagnosed each year in the United States, and it is one of the leading causes of death. Colon cancer tissue grown in a bioreactor develops remarkably similar to tumors extracted from humans. Studying these tissues outside the human body may allow researchers to understand how cancer spreads, as well as identifying new therapies which may prevent it.

This bioreactor is a marvelous thing. It lets tissues be cultured in the same way they occur in the human body. If you go into a laboratory and try to do experiments there, quite often the experiment becomes two-dimensional because it wants to settle to the bottom of the petri dish. A bioreactor in space, with all the right fluids that simulate the body, allows growth in a 3-D situation. They can be studied better so possible treatments can be put into a culture that is very similar to what occurs in the human body.

Growing cartilage with the bioreactor is another potential application. An application of the bioreactor is culturing cartilage tissue for replacement and transplantation. Experiments with the bioreactor indicate it can successfully culture cartilage tissue that is quite similar to human cartilage.

I use these few examples today just to illustrate how relevant this research is to our future on Earth. The international space station will make it possible to continue some of the same experiments for longer periods of time. A longer duration of time is absolutely critical for the success of many of these experiments.

In this regard, I quote a friend and one of the most respected surgeons in this country—as a matter of fact, in the world—Dr. Michael DeBakey, chancellor and chairman of the department of surgery, Baylor College of Medicine, who said:

> The space station is not a luxury any more than a medical research center at Baylor College of Medicine is a luxury. Present technology on the shuttle allows for stays in space of only about 2 weeks. We do not limit medical researchers to only a few hours in the laboratory and expect cures for cancer. We need much longer missions in space—in months to years—to obtain research results that may lead to the development of new knowledge and breakthroughs.

NASA has already had some 1,000 or more proposals per year for ground-based and flight investigations involving precursor research for the International Space Station project. Selection of principal investigators and commercial developers is beginning this year for limited flight opportunities starting in 1999, and this population will increase from 650 to 900 principal investigators and from 100 to 200 industrial affiliates by the time the station assembly is complete.

About 650 life and microgravity sciences principal investigators are now participating at over 100 institutions of higher learning around the country, and the number of investigators is expected to grow to over 900 before assembly is completed. These researchers, in turn, employ about 1,400 graduate students at present, with that number expected to grow.

What are they looking into? Well, a number of different areas, and I won't be able to go into all of them today. Biotechnology with an x-ray diffraction system, for instance. Microgravity allows researchers to produce superior protein crystals, which I mentioned a moment ago, for drug development and to grow three-dimensional tissues, including cancer tumors, for research and cartilage for possible transplant.

Another area that can be looked into on the international space station also is in the area of materials science. Researchers use low gravity to advance our understanding of the relationships among the structure, the processing and the properties of physical materials.

The long-term benefits: We advance the understanding of processes for manufacturing semiconductors, metals, ceramics, polymers, and other materials. We also determine fundamental physical properties of molten metal, semiconductors, and other materials with precision impossible on Earth.

Another area being looked into, and this too is a fascinating one, is combustion science. Scientists are using low gravity to simplify the study of complex combustion processes, burning processes. Since combustion is used to produce 85 percent of Earth's energy, even small improvements in efficiency will have large environmental and economic benefits.

Now, that is an interesting one because if you light a candle in space, you don't have the flame standing up. There is no convection current, no rise of air from heating. It gathers in a mass around that burning area. So it enables combustion to be studied in ways that were never possible before.

These are only highlights of some of the prestation research that have already occurred. Dr. Robert Cheng and Dr. Larry Kostiuk, combustion science researchers at Lawrence Berkeley National Laboratory under contract to NASA, were awarded a patent for a ring flame stabilizer, which significantly reduces pollution from natural gas burners. Fitted into an off-the-shelf home heating surface, the device from natural gas burners. Fitted into an off-the-shelf home hearting surface, the device reduces nitrogen oxide emissions by a factor of 10 by increasing efficiency by 2 percent, and the device can be readily sized to industrial scales. That kind of experiment will continue on the space station.

Furthermore, the international space station will continue research into fundamental physics. Scientists use low gravity to test fundamental theories of physics with degrees of accuracy that far exceed the capacity of earthbound science. Physics and low gravity expand our understanding of changes in the state of matter, including those changes responsible for high-temperature superconductivity.

Scientists will study gravity's influence on the development, the growth and the internal processes of plants and animals, and their results will expand fundamental knowledge to benefit medical, agricultural, and other industries.

In that regard, on plant studies, I sat in a classroom at Houston during some of the training I have been doing there just last week. One of the experiments was explained. We will have growth of certain seeds and exactly how they differ in growth patterns in microgravity was assessed, and the different tissue that makes up these plant cells will be a subject of study on the flight that I will be on in October of this year. We were learning how to go about getting those samples, preserve them and bring them back to earth so they can be studied here.

Furthermore, the space station will be a unique platform from which to observe the Earth and the universe. That is planned with Earth Observation and Space Science, the Alpha Magnetic Spectrometer, and SAGE to be deployed in 2001. This research will further expand our knowledge of the solar system and beyond, as well as of the Earth itself.

I cite these examples to briefly indicate what a wide variety of scientific effort will go on with the international space station. There will undoubtedly be many unintended or ''spin-off'' benefits as well, especially if NASA's past record in this area is of any indication. There have been over 30,000 different spin-off benefits from our space program since its inception. I'd like to give just one of the latest examples that is highlighted in NASA's publication Spinoff 97. Several years ago, the agency developed a highly sensitive infrared detector, otherwise known as a QWIP, to observe the plume created by the shuttle when it is launched. Subsequently, QWIPs have been modified for use for other applications. They were used to track the Malibu fires in 1996 and served as an early warning system on hot spots not visible to the naked eye from the air. Recently, a QWIP was tested by surgeons at the Texas Heart Institute to see which arteries are carrying blood during heart surgery.

Now, let me address these next remarks about something that happens to all of us. As much as some might wish otherwise, there is no cure for the common birthday and as we advance in years our bodies start to change as we age. So research of the aging process has a direct relevance to all of us.

For several years now, NASA and the National Institute of Aging, which is part of the NIH, were working on a project looking at what happens to astronauts in space. I have been personally involved with this over the last several years. I will be flying as a test subject on board the space shuttle Discovery later this year, due to be launched October 29. Let me address how this whole thing came about because I think it is of interest and will be of interest to so many Americans that are in their senior years. Back about 3 years ago, I was looking at some of the results of what happens to the human body in space. NASA has been able to chart, through the years, over 50 changes that occur in the human body in space. Cardiovascular changes, osteoporosis, muscle system changes, coordination, immune system changes—things like that—sleep pattern changes, it seemed to me as I read the list as I was getting ready for debate on the Senate floor at that time—as we do every year—it seemed to me, when I read this list, that there are several things that appear to be part of the natural process of aging right here on Earth. I talked to some of the doctors over at NASA, and they said they noticed some of those things. But we didn't have any projects to go ahead research these observations. So I went out and talked to the people at the National Institutes of Aging who said yes, they noticed some of the same changes and thought that sometime we ought to look into it.

I looked at these changes. I was able to take the Merck manual on geriatrics, the handbook that most doctors have on their desks in their offices, and go back through and chart the different things where there is a special process that occurs just from aging, and a similar thing occurs with the younger astronauts in space in a much shorter time period.

Out of that we came up with a number of them: Osteoporosis; cardiovascular changes; orthostatic—the ability of the body to keep blood in the upper part of the body and keep it distributed so the brain keeps functioning; muscle degradation, or deterioration of the muscle systems that change in weightlessness; but also change is part of the natural process of aging right here on Earth; coordination; immune system changes. The body's immune system becomes less responsive for the aged right here on Earth and for younger astronauts in space right now.

Sleep changes: About one-third of our population of those over 65 have very serious sleep problems right here on Earth, as do astronauts in space. The

ability of the body to even take in nutrients and absorb them, drugs and nutrients; changes in space and changes for the elderly here on Earth. Those are a number of things that we noted.

When I talked to people, they thought that we should be establishing a project to look into these things, with the ultimate objective of trying to find out what turns the body's systems on and off in these particular areas, both for astronauts and for the elderly right here on Earth. We have some 34 million Americans right now who are beyond the age of 65. That is due to double by the year 2030 and due to triple to almost 100 million by the year 2050.

So this is an area of growing concern as we have so many more of our people enter some of these areas of frailties of old age. That is what we are trying to look into: What if I as an older person go up into space, and what if my immune system or my reactions are different than those people who are already up there now of a younger age? Will the things happening to them be additive to me, or will I be immune from them because those things may have occurred to me here on Earth as part of the natural process of aging?

This is the kind of research we are trying to look into. We can't look into them all at once. But some of the problems we can look into are some of the muscle system changes. Muscle turnover experiments, which I will take part in, where I will have isotope injections and take blood-urine samples on a regular basis to see what is causing the body to break down its own cells in space, which happens right here on Earth to the elderly; doing a sleep experiment in which I will have on a ''sleep net,'' as it is called, with a net put over the head that has leads over it, which picks up EEG—all the brain waves—picks up rapid eye movement with sensors here, sensors under the chin, a respiration sensor across here, as well as EKG measurements, as well as monitoring deep body core temperatures; swallowing of a pill that transmits the little signal, with temperature accurate to one-tenth of a degree, as recorded on a monitor card around your waist all the time as that pill works its way through your body.

This will be the most comprehensive study of sleep ever made. It will continue what was done on the Neurolab flight where several people were there provided good baseline data. NASA and NIA will now be able to compare data, at least with one person anyway of an older nature, such as myself. We will be able to start this kind of research then, which I think has the potential of being extremely valuable into the future. These are the things that have to be done in zero-G and can't be done right here on Earth.

The ultimate objective is to get a handle on what turns these body systems on and off, which will benefit not only the astronauts up there in space by allowing them to take preventive medicine, before these effects occur but also be used here on Earth to hopefully treat some of the frailties of old age that afflict too many people right here on Earth. We are all familiar with the syndrome of broken bones in the elderly through falling and breaking a hip. If we can learn how to strengthen bones with this kind of study, it would be of tremendous value.

That is what we will be starting some of the research on this fall, in October of this year. I will be a data point of one when we come back from the mission. Some people say we don't learn anything from a data point of one. My response to that is, well, you start to build a data bank with a data point of one.

I hope that through the years NASA will continue this kind of research. I hope we can bring back enough good information that they will continue this research through the years and see the value of this kind of research so it builds the storage of knowledge that we have and I think can be extremely valuable into the future. It can open up a whole new area of NASA and NIA research that will be so important into the future. I am looking forward very, very much to participating in that kind of research, as well as the other things that are going on on board the flight that I will be on.

I think the current number of research projects on STS–95, which will be the flight going up in October, is 83 separate research projects. It is going to keep everybody busy on a very tight timeline all during that flight to even keep up with that amount of research. There will be a tremendous amount of research going on on that particular flight.

I could talk for hours on that subject. I have all sorts of material that I brought to the floor today that I thought I might get to—we don't have time to do it today, but I learned in some of the briefings that NASA had in Houston. I think it would be a tragedy if we didn't continue to fund the space station where this research can be carried out in the future to a far better degree than they have ever been able to be done just on the orbiter itself.

Let me say a few words about the importance of international cooperation in space research.

If you had told me some 36 years ago when I made my flight in 1962—that in 1997 United States astronauts would take up residence on a Russian space station and work together with a Russian crew, I would not have believed it possible. I am a veteran of the cold war and the space race. I guess I could not be more pleased to see this kind of progress. Obviously, there is tremendous symbolic value also when former enemies work together cooperatively. But symbolism isn't the most important reason we cooperate. Again, it gets back to the basic research when we can do it better together working together in laboratories all around the world. Yes, we can.

The quality of research is going to improve if we have the best and brightest from 16 nations working on these various projects. The shuttle-Mir program also was called Phase I of the International Space Station. It is a perfect example of the benefits of such cooperation. The program consisted of nine shuttle-Mir docking missions. The program has helped both the United States and Russia learn countless valuable lessons which will be put to use on the International Space Station.

Just a few of those accomplishments, and I will just read them off: American astronauts had a presence on Mir for 812 days; conducted nine shuttle-Mir docking missions; Russian and American engineers, astronauts and cosmonauts, in performing joint operations, have developed a mutual understanding in these areas, even though we come from different cultures, and that is important for the future. We have learned how to plan and execute typical shuttle missions to station rendezvous and docking, joint ground and mission control, extravehicular activity, exchange of supplies, and on and on.

Most importantly, we are working together on joint research projects. Over 45 different research papers are expected to be published by the end of this year just on the experiments off of Mir. They encompass work on bone loss, bone marrow growth, growth of cancer cells and cartilage, protein to crystal growth research, and measurement of the Earth's magnetic field—a wide range of scientific matters.

They put us in an excellent position for assembly and subsequent operation of the International Space Station with reduced risk, greater confidence, and a reduced learning curve which will save us time and money.

Now, we had a number of charts here on the station. I think in the interest of time I will not put those up right now and take more time for discussion.

To summarize this particular part, we will have for the first time in history 16 nations involved in an International Space Station, cooperating instead of fighting each other. Working together, using the best and brightest of each of these countries to do research is a benefit to people right here on Earth. This is a new model for how people can reach across borders to work together to solve problems common to all mankind. It is truly a monumental and historic effort, and I am proud and honored to be able to support it.

I think there is one other important factor here too that I run into all the time going around the country, and that is—and this is, rather, an intangible benefit. I think our efforts in scientific research in these areas is something that the kids look up to; our young people in school are encouraged to study math and science and to work harder in school. We run into that all the time. We meet with teachers, and we will be doing some discussion from the flight that I will be on this fall. We

will be doing some talking back and forth to Earth in this educational area to hopefully inspire some of our young people in their academic efforts.

Now, the Senate will be debating an amendment that would, if passed, terminate the space station. I hope that the Bumpers amendment will be defeated. I urge my colleagues to oppose it, or any other amendments to cut back or restrict space station funding because I believe the difficult task of building and launching the station is being done in a most cost-effective manner while keeping safety paramount.

I think it is very, very difficult task. This is not like going to Detroit and saying, General Motors, we want to buy 5,000 trucks. What is your cost? And we will know within a dollar what we are going to get them for, and we will probably get them on time without any change in capability. We are dealing in an area that is out on the cutting edge of science, setting up a vehicle that will be used to initiate projects and do research on the cutting edge of science and is less amenable to accurate cost accounting.

I think it is difficult when we say we are expecting NASA to be able to foresee some of the things that have happened such as, for instance, congressional cutbacks in funding from time to time, cutbacks of programs and building up later on, cutbacks again. One estimate by one of the studies was that 80 percent of the overruns of the last few years, where there has been a budget increase, has been caused by that very factor alone. So perhaps we have to look at ourselves here in Congress a little bit as to what caused some of these increases.

This year's cost for the station, $2.3 billion in this particular bill, that is just $30 million above the President's 1999 budget that we are talking about here today. Back years ago, we were talking about a continuing basis of $2.1 billion per year. That is when we thought the total cost was going to be $17.4 billion. So for a scientific project like this, I don't see that that is too far out of line. This is not like going out and buying something that is a commonplace product, off the shelf in this country, or wherever.

It is not true that all scientists are opposed to the station as my colleague stated earlier, and it is not true, I don't think, that NASA has broken their promises. I think they have basically made the best estimates they could, and they have tried to live with them.

So I hope my colleagues will join me in defeating this amendment to terminate the space station because I think it is very valuable for the future. The voting patterns in the past in the Senate have shown that most in the Senate believe that, and I hope it continues today. Most of the hardware is either under construction or actually completed now, and the first nodes will be launched later this year. And we will get it onstream over the next couple of years so that we can start this research that is going to benefit all mankind.

I think one of the best decisions ever made by this country way back in the earliest days of the space program when NASA was just being formed was—the decision was made by Dwight Eisenhower—that our program would be open for the whole world to participate in. And here we are at the end of the cold war participating now with 16 nations in the greatest engineering effort ever made in the history of the world. It is inspiring to our young people. It has the tremendous benefit of a research laboratory we have never been able to have. In all the tens of thousands of years as people looked up and wondered what was up there, and the Wright brothers made the first flight off the surface of the Earth, and ever higher, and now we have the chance to use this for the benefit of all people on the Earth, I think it should continue and I hope my colleagues will vote to defeat this amendment.

I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, we are in the process of seeking to reach a time agreement and have the measure set aside for a vote about 6:30. We have not yet cleared the time agreement. I intend to make some remarks now and would want those remarks charged against the time agreement if and when we do reach that time agreement. It is our hope that we will have this vote and be able to take another matter that is very important that Senator MCCAIN is going to offer after this and vote on them at 6:30 and thereafter this evening. So for the information of all Senators, that is what we are working on, and we hope to have word from the Cloakrooms shortly.

There are many points that can be made. I certainly appreciate the very knowledgeable comments of our distinguished colleague from Ohio, a man who speaks about space from personal knowledge that none of the rest of us have, and I know that we are all very, very enlightened by his description of the work that could go on, the scientific inquiry that can go on. But I want to address a point that was made earlier, just one of them that I think is very important.

There was a statement made about 1½ hours ago that all scientists in America are opposed to it. Clearly, there are many scientists whose disciplines have not yet identified enhancements that might come from the microgravity environment of space. It is not surprising that many of these scientists would rather see money for science go into one of their disciplines. But taking money away from NASA does not automatically make that money available for other research programs for other Federal agencies.

Let me just indicate some of the scientific groups that have expressed support for the space station. The Federation of American Societies for Experimental Biology has called for a 58-percent increase in funding for NASA's live science research in its annual consensus report.

In a 1997 report, the National Research Council said in something called ''Future Materials Science Research on the International Space Station'':

> The microgravity environment . . . of space provides a unique opportunity to further our understanding of various materials phenomena involving the molten, fluidic, and gaseous states by reducing or eliminating buoyancy-driven convection effects. . . . the anticipated scientific results of microgravity materials-science research range from establishing baselines for fundamental materials processes to generating results of more direct commercial significance.''

I am not sure all of our colleagues understand exactly what they mean, but I get the drift of it, and that is that scientific investigation in space is good and they are going to make breakthroughs in areas that are very important.

The National Research Council further stated, in Microgravity Opportunities for the 1990's:

> Increasingly, fundamental processes that were thought to be well understood under terrestrial (1-g) conditions have, in fact, proved to behave in altered and even startlingly unfamiliar ways when observed and measured in reduced gravity environments. Space experiments in areas such as combustion, fluid flow and transport, phase separation fundamental physics, and biology, have revealed new phenomena and have demonstrated new and occasionally unpredicted behavior.

NASA and the National Institutes of Health have executed over 20 cooperative agreements in life sciences. The American Medical Association has passed a resolution in support of the International Space Station. In addition, we have quotes from people like Dr. Samuel C.C. Ting from the Massachusetts Institute of Technology, Laboratory for Nuclear Science. Dr. Ting is a Nobel laureate. He said:

> From my experience conducting experiments in particle accelerators for over thirty years, I conclude that the space station is an ideal place to address fundamental issues in physics. In the final analysis, the construction of the Space Station this year will provide scientists from many disciplines with the unprecedented opportunity to carry out large scale, precision, and long-duration experiments unimpeded by the effects of the Earth's atmosphere and gravity.

I might cite Professor of Engineering Physics and Combustion, Director of the Center for Energy and Combustion Research at the University of California, San Diego, Professor Forman A. Williams, who said:

> The practical objective of learning how to burn our precious fossil fuels more cleanly, efficiently and safely certainly would benefit from the fundamental studies that the Space Station would allow us to pursue. Considering the astronomical costs of petroleum, the investment in Space Station thus seems to me very well conceived.

Obviously, we have statements from other scientists who indicate the importance of this scientific research.

But when you look at it, realize that the space station is not just justified in terms of science alone. The international space station is not and never has been simply a science platform. It serves many other functions, not the least of which is the greatest peaceful, international, scientific endeavor in history.

It will offer practical applications beyond the realm of research, as a testbed for manufacturing, for technology. It has a potential for great commercial involvement in manufacturing, in materials processing. If we choose, as a matter of policy, the station also can play a key role in civilization, taking another step beyond Earth's orbit. It is not just science. It is a laboratory with the capability that many of our top scientists are eager to begin using, and many who would hope to commercialize and provide benefits through the private sector, not only through investigations, scientific explorations, but actual production in space, may be able to realize.

For these reasons, I hope, when the time comes for a tabling motion, an overwhelming majority of my colleagues will join us in so tabling the amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I, too, rise in opposition to the Bumpers amendment to strike the funding for the space station.

We have heard, prior to Senator BOND's speech, from a distinguished American. Senator BOND is also a distinguished American, but Senator BUMPERS, the Senator from Arkansas, has really raised very important and significant flashing yellow lights regarding the space station. He has raised questions related to the funding of the space station; also, as to whether we are getting our money's worth in terms of research, wouldn't it be better deployed in other areas? And he has consistently raised many of those questions over the years.

The result of that has been that, while he has not always won his amendment, he has certainly won our attention, that of those on the Appropriations Committee, and the attention also of the space agency itself that has resulted, I believe, in greater management efficiencies and a greater focus on specific research outcomes than would have been the case had those important issues not been raised.

Senator BUMPERS has been a champion particularly in the area of health care and medical research. I remember when I first arrived in the Senate, he was the leading advocate to make sure we had adequate immunization for the children of the United States of America, and what is now a standard public policy he raised and he supported, and we thank him for that.

He also speaks eloquently of the funding for the National Institutes of Health, and I, too, join him on that. I hope by the year 2000 or thereabouts, in the new century, we double the funding for the National Institutes of Health, an agency that resides in my own State but really belongs to all of America and really benefits the entire world.

I feel so strongly about the benefits that could be derived from the collaboration between NIH and NASA that I encouraged then Administrator Goldin and the Director of NIH then, Dr. Bernadine Healy, to really develop joint research projects. And they actually entered into a memorandum of agreement that stands today to ensure collaborative research in that area, a great deal of which is being manifested in the space station research arena.

So, we thank Senator BUMPERS for the yellow flashing lights that he continues to signal to the committee. We thank him for his steadfast advocacy for biomedical research. And we want to thank him for his important contribution.

However, having then said those accolades, we do not want his amendment supported. I think another wonderful American, Senator JOHN GLENN, has outlined very clearly and extensively why we should continue to support Space Station *Freedom*. I would not duplicate, but hope to amplify, Senator GLENN's remarks. I recall I was a young social worker when Senator GLENN himself had just finished orbiting the Earth looking for these important scientific breakthroughs, and I think of the year 1968 when we also orbited the Moon and our astronauts read from Genesis in space to remind us all of our link between here, the planet Earth, and outer space.

I also remember that many Democrats, members of my own party, ridiculed the whole effort to go to the Moon and to take that ''one giant step for mankind.'' In fact, one Senator from Minnesota at that time called it ''moondoggle.'' No one looks back on the success of that endeavor, what it meant to our country both in terms of national prestige and scientific breakthroughs in that era of the cold war, and no one would call that program, now, ''moondoggle.'' I hope we will not also just dismiss, in the same way, Space Station *Freedom*.

This endeavor was begun under Ronald Reagan, sustained under President George Bush, and continues to be supported by President Bill Clinton. But it is not only the Presidential support that gives this program validity, it is also the support of the scientific community. I would like to bring to the committee's attention the Nobel laureate, Dr. Samuel Ting, who has played a major role in developing much of the research on the space station.

Another Nobel laureate, Dr. Herbert Hauptman, has addressed the Biomedical Research Caucus of Congress on the value of orbital research for biomedicine.

Dr. Michael DeBakey of Baylor Medicine said:

> The space station is not a luxury any more than a medical research center at Baylor College of Medicine is a luxury.

Since 1992, NASA has signed 20 different cooperative agreements with NIH. The National Academy of Sciences has repeatedly expressed its support for research on the space station. The Planetary Society supports it. The American Medical Association has adopted a resolution in support of it. The Society for In Vitro Biology hosts an annual workshop on what culturing cells in microgravity will mean.

Who knows what breakthroughs we will find?

I have five pages of quotes from different deans and professors of medical schools from all over the United States of America in support of this. They range from MIT, to Harvard Medical School, to the Harvard Institutes of Medicine; Brigham and Women's Hospital. I could go on about it.

Let me quote Dr. Jessup who heads up the Deaconess Hospital, Harvard Medical School:

> The space program offers a chance to improve out models of cancer and to develop new drugs and treatments as well as to gain knowledge about how cancer spreads . . .

The space station is the place to do it.

Mr. President, my family was affected by two major diseases: Alzheimer's and diabetes. My very dear father died of Alzheimer's, and I am deeply committed to continuing the research to find either the cure or the ability to stretch out the intellectual ability for anyone who has it. My dear mother was stricken with diabetes and overcame her in her final years and resulted in her death.

What I think about now, as I listen to scientists brief us on what this means, is it is outstanding, in those two areas, and what it will mean. Let me tell you about what Dr. Ken Kosik of the Harvard Institute says:

> By raising rats in an environment that lacks gravity, we have the opportunity to zero in specifically on the brain system that controls orientation. This brain system is exactly the part of the brain attacked by Alzheimer's disease. We will use the rats to search for the specific molecules which fail to appear in the brain circuits controlling orientation.

And this could lead to incredible breakthroughs in knowing how to help those who have Alzheimer's or a propensity to it.

I have a quote from a letter from Dr. Jim Mulvihill, the president and CEO of the Juvenile Diabetes Foundation International encouraging the support of the space station because of what it will mean.

Dr. Murray Loew, member of the Juvenile Diabetes Foundation, Lay Review Committee, at Georgetown says:

> Although it may not be immediately apparent, persons with diabetes and astronauts share some of the same challenges. Consequently, NASA and the Juvenile Diabetes Foundation last May signed a joint Space Act Agreement so that both organizations can together begin fully sharing information . . .

And research in juvenile diabetes, there are links here to do this. I could elaborate on this, but I turn to my colleague from Missouri, and ask him if the time agreement is ready.

Mr. BOND. It is in the process.

Ms. MIKULSKI. Mr. President, I ask unanimous consent to have printed in the RECORD these statements unsolicited from scientists who do both basic research and applied clinical research, not only on diabetes and Alzheimer's, but on many others diseases. I want their testimony to speak for itself.

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

August F. Witt, Ford Professor of Engineering, Massachusetts Institute of Technology:

. . . your program is now generally recognized as absolutely critical in efforts to maintain for the U.S. a competitive position in the development of new materials. The facilities and scientific infrastructure provided by your Agency [are] a unique national asset which will unquestionably even increase in value, with the establishment of the International Space Station.—Letter to Administrator Goldin, April 22, 1998.

G. Paul Neitzel, Professor, Virginia Institute of Technology:

The presence of a ''permanent'' manned platform on orbit will provide unprecedented opportunities for long-term experimentation in a weightless, or ''microgravity'' environment. . . . the results of research done outside the confines of gravity may be able to point the way to the improvement of processes and products produced here on Earth.—Letter to Administrator Goldin, April 22, 1998.

Forman A. Williams, Professor of Engineering Physics and Combustion, Director, Center for Energy and Combustion Research, University of California, San Diego:

The practical objective of learning how to burn our precious fossil fuels more cleanly, efficiently and safely certainly would benefit from the fundamental studies that the Space Station would allow us to pursue. Considering the astronomical costs of petroleum, the investment in Space Station thus seems to me to be very well conceived.—Letter to Administrator Goldin, April 20, 1998.

Charles A. Czeisler, Ph.D., M.D., Associate Professor of Medicine, Harvard Medical School, Chief, Circadian, Neuroendocrine and Sleep Disorders Medicine, Brigham and Women's Hospital:

[The ISS] provides an ideal platform to explore the long-term effects of space flight on human physiology, and will provide critical information for us scientists to assess the feasibility of extended duration space flight such as will be required for a flight to Mars.—Letter to Administrator Goldin, April, 1998.

Samuel C.C. Ting, Massachusetts Institute of Technology, Laboratory for Nuclear Science [Dr. Ting is a Nobel laureate]:

From my experience conducting experiments at particle accelerators for over thirty years, I conclude that the space station is an ideal place to address fundamental issues in physics. In the final analysis, the construction of the Space Station this year will provide scientists from many disciplines with the unprecedented opportunity to carry out large scale, precision, and long duration experiments unimpeded by the effects of the earth's atmosphere and gravity.—Letter to Administrator Goldin, April 17, 1998.

Dr. Murray Loew, Member, JDF Lay Review Committee, Professor of Engineering, Georgetown University:

Although it may not be immediately apparent, persons with diabetes and astronauts share some of the same challenges. Consequently, NASA and JDF last May signed a joint Space Act Agreement so that both organizations can together begin fully sharing information and ideas.—Testimony of the Juvenile Diabetes Foundation International before the House Appropriations Subcommittee on VA, HUD, and Independent Agencies, April 22, 1998.

James E. Mulvihill, DMD, President and CEO, Juvenile Diabetes Foundation International:

Again, on behalf of the 16 million Americans with diabetes and their loved ones, I appreciate your partnership in the search for a cure. We look forward to continuing our close working relationship.—Letter to Administrator Goldin, April 21, 1998.

William T. Shearer, M.D., Ph.D., Professor of Pediatrics and of Microbiology and Immunology Baylor College of Medicine; Chief, Allergy and Immunology Service, Texas Children's Hospital:

All in all, the investment in International Space Station laboratories will yield rich rewards, in terms of the health of human astronauts.—Letter to Administrator Goldin, May 1, 1998.

Harry R. Jacobson, M.D., Vice Chancellor for Health Affairs, Vanderbilt University David Robertson, M.D. Director of the Clinical Research Center, Vanderbilt University:

The study will give us critical insights into how the brain regulates blood pressure and heart rate in human beings in the unique environment of microgravity, and this information directly relates to the clinical work we are doing regarding the abnormalities in the autonomic nervous system and its control of critical aspects of physiology, such as blood flow to the brain. Using the laboratory of space to examine the underlying regulatory mechanism in the absence of the confounding factor of gravity will allow us to understand these mechanisms at a level not previously possible.—Letter to Administrator Goldin Re Neurolab, April 28, 1998.

Gail H. Cassell, Ph.D., Vice President Infectious Diseases Drug Discovery Research and Clinical Investigation, Lilly Research Laboratories, Eli Lilly and Company:

As you know, Eli Lilly is interested in working with the Center for Macromolecular Crystallograph (CMC) in two different areas. First, because of the Center's expertise in macromolecular crystal growth in both 1-g and μg environments, we would like to fund the CMC to crystallize a large number of biologically important proteins that Lilly scientists have identified from a variety of sources including our own genomics data base. Second, because of our mutual interest in infectious disease, we would like to work with the CMC on the crystallization and structure determinations for several key proteins associated with a number of bacterial and viral pathogens. . . . In this regard, we hope to support and have access to your NASA-funded microgravity flight program.—Letter to Dr. Lawrence J. DeLucas, Director, Center for Macromolecular Crystallography, April 8, 1998.

Kenneth S. Kosik, M.D., Harvard Institutes of Medicine; Brigham and Women's Hospital:

By raising rats in an environment that lacks gravity, we have the opportunity to zero in specifically on the brain system that controls orientation. This brain system is exactly the part of the brain attacked by Alzheimer's disease. We will use the rats to search for the specific molecules which fail to appear in the brain circuits controlling orientation.—Letter to Administrator Goldin Re Neurolab, April 20, 1998.

Dr. V. Reggie Edgerton, Vice Chair and Professor of Physiological Science for the Division of Life Sciences at The University of California, Los Angeles:

The significant advantage of studying the ability of the nervous system to adapt to a microgravity environment, known as plasticity, is the ability to identify the potential of the normal nervous system. This information is critical because it will allow us to differentiate the potential for plasticity of the nervous system in response to trauma and disease, in comparison to that associated with altered use of the normal nervous system.—Testimony before the U.S. House of Representatives Committee on Science, Subcommittee on Space and Aeronautics, April 10, 1997.

Ms. MIKULSKI. Mr. President, I acknowledge the validity of what Senator BUMPERS has raised about cost overruns, and I also raise the validity about what Senator BUMPERS has raised with NASA over the fact that the cost overruns in the space station could lead to raids on other well-managed NASA programs. To that end, working on a bipartisan basis with our colleague from Missouri, the chairman of the subcommittee, we established a separate account dedicated solely to the space station to create better accountability and financial management of this program and transparency in terms of the total cost of what the International Space Station is.

So it is not a million bucks here, 100 million tucked in over here, and so on. We are going to have a separate account providing accountability and transparency.

I would like to continue with my arguments, but we have reached a time agreement. I temporarily yield the floor to my colleague from Missouri so he can propound his unanimous consent request. I ask unanimous consent to return to speaking on the amendment.

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

UNANIMOUS CONSENT AGREEMENT

Mr. BOND. Mr. President, I think we have reached a time agreement. It may be a little convoluted, but if you will stick with me.

I ask unanimous consent that there be 1 hour 30 minutes for debate prior to a motion to table, and that the vote on the motion to table occur at 6:30 p.m. this evening. I further ask unanimous consent that the time be divided as follows: 40 minutes under my control, and we will charge the 15 minutes used to this point by Senator MIKULSKI and myself against that 40 minutes; 50 minutes under the control of Senator BUMPERS; that just prior to the vote on the motion to table, there be 10 minutes equally divided for closing remarks; that following the debate, the amendment be laid aside until 6:20 p.m. this evening, and at that time, I be recognized to move to table amendment No. 3062.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Reserving the right to object, and I am most reluctant to, I would like, in this eighth year of my

travail, to get an up-or-down vote on this.

Mr. BOND. Mr. President, in response to that, I had offered to offer a separate amendment naming the space station after Senator BUMPERS.

Ms. MIKULSKI. It will be called the ''Bumper crop.''

Mr. BOND. In spite of that, I personally will forego the motion to table and ask that the vote be an up-or-down vote on the Bumpers amendment.

Mr. BUMPERS. I thank the Senator. I am more than happy to forego having the space station named after me.

The PRESIDING OFFICER. Is there objection to the unanimous consent request as amended?

Ms. MIKULSKI. There is no objection.

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

Mr. BOND. Mr. President, for the further information of all Senators, it is my understanding that Senator MCCAIN will be in position next to offer an amendment. It is our hope we can have a vote on that matter, or relating to that matter, perhaps on a Budget Act point of order, following the vote on amendment No. 3062. That is not part of the consent agreement. That is for information only. I thank my colleague from Maryland, and I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, how much time have I consumed?

The PRESIDING OFFICER. The Senator from Maryland has used 11 minutes 9 seconds.

Ms. MIKULSKI. Thank you very much, Mr. President.

I believe this amendment is a choice between the future and the past. We must be willing to embrace science and technology, to take the bold risk in scientific endeavors of the future like the space station. Investments in science and technology will be determinative of the 21st century in what nations will continue to lead the world. I do not want the American century to come to a close without a continued commitment to science and technology.

We must use American ingenuity and know-how through this unique environment of the space station to tackle understanding of diseases or develop new techniques, like I just elaborated on a few minutes ago. Some will argue this type of research can be done more cost effectively on Earth. Other scientists will disagree because you cannot create a low gravity environment on Earth to perform many of these unique activities.

One is microgravity research and providing better research in better pharmaceuticals, medical advancement to develop new materials to use on Earth, such as new fire resistant materials. My gosh, wouldn't our fighters have benefitted from that in Florida?

Others might ask why this type of research cannot be done on the shuttle. The answer is we cannot rush the development of new technologies and science. If we did it on the shuttle, it means you would have 2 weeks maximum to be able to do it. I know no scientist working at my beloved NIH who could do research in 2 weeks, take a break, wait for another launch and go back for 2 weeks.

One of the arguments we hear every year is space station-related costs and, sure, the space station does cost money, but the fact is that over $51 billion of the $96 billion discussed by Senator BUMPERS is really related to shuttle missions, and those missions will fly whether we do the space station or not.

One of the real questions, too, is what is the cost to the United States of America and its taxpayers if we do not continue or stay the course for the space station? We hear about the cost to maintain it and to build it. The actual work on the space station means 15,000 highly skilled engineering and production contract jobs supporting the space station. There are 35,000 contract workers and 5,000 civil servants who work on the shuttle, who is our major customer. This is a major employer. About 2,000 pounds of hardware have already been built for the U.S. station.

What else do we lose? U.S. credibility with our international partners. Japan, Canada, and European Space Agency have all made this a truly international program. We have worked closely with the Russians. Like many, I am disappointed in the way the Russians have failed to deliver their promised technology on time, for which we paid. They have improved these actions, and I know President Clinton is moving on this.

U.S. competitiveness can only be maintained by continuing the long-term, cutting-edge, high-risk research and development that we have done. I am not going to elaborate any further on what Senator JOHN GLENN said. For all who are listening, we want to amplify that the space station is an important public investment and scientific breakthrough, where the very technology of doing the space station will lead to new breakthroughs in life science, information technology, and new kinds of materials—ceramic and so on—that will be very important to maintaining America's cutting edge.

I reserve further time on my time for when we need to conclude our debate.

I urge the defeat of the Bumpers amendment. Vote for the future and defeat the Bumpers amendment.

Mr. GRAHAM. Mr. President, I rise today to ask for your attention to an issue of great importance to the future of science and space exploration: the International Space Station. We have debated the merits of this project on many occasions. It is time to end this debate and declare our permanent support. We must press ahead with mankind's exploration of the cosmos.

President Franklin Roosevelt once said:

The only limit to our realization of tomorrow will be our doubts of today. Let us move forward with strong and active faith.

I ask my colleagues to embrace Franklin Roosevelt's vision and support efforts to move the International Space Station forward.

The International Space Station is one of the most promising space projects in history. Over 60 percent of the station hardware, nearly half a million pounds, will be assembled by the end of this year. More than 75 percent of the developmental activities are completed. The end result of this 16-nation effort will be an international university in low-earth orbit and a launching pad for further exploration of the stars.

Mr. President, constructing this space station will not be simple or cheap. But why would we expect it to be? For the first time in the history of manned space exploration, we are assembling a laboratory, energy plant, and apartment complex the size of a football field in orbit 200 miles above the Earth. This is an ambitious technical feat.

Our nation's exploration of the galaxy has never been easy. While we prefer to remember glorious moments like our distinguished colleague JOHN GLENN's first orbit, Neil Armstrong's first moon landing, and the majestic first launch of the space shuttle, we should not forget that America's four decade adventure in space has also been plagued by technical difficulties and political struggles. We've faced tragedies—namely the three brave astronauts who lost their lives in the Apollo I fire, and the seven others who perished on the *Challenger*. Space exploration has been exciting, but it has never been easy.

But perseverance and patience have powered our space program past these difficulties, and they will be necessary ingredients in our effort to construct and maintain this International Space Station. Without the perseverance and patience of early space pioneers, we might not have been the first nation to land on the moon or successfully operate a reusable launch vehicle.

The International Space Station will excite the nation and the world. I cannot imagine any other project that will so readily inspire young people across our country to focus their attention on math and science. The first launch of space station components will cultivate the next generation of mechanical engineers, software designers, flight controllers, and of course, our astronaut corps. Throughout its lifetime, the space station will include student experiments and teleconferencing and telescience projects.

For this investment, we will have a permanent facility in space in which we can conduct numerous scientific and medical experiments, the end results possibly being cures for diseases known and unknown.

For instance, space-grown insulin crystals created in a microgravity environment are larger and better defined

than those developed on Earth. Scientists from NASA and the pharmaceutical industry hope to develop drugs that will bind insulin and attack the third leading cause of death in this country, diabetes.

Microgravity can also be used to study proteins and three-dimensional tissue samples. Previous success in advanced cell-culturing has led to partnerships with the National Institutes of Health in the study of transmission of the AIDS virus. This application of space technology has also led to new studies of cancer tumors.

Space flight is particularly applicable to studying the aging process, since astronauts experience many of the same symptoms seen in the elderly, such as anemia, loss of muscle, and imbalance. Women are five times more likely to suffer from osteoporosis, the medical term for weakening bones. What better way to study it than to simulate it in space? The results could be fewer broken bones in the years to come as baby boomers advance in age.

In addition to the tremendous health benefits we will reap from medical studies on the space station, our daily lives will be affected by numerous spinoffs and product developments. Aerogel is the lightest known solid, only three times heavier than air. Space-manufactured samples are four times better in quality than any produced on earth, allowing for the creation of superinsulators. Fortune magazine predicts the aerogel market could result in 800 potential product lines, from satellite parts to surfboard material.

Finally, as demonstrated by the devastating Florida fires, combustion represents a threat in many forms. Fires cause 5,000 deaths and $26 billion in property losses every year, a figure I am certain will be higher due to the terrible losses we have suffered in Florida. How can a space station help? In space, researchers can study flames without the interference of the earth's gravity. Such studies will help us better understand how combustion happens and better address problems such as air pollution and forest fires.

The House and Senate share a vision for the future of space and we must continue to act together on behalf of this visionary project. The future will soon be upon us. We don't want to see it pass us by. I urge my colleagues to vote against this amendment and endorse the International Space Station. We must not let the doubts of today stand in the way of the possibilities of tomorrow.

Mr. AKAKA. Mr. President, as the Senate considers funding for the International Space Station, I want to remind my colleagues about the achievements of the National Aeronautics and Space Administration (NASA).

Since 1915, American aviators, astronauts, and spacecrafts have expanded human knowledge. The advancements made by NASA are found in virtually every aircraft in use today. One example, used by Continental Airlines, is a NASA-developed device that warns of dangerous wind-shear conditions. In addition, NASA made valuable contributions to medicine by allowing scientists to utilize microgravity conditions in space to grow larger breast cancer cells, allowing different growth stages of these cells to be studied.

NASA technology has produced a pacemaker that can be programmed from outside the body and developed instruments to measure bone loss and bone density without penetrating the skin. NASA research led to the development of a three-inch implant for diabetes that provides more precise control of blood sugar levels, thereby freeing diabetics from the burden of daily insulin injections. These are just a few of the scientific and medical advances developed from NASA technology.

A panel of experts headed by aerospace consultant Jay Chabrow recently concluded that the space station's cost through the assembly stage could be $24.7 billion, which is $3 billion more than NASA now projects. While the overrun projected in the Chabrow report is a concern, the estimate in the report is modest in historic terms. For example, the initial contract for the lunar excursion module was $350 million. By the end of the contract, the cost had escalated to $2.3 billion, seven times the original cost. For the entire Apollo, Mercury, and Gemini programs, NASA spent approximately $100 billion to reach the moon. These programs, much like the International Space Station, ventured into unknown territory and were considered inherently risky.

It is also important to note that while the panel indicated that there may be cost overruns and schedule delays, the panel also recognized that NASA's management of the Space Station has been ''resourceful and effective'' in addressing the many challenges that have resulted from this project. With over 400,000 pounds of flight hardware completed, NASA and its international partners believe that by the end of this year, over half a million pounds will be completed and the first two elements of the station will be in orbit. Although Russia has only been able to complete 95 percent of the module, the Russian government has reiterated its commitment to the station. However, NASA continues to evaluate other contingency plans to address possible delays by Russia.

Once completed, the International Space Station will be the most complex structure ever sent into orbit, encompassing a laboratory and living quarters the size of two football fields. As demonstrated by several experiments conducted on the Russian Mir space station, Skylab, and space shuttle flights, advancements in science will be enhanced by the International Space Station. These experiments have been used to determine or refine existing protein structure models, create new drugs to battle viruses, such as AIDS, and develop inhibitors, such as those used to alleviate the complication of inflammation associated with heart surgery.

Mr. President, as I have mentioned, the importance of the International Space Station is evident. The technological advancements that may be achieved by this project are monumental. I urge my colleagues to continue funding the International Space Station and maintain American's leadership in space research and exploration.

Mr. FEINGOLD. Mr. President, I come to the floor to lend my support to the amendment offered by the Senator from Arkansas.

Senator BUMPERS has led a long, and often lonely, battle against the International Space Station. Since I joined this body in 1993, I have supported his efforts to terminate the program on the basis of its extraordinary cost and its crushing burden on the Federal budget deficit.

We now see that the space station is not only far more expensive than previous cost estimates, but also significantly behind schedule and losing the support of partner nations, including the Russians failing to keep its financial commitments. The reasons for terminating the space station are now more compelling than ever. Senator BUMPERS has been prescient in his efforts to save our tax dollars on this wasteful program.

In a May, 1998, report, the General Accounting Office stated that the new cost estimate for the space station had risen to almost $96 billion. And this extraordinary cost doesn't even include the cost of decommissioning and deorbiting the space station at the end of its useful life. This, in and of itself, will cost billions more.

Even a NASA-appointed commission found that NASA's own cost estimates were vastly underestimated. The blue ribbon Cost Assessment and Validation Task Force recently reported that the cost of simply developing and building space station hardware will probably cost $24.7 billion. Just last year, NASA officials promised Congress that developing and building space station hardware would cost $17.4 billion. Mr. President, how in the world did cost estimates rocket up by 42 percent in the course of one year?

The same blue ribbon panel also estimates it will take two years longer to assemble the space station than NASA now plans. The report pushes the completion of the space station back to early 2006. Let me remind my colleagues that in September, 1994, NASA said it would complete assembly of the space station by June, 2002. The schedule has slipped by four years, let me repeat, four years since 1994. Ironically, NASA recently announced a delay in launching the first piece of the space station by five months. According to the commission, each month of delay will add about $100 million to the final cost of the project.

Finally, Mr. President, NASA enlisted the support of Russia as a means

of fostering collaborative energy and as a means of defraying program cost. As we know, Russia is in the midst of economic instability and an unreliable space program, witness the problems with the Mir space station.

NASA estimated that the American taxpayers would save $2 billion by working with the Russians on this new space station. That savings is already gone. On top of that, the Russian Space Agency doesn't even have the money to safely deorbit Mir. How, then, can we safely rely on Russia to fulfill its obligations for the International Space Station?

Even our European partners in the European Space Agency are beginning to reconsider their commitment to the International Space Station. French Space Minister Claude Allegre said of the International Space Station project, ''People often do stupid things. There is no reason we should applaud them.''

Fortunately, Congressional leaders are growing skeptical of NASA's plans. Last month, the chairman and ranking member of the House Science Committee wrote the President asking for a plan for controlling cost growth and delays on the space station. Given the Administration's reluctance to offer such a plan and NASA's resistance to cutting back the program, I don't see how we can support putting good money after bad.

Mr. President, it is time to end this program.

Mr. SHELBY. Mr. President, today the Senator from Arkansas takes his final shot at terminating funding for the International Space Station. For the eighth consecutive year, he argues that America should abandon its commitment as the leader of this historic endeavor.

The Space Station is real and well on its way to orbit. Last year, NASA employees and contractors at the Marshall Space Flight Center in Huntsville, Alabama finished construction of Node 1, the first significant piece of flight hardware. Since then, the Pressurized Mating Adapters, Integrated Electrical Assembly, Z1 Truss, Long Spacer, FGB Control Module are being prepared for integration tests and launch.

Those who do not believe that America should maintain its leadership in space exploration speak only of the expense of building man's next great adventure of the space age. While I also am concerned about cost overruns and Russian participation, it is reasonable to expect some unforeseen costs given the complexity of the station. The critics also fail to mention that past funding for the space station now exceeds proposed future investment. More than 50 percent of the costs have been paid, and more than 80 percent of the development will be complete by the end of the current fiscal year. It does not make sense to abort this mission at this time.

It goes without saying that termination of the International Space Station will undermine the credibility of the United States with its international partners who have already invested nearly $10 billion. The other nations participating in the development of the space station reaffirmed their commitment by signing partner agreements in January 1998. At the same time, the U.S. has taken the lead in developing the space station and have made commitments to the international community to see it through. Leadership requires resolve and character. It is not in the American nature to break our promises and abandon our friends and partners, especially when we are on the verge of launching the first elements of the space station.

Continued development of the space station is the right course for the United States to take. The history of mankind, and especially of Americans, is one of curiosity and exploration. The same pioneer spirit that led past generations to explore the frontiers has manifest itself in our present journey to space. The United States is the undisputed leader in space technology development, and it would be arbitrary and reckless for the Senate to reject our destiny of discovery through the space station. I ask my colleagues to join me in reaffirming our country's commitment to our future by opposing this shortsighted attempt to strip funding from the space station.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, I think the majority leader has asked for time. We ask unanimous consent he be granted such time, not to be charged against the debate on this amendment.

The PRESIDING OFFICER. The majority leader.

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

Mr. President, I do this in order to introduce a resolution. I am joining today with Senator TORRICELLI and a number of others in introducing a resolution on Taiwan. I ask now that additional cosponsors be added to this resolution until the end of business today.

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

(The remarks of Mr. LOTT and Mr. TORRICELLI pertaining to the submission of S. Con. Res. 107 are printed in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I yield 15 minutes to my colleague from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas, Mr. HUTCHINSON, is recognized.

Mr. HUTCHINSON. Mr. President, I thank my colleague from Arkansas for yielding the time.

I ask unanimous consent to be added as a cosponsor to the Bumpers amendment.

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

Mr. HUTCHINSON. Mr. President, I rise in support of the Bumpers amendment, and I join him in his 8th year of travail on what I think has been an important provision. When I came to Congress in 1993, I came with great alarm about the cost overruns, the delays, the projected increases in spending, and what appeared to be a black hole absorbing precious taxpayer dollars. I also came with a willingness to be convinced that was going to change. I was promised that they were going to tighten their belts, slim it down and trim it down, that it was going to become a responsible kind of program and project. Well, the most recent GAO report—the 1998 GAO report—has convinced me that we need to cut our losses, that it is not going to happen, that it has not happened and, in fact, the projections are that we are going to continue to see exorbitant cost increases if we continue down the road of building the space station.

My colleague from Maryland spoke much of the value of microgravity and the need for the space station and microgravity research. I would like to quote Professor Robert Park of the Department of Physics at the University of Maryland in College Park, Maryland. Doctor Park said:

> Microgravity is the only unique property of a space station environment, and the station was originally envisioned as a sort of microgravity R&D laboratory. The microgravity research that was envisioned for the international space station has already been largely completed, either on the shuttle or on Mir.

So there you have it. The original and primary justification for building the space station has largely been realized by ongoing R&D, either on the shuttle or on Mir.

By cutting the international space station's lifeline, today the Senate has the opportunity to save billions of dollars that have been floating away now for over a decade. I want to commend Senator BUMPERS for his resolve, for his eloquence, and for his persistence on this issue. My distinguished colleague from Maryland said that in appreciation for Senator BUMPERS' efforts, he had turned on the yellow light. I can only say that what we need to do is turn on the red light on this project. It needs to be a stop light.

From fiscal year 1985 to fiscal year 1997, it has already cost the American people $19 billion. In its current form, the Senate appropriations bill would pour another $2.3 billion into this project. My distinguished colleague from Arkansas has offered an amendment to the VA–HUD appropriations bill which would end this cycle of waste. The Bumpers amendment would provide $850 million for the termination of the International Space Station, make $450 million available to HUD, and most important, redirect $1 billion of the savings from the space station and make that money available to the Veterans' Health Administration medical care account.

Since its inception, the International Space Station has become a looming monstrosity of skyrocketing costs and scientific indefensibility. According to the latest GAO estimate, this will now cost the American taxpayers $96 billion. That is up $2 billion from 1995—only 3 years ago. This enormous figure includes the costs of design, construction, launching, and 10 years of operation, but it does not include future schedule slippage, additional shuttle launches to test the crew return vehicle, deconstruction at the end of the station's life, as well as possible delays by our partners on their obligations to the project. With these additional factors, the space station will undoubtedly take several more years and several billion more taxpayer dollars. It is a record we have seen time after time on the space station.

Costs have been increasing steadily. So far, the American people have paid $19 billion into the project. Since the space station was conceived, cost estimates have risen dramatically. Under the original space station concept, space station *Freedom*, the Reagan administration estimated a cost of $8 billion in 1983. NASA's estimate rose to $16 billion by 1987. By 1993, the cost of developing and building the space station *Freedom* rose to $30 billion, with an additional $60 billion for 30 years of operation. In the same year, the GAO estimated a grand total of $118 billion for all space station costs, including launches. Now, under the revised concept of the International Space Station, NASA estimated $72 billion in costs, including 10 years of operations and shuttle costs. Those are a lot of figures. What is the American taxpayer to think? What are they to believe?

In the past 3 years, the GAO's cost estimate for the station has increased by $1.7 billion. You can believe that. From $93.9 billion in June of 1995 to $95.6 billion in April of 1998. Why have the costs increased? According to Allen Li, Associate Director of Defense Acquisitions at the GAO, during his June 24, 1998, testimony before the House Science Committee, there are a number of factors why that happened.

> The higher development costs—$21.9 billion [1998] versus $17.4 billion [1995]—are attributable to schedule delays, additional prime contractor effort, not covered by funding reserves, additional crew return vehicle costs, and costs incurred as a result of delays in the Russian-made Service Module.

My colleague spoke eloquently about Russia's role in the space station and their delays in the cost overruns, and the fact that they simply are not capable of bearing their share of this burden.

In other words, schedule delays and increased shuttle flights have driven costs up dramatically. Unfortunately, these delays are not new to the space station project. Phase II of the project, which involves construction of a U.S.-Russian space station that can be permanently occupied by three astronauts, was originally scheduled to occur from 1997 to 1998. NASA pushed phase II to occur from 1998 to 2000. Phase III, which involves additional construction, including the addition of European, Japanese and Canadian components, has been postponed from 1998 through 2002 to the years 2000 through 2004. The first launch for phase II was originally scheduled for November of 1997, later postponed to June of 1998, and is now scheduled for November of 1998. The completion date for the station, originally scheduled for June of 2002, then 2003, is now scheduled for January of 2004. On and on we could go with these delays.

Clearly, delays and launches are likely to increase, driving costs even to newer heights. There is much that I would like to say. When I came up here, NASA lobbied me hard, telling me that though there had been mistakes and there had been cost overruns, they were going to tighten their belt, that it was going to be a new kind of project with a new kind of fiscal austerity. I believe that the GAO report, in addition to the cost assessment and validation task force that gave a similar report, provides compelling evidence that NASA is not capable or is unwilling to make those kinds of tough decisions. This is a project it is time to end.

I remember all of the eloquent arguments that my colleague from the House side from the State of Texas made in defense of the Super Collider. ''We have to have the Super Collider.'' Almost every argument I heard today was made in defense of the Super Collider and the benefits, the spinoff benefits, we were going to receive in society. Congress made a tough decision that it could be better used in other forms of scientific research, and we cut our losses.

I cite the Cost Assessment and Validation Task Force established by NASA in September 1997 to independently review and assess the cost schedules and performance schedules on the International Space Station. That was led by Mr. Jay Chabrow. They issued a report this past April. This is what they said. The most optimistic estimate of the cost growth for the space station was over $2.195 billion. The most pessimistic estimate was $7.5 billion. It estimated that it will take 2 years longer to assemble the space station, pushing the completion date to 2006. Personnel requirements spiral from 1,285 originally predicted, to over 2,000.

I would say to my conservative friends on the Republican side of the aisle that we were not sent up here to build up more government. We were not sent up here to support projects that are good sounding, that have noble objectives, but have a track record of wasting taxpayer dollars. That is not why we were sent up here. That is the record of this project. If we just step back and set aside our conservative Republican prejudices on this issue, and ask if it were any other project, would we defend it; were it any other project with these kind of cost overruns, delays, and wasteful spending record, would we defend it? I would suggest to you we would not. But this is our little baby that we are going to protect at all costs regardless of how much taxpayer dollars it wastes. We were not sent up to float a barrel of pork in outer space.

I want to say one other thing before I end my remarks. We go from the extraterrestrial to the terrestrial, because I think it is good that we are taking $1 billion of what is being wasted on this project and putting it toward veterans health care.

There are 26 million veterans in this country. We hear from them. We hear of the waiting lines. We have 173 hospitals, and we have not built a new one in a long, long time. We are rightly moving to outpatient care. We cannot open enough clinics for veterans. We cannot make health care accessible enough. The average age of veterans is increasing, necessitating more frequent care and longer convalescence. These are going to be greater needs as the World War II generation of veterans faces greater and greater health care needs. The increased demand in care strains the resources of VA medical facilities. Many of them have to drive many miles to get health care. High-quality medical personnel shy away from VA hospitals because they find them less appealing and less lucrative. Nurse practitioners rather than doctors have become the norm in many VA facilities.

This is an opportunity for us to do a service to this country by stopping a program that needs to be stopped. This is not—and I emphasize this is not—an antiscience, an antitechnology vote. NASA will continue to have over $11 billion in fiscal year 1999. This is a protechnology Congress. We consistently voted for increased funding for NIH and NAS, the National Academy of Sciences. This is not an antiscience and antitechnology vote. It is a vote to say here is one area that has been so egregious in wasteful spending that we draw the line, we cut our losses, we stop the bleeding, and we are going to take those savings and put it in where we know it is going to be an investment in human beings in VA health care.

Michael Daly, a seventh grader from Sherwood, AR, wrote me a letter asking me the value of a future in the military. Do you know what that young seventh grader is thinking about? He is thinking not only about our commitment to our Armed Forces, but how well we are going to meet our commitment to our men and women who have served as they leave the armed services and as they become the veterans of this country. Are we going to remember them?

This is an opportunity for us to do a twin service to our veterans and to the taxpayers of this country in stopping an indefensible wasteful spending program. I urge my colleagues to support

Senator BUMPERS, who has been sometimes a lonely voice in pointing to the catastrophic waste in the space station, and join us in ending that program this year and support our veterans at the same time.

I thank my colleague from Arkansas for yielding me this time.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri submitted a written unanimous consent agreement to include material that he did not state orally; namely a prohibition against second-degree amendments to amendment number 3062. Did he mean that to be a part of this unanimous consent agreement?

Mr. BOND. Yes. Mr. President, we amended that written statement as it first appeared to ask that it be a straight up-or-down vote on the Bumpers amendment pursuant to the request raised by the Senator from Arkansas who said there would not be any other motion.

The PRESIDING OFFICER. The material is a prohibition against second-degree amendments. Does the Senator from Missouri wish to include second-degree amendments?

Mr. BOND. Yes. We included in the amendment that there would be no second-degree amendments.

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

The Senator from Missouri.

Mr. BOND. I thank the Chair. I yield 10 minutes to the distinguished senior Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I thank our colleague from Missouri for yielding.

Mr. President, it is certainly true that Congress has terminated many science programs in the recent past. In fact, in 1965 we were investing 5.7 cents out of every dollar spent by the Federal Government in non-defense research in science and technology. But as a result of political decisions that have been made for more than 30 years, we are now investing only 1.9 cents out of every dollar of government spending in science and technology research for the future.

You have to ask the question when so many of our colleagues are so quick to point out that they are not antiscience—and I believe them—how is it that the science budget in the budget of the U.S. Government, a budget which has exploded since 1965—''exploded'' is the only word for it—how is it that as the total budget has grown in leaps and bounds, our commitment to invest in science and technology and to invest in the future has declined from 5.7 percent of the Federal budget to 1.9 percent?

I submit, Mr. President, that our colleagues, Members of the House and Senate, are not antiscience. Their problem, however, is that they are constantly forced to choose in the process of spending the taxpayers' money between spending that money on programs that have big constituencies in the next election and investing that money in science and technology in the future that really has a constituency in the next generation. The problem with maintaining science and technology spending is that the value only comes in the future, whereas by spending money on programs with big political constituencies, the benefits politically come in the next election. The next election now is only a few months away.

It is not that Congress doesn't value investment in science and technology that would develop new products and new technologies, new know-how, and a scientific base that can create jobs in the 21st century and perhaps yield a capacity to heal some dreaded disease. It is that the benefits of such spending don't appear between now and November 3rd. They come to fruition over long periods of time as a result of the accumulation of scientific knowledge. Our problem, then, is not that Congress is antiscience, but that Congress invests in the next election rather than the next generation.

The amendment we have before us is an old amendment. We have debated this subject on many occasions. This is just the latest version of a long debate. But basically what the amendment before us proposes that we do is to cut the Nation's premier science project, and to use the money to invest in two programs that have very large and vocal constituencies. Both of these programs are good programs. They both are obviously very desirable. But the point is that we have a very limited science budget now. It has been reduced from 5.7 percent of our budget in 1965 to 1.9 percent today, and this latest effort to reduce it further comes at the very time when we are beginning to get interest in the country in an initiative to double our expenditure on science and technology and research, because we believe investment in the future is critically important if we are going to continue to lead the world in science and technology job creation. I think this amendment is simply a movement in the wrong direction.

I do not doubt the sincerity of our colleague from Arkansas. He has offered this amendment, it is my understanding, for 8 years. It seems we have debated it for a longer period of time than that.

I remind my colleagues that we have killed science projects. We killed the SSC. We have cut science expenditures in real dollar terms in virtually every area of the Federal budget. But the question is, Have we benefited as a nation from doing that? We killed the premier scientific project in the world when we killed the SSC, which was high-energy physics aimed at understanding the fundamental building blocks of nature. And while understanding atomic physics does not sound very sexy in Congress, I remind my colleagues that 40 percent of the GNP of our country is now based on scientific research that has occurred mostly in America since the 1920s and where high-energy physics has yielded products from the computer to the television.

So the point is that when America was investing in those programs, they were going to yield benefits 10 or 20 or 30 years in the future. They have always been politically disadvantaged. I would simply like to conclude by reminding my colleagues, we have an enormous Federal budget. We are spending a lot of money on programs that have big, powerful, political constituencies, and in a sense, politics is about listening and responding to those constituencies.

But I remind my colleague that there is another constituency, and that constituency is called the future. America has invested more money in science than any country in the history of the world, and in my opinion, there are two principal things that are responsible for the unique achievements of America. One is we have had a country with broad-based opportunities so ordinary people could do extraordinary things, and the other has been an investment in and a commitment to science. I think we are moving away from that commitment. I think we have already moved too far. I wish we were here today debating cutting other programs to invest in science and technology in the future, but we are here talking about terminating the premier scientific project in America which we have undertaken with many nations around the world.

I hope and trust this amendment will be defeated, and it should be defeated. This amendment will not lower federal spending by a nickel. This amendment simply reduces money going to the space station and to science and technology and to the future. So for that reason, I oppose the amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, I believe the Senator from Alaska has a unanimous-consent request to speak as if in morning business.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I may speak as if in morning business for not more than 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair.

(The remarks of Mr. MURKOWSKI pertaining to the submission of S. Con. Res. 107 are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

Mr. BOND. I yield to my distinguished colleague from Arkansas.

Mr. BUMPERS. Mr. President, I yield my distinguished colleague from Iowa 10 minutes.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank the Senator for yielding me this time. More than that, I thank Senator BUMPERS for his relentless pursuit, over the years, of shedding more and more light on this issue of the space station. I say at the outset that a vote for the Bumpers amendment is a vote for space exploration. A vote against Bumpers is a vote for the status quo. It is a vote for the myopic approach to space exploration and it is a vote for wasteful spending for science that can be done better and cheaper.

I am foursquare with Senator BUMPERS on his approach on the space station. It is a boondoggle and a waste of money. Maybe Senator BUMPERS and I are not foursquare on the issue of space exploration itself. That may be for another time and another debate. But on this issue, Senator BUMPERS is absolutely right.

I have been a longtime supporter of aviation, aviation research, aviation technology, pushing the boundaries of aviation technology through science and technology and also for space. For 10 years, I served in the House on the House Science and Technology Committee. I was proud to chair the Aviation and Materials Subcommittee of that committee. I was proud to work to try to get more and more funds for space exploration. But I watched, during those 10 years in the House on the Science and Technology Committee, I watched in dismay as NASA shifted, gradually but determinatively, shifted from a civilian space agency to an arm of the military. That can be seen through the way that the space agency shifted in the late 1960s and early 1970s. It became more and more an arm of the Air Force. It became more and more an arm of our military establishment.

I can remember the debates we had on that in the Science and Technology Committee back in the mid-1970s. I kind of understood that. We were in a cold war with the Soviet Union. Space was being used more and more for military purposes—spy satellites, that kind of thing. But another interesting thing happened. We began to develop a thing called the space shuttle, which I believe was driven more by the desire of Air Force pilots to fly than anything else. I think it was driven more by the desire to be more than just a monkey sitting on a seat.

I remember when the first shuttle took off. I was there for the launch, and I remember we had the first shuttle astronauts back in the committee room for a hearing. I remember Neil Armstrong was there. One Congressmen stated how proud he was to see them land with dignity as they came back, rather than plopping in the ocean as they used to in the space capsules. I thought at the time, what a tremendous expenditure of money just so that we could land that thing on a runway rather than plopping it in the ocean.

Let's remember, the first man to set foot on the Moon was not a military person, it was a civilian, a civilian test pilot by the name of Neil Armstrong, and that was not happenstance. It was not an accident that happened that way, because we believed and our Government believed at that time that space should be a civilian exploration enterprise. Then we watched as two things happened; as NASA became more and more militarized and as we retreated from Moon exploration to near-Earth orbits.

Then we were sold the space shuttle. Oh, it was going to be a great flying machine. It was going to reduce the cost of launching material into near-Earth orbit by a factor of 10. I remember being told that. I was on the Science and Technology Committee. It was going to reduce launch cost by a factor of 10. We were going to have these reusable rockets and all that kind of stuff. We are still waiting. We are still waiting for that factor of 10 reduction. It has never happened.

I am convinced today, perhaps more than I was at that time, that the shuttle should never have been built. I am convinced that, had we not gone ahead with the space shuttle but had commenced and continued our space exploration with the Saturn, that we could have had a fully operational Moon base at this time with all that would mean for the world and for our country and, yes, for science and technology.

Now, that brings me to the present time. If we build this space station for $98 billion and counting, it will effectively suck all of the dollars out of space exploration. That is why I said, in an oddly curious way, a vote for the Bumpers amendment is a vote for space exploration. A vote against him—forget about it. You are not going to do anything in space, because this is going to suck all the money out of it. Suck money out for what, scientific experiments?

I listened to the speech given on the floor by my good friend, Senator GLENN from Ohio, on all of the wonderful science that is going to be done and the experimentation. We estimate the cost per man-hour for those scientific experiments to be about $155,000 per man-hour. NIH can do it for less than $300 an hour. The Senator from Ohio says, ''Just think how much this is going to energize young people to go into science and into medical research.'' If you want to encourage young people to go into medical research in this country, take that kind of money and put it into NIH. You will hire thousands of times more researchers doing that than you will spending $155,000 per man-hour for scientific research on this space station. Put the money into NIH.

I think it is time to cut our losses. Do you know what this reminds me of, I say to Senator BUMPERS, this debate we are having on the space station and listening to Senator GRAMM from Texas? It reminds me of the debates we had on something called the Clinch River breeder reactor. How many years we debated that; how much good it was going to do for our country and the science and the research. Billions of dollars we poured down the rat hole on that one. We finally terminated it. We came to our senses and terminated it. How many billions of dollars, though, did we waste?

And then, most recently, something called the Superconducting Super Collider that was going to be built in Texas. Oh, my gosh, to listen to the debates that went on around this floor about that—why, if we ended that one, all science was going to come to a halt. Why, building the Superconducting Super Collider was going to unlock and unravel the mysteries of the universe for us. Nonsense. Stuff and nonsense, that is what it was.

We came to our senses and we killed it—rightfully so, because the Superconducting Super Collider would have had the same effect on physical sciences as the space station is going to have on medical science. It is going to suck all the money right out of it, because once you build the space station, then you have to justify it. How do you justify it? Through medical research at $155,000 per man-hour. Where is the money going to come from for NIH? Where is the money going to come from for the research that has to be done here? It will not be left around. This will do to medical research just what the Superconducting Super Collider would have done to physical science research. And that is why so many physicists and scientists were opposed to the Superconducting Super Collider. They were right. That is why so many scientists are opposed to the space station. They are right. It is time to cut our losses.

I remember—I was not here then, but I know my history—back in the 1950s, the Atomic Energy Commission, the head of it, Lewis Strauss, testified before a Senate committee and said that atomic energy would be so cheap in making electricity we wouldn't even have to meter it. We are still waiting. But look at the billions of dollars that we have spent on nuclear power. I am not saying it hasn't done some good, that we don't get power from it. My gosh, we are still fighting the battles of what we are going to do with the waste. Of course, we know now it is more expensive than anything else. If we build this space station, forget about it, there will be no money left.

The PRESIDING OFFICER. The Senator has spoken for 10 minutes.

Mr. HARKIN. If I can have an additional 5 minutes.

Mr. BUMPERS. I yield an additional 5 minutes to the Senator from Iowa.

Mr. HARKIN. The microgravity kind of research that has been talked about can be done on the shuttle. We don't need a space station to do that. Or it can be done other ways.

In 1994, Mr. President, I read an article that was in Discover magazine and became entranced with it. Just today, I had a long talk on the phone with Ed Belbruno, a former NASA mathematician. He has devised a new way of space

exploration. I won't go into it. I don't have the time. I think it is fascinating, however.

Because of his theories, we could use 40 percent less energy to go to the Moon and beyond—40 percent less—and it has already been proven. He did it once already in the early nineties. The Japanese space agency is looking at it more, and so are the Europeans. I am sure my friend from Ohio will recognize it by using what we call the ''weak stability boundary theory.''

I won't go into all the theories of it, but physically it is fascinating about how we can use the gravity of the Sun, the Moon, and the Earth to launch vehicles from here to the Moon or to Mars or beyond and use 40 percent less energy.

What that means is today we have the ability to return to the Moon and beyond using a lot less than we did before. Think of the excitement in that. Think of what we can do with exploration if we actually build a Moon base. Think of what that will mean in terms of scientific research and technological advancements. Think of what that will mean to us if we want to explore the universe, not from the space station, that is not going to help it one single bit, but now we have the theory and it has been proven; it has already been done once.

Mr. President, this weekend I was in Iceland. It occurred to me that in about the year 900, around the year 1000, Leif Ericson sailed to the New World, from Norway to Iceland to Greenland to Newfoundland, almost all the way down to what we now consider to be New York City. And they did it for years. Almost 500 years later, Christopher Columbus decided to go a different route, and it took him forever.

But you see, the Vikings had it right. They could sail the North Sea on the new great circle route, come to the New World, turn around, and catch the Gulf Stream and zip back. They had it figured out. You can't hardly blame Columbus. They didn't have it figured out. They didn't know. They sailed the southern ocean, down through the doldrums, and it took them a long time. They never quite figured it out. The Vikings did. You can't really blame Christopher Columbus. They didn't have that knowledge.

You can't blame us. We now know that there are cheaper and better routes for space exploration than building a space station. We know that there are better and cheaper ways of doing microgravity research than on a space station. We know there are better and cheaper ways of doing medical research than spending $155,000 per man-hour on the space station.

If we rush ahead with this space station, we have no one to blame but ourselves. I ask my colleagues to think back to the promises of the fifties when we were going to meet our energy needs so cheaply with nuclear power. Think about the Clinch River breeder reactor and how many votes were cast for that and all the promises it was going to give us. Think about the Superconducting Super Collider and what that was going to do for us. And then think about the scientists who opposed the Clinch River breeder reactor. Think about the scientists who opposed the Superconducting Super Collider. And now think about the scientists who oppose this space station.

Senator BUMPERS had it right. I saw a quote that he sent around in a ''Dear Colleague'' letter where the scientists were saying, basically, why would you want to spend so much money on something—here it is, Discover magazine. Here we are back to my favorite magazine:

> Is it possible to imagine a technological undertaking so enormous that could garner less respect from the scientific community?

Discover magazine, May 1997.

They know why. If we build this space station, it is going to suck so much money out of here, there won't be anything left. Oh, I suppose, as Senator BUMPERS said, it will lose. I hope not. I hope it wins. I hope we come to our senses.

I do believe this: The space station is not going to be built. It will never be completed. We may put up a module. We will do some shuttle flights. The Russians will never come through with their, what, 50 flights or 60 flights? Forget about it, the Russians are not going to do it. They don't have the money. So who is going to pick up that slack? Our taxpayers? We can take that $98 billion and start multiplying it out.

That is why I say today, this will be like Clinch River; it will be like the Superconducting Super Collider. We built some trenches down there. We spent a couple billion dollars on it. We spent a couple billion on the Clinch River breeder reactor also, and we finally came to our senses and said it was a boondoggle. That is what will happen with the space station. It is not going to be built, but what we can do is take this money and do something a lot cheaper and a lot better than building the space station.

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

Mr. BUMPERS. Does the Senator from Maryland wish the floor?

Ms. MIKULSKI. If we are going to rotate time, I know that the Senator from Ohio had a few minutes that he wanted to use. I yield the Senator from Ohio no more than 5 minutes for his comments.

Mr. GLENN. Just 2 minutes.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I thank the floor manager of the bill, the distinguished Senator from Maryland.

I want to make a point on a comment that was made by the other Senator from Arkansas, Senator HUTCHINSON, about the cost overruns and the budget situation, because the Chabrow task force report has been alluded to today, sometimes correctly and sometimes incorrectly.

In this case, it was referred to incorrectly because, contrary to the assertion that the program has a large overrun, the Chabrow task force reported that the program was—and this is a quote:

> Diligent and resourceful in managing the unique challenges of this complex venture given the significant complexity and uncertainty of international involvement and the difficult task of staying within annual and total funding caps established prior to final program content definition.

That indicates that there has been very responsible management. That is in the Chabrow task force report.

Further, the task force stated, referring to the ISS, the International Space Station Program specifically, and their quote is out of their report:

> Although cost and schedule growth have occurred, the magnitude of such growth has not been unusual, even when compared with other developmental programs of lesser complexity.

I think that is a compliment. I think we should also note that many defense research and development programs have exceeded development cost estimates by 20 to 40 percent, way out of the ball park of what we are talking about here, which indicates to me that major technical developmental programs have a degree of complexity that makes cost assessment very, very difficult—the point that I made in my original, more lengthy statement.

We need to keep in mind what the Chabrow report said in their task force report, which is, to my way of thinking, complimentary to NASA about how they managed this program and kept things under control. NASA personnel numbers are way, way down. The NASA budget has been flat over the last couple of years, and yet we have gone ahead with more efficient management within NASA and I think they should be complimented for given the complex management environment in which they have to work. So the Chabrow report has been quoted here today, but I think the two quotes out of the Chabrow report should be noted.

I reserve the balance of my time.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I yield myself such time as I may consume.

Mr. President, first of all, let me remind my colleagues of how this all started. This is a classic case of a space station looking for justification. This chart shows where we started years ago, with a crew size of eight and a cost of $8 billion. Here are the capabilities we were told that the space station would have.

First of all, it would be a staging base to go on to Mars with. Carl Sagan said that was a justification for it. He didn't think much of its research potential. But as a staging base to Mars, he thought it was a great idea.

A manufacturing facility—make gallium arsenide crystals, I suppose; space-based observatory; a transportation node; a servicing facility, to

service shuttles or whoever might come up to visit the space station; assembly facility—I don't know what they were going to assemble; a storage facility.

One by one, every single one of those missions was eliminated as a justification for the space station. We have one remaining, and that is a research laboratory. So that is the reason you hear about how we are going to cure AIDS, cancer, and all these magnificent things that will happen in medical research in the space station—because that is the last only justification anybody can dream up.

If you are having difficulty with that, write NASA and ask Administrator Goldin to send you a copy of his Chamber of Commerce glossy. It has it all in here. It has it all. If you are a conservative—and most people in this body profess to be conservatives—and you have any pang of conscience about spending $100 billion for a boondoggle, for utterly no redeemable purpose, if you are having problems with that, write to NASA and get their glossy brochure. It will just make you sleep so much better.

Mr. President, I can remember, as the Senator from Iowa has pointed out, it took me 4 years to kill the Clinch River breeder. Howard Baker was majority leader, and no matter how close we got, he always had two more votes he could pull out of his pocket. I remember that fateful date when we had too many votes for him to pull out of his hip pocket, and he turned everybody loose, and we got 75 or 80 votes to torpedo the Clinch River breeder. Who has lost any sleep about the Clinch River breeder? And we saved billions. Everybody said, ''They have broken ground; it is too late. We can't quit now; we have our nose under the tent.'' We quit, and it has been God's blessing ever since we did.

The Superconducting Super Collider, the gigantic hole in the ground in Texas—all I can think about is the Senator from Texas, the senior Senator from Texas, who defended the hole in the ground until the last dog died. I was arguing all along that there was a superconducting super collider in Switzerland, at the European consortium called CERN. No, the SSC's supporters said, our's got to be bigger than that one; got to be more expensive than that; got to have a 50-mile racetrack; none of that 20 mile racetrack business. We finally killed it after we spent $2 billion. And who here has lost any sleep over the Superconducting Super Collider? Everybody ought to rejoice every night that we saved $10 billion.

So now here we go. How can a good conservative justify the kind of cost overruns we are looking at? How can you justify $100 billion when you think of the unmet needs in health care and education in this country? This program as a research vehicle is precisely 1,000 times less effective than doing the same research on Earth. So you ask, why are we doing it?

The Senator from Texas has a very legitimate reason for standing on the floor and defending the space station. Texas gets $661 million a year out of it. In all candor, I might be standing here up here arguing on the other side if Arkansas got $661 million a year. For my colleagues who think you have a few jobs in your State, 85 percent of this money goes to Alabama, Texas, and California. The rest of you are just barely a layer; you are nothing.

If you consider yourselves a conservative but only when it fits your convenience, you go ahead and vote against my amendment. But if you say you are a conservative and you don't believe in squandering billions and billions of dollars of the taxpayers' money, ask yourself a very simple question: What is your threshold? How high would this thing have to go before you would have to rethink your position? Forty-three percent cost overrun, just to build it on the ground? Is that not troubling to you? Is the $7.3 billion overrun just announced in the past 8 months, is that not troubling to you? Is the fact that we are already acknowledging a $7.3 billion cost overrun and headed in for the launching of this thing into space, and depending on the Russians for 49 launches, does that bother you? Who here believes that the Russians will be a player in this 1 year from now? They are not going to meet their deadline right now for launching the service module or what they call the functional cargo.

If we are going to keep the Russians in the program, buy them out right now. They are not going to participate. They can't. Let me reiterate. The Russian Cosmodrome at Baikonur, the principal launching place, which is in Kazakhstan, has the electricity cut off because they don't pay their bills. How can you launch a space station from a cosmodrome that has had its utilities cut off?

My junior colleague from Arkansas, Senator HUTCHINSON, invited you to read the GAO report. Let me add the Congressional Research Service report to that. You don't have to believe what I say or what Senator HARKIN said or Senator HUTCHINSON. Read the reports that you always rely on, and see what they say.

Take a look at this chart. This summarizes the so-called Chabrow report. The Chabrow Commission was appointed by Dan Goldin to analyze the space station. They were appointed by Goldin, and Jay Chabrow is considered one of the best space technology analysts in America. He says it will not cost $17.4 billion as NASA promised as recently as last year; it will cost $24.7 billion—a little over $7.3 billion cost overrun. How many children in America could you educate with that? How many teachers' salaries could you educate with that? How many classrooms could you build with that? How many students could you cut out of classrooms with $7 billion? We act like it is nothing around here. Nobody even gasps; nobody drew a deep breath when I started throwing these figures out.

I commend my distinguished colleague from Maryland, and I thank her most heartily and profoundly for her kind words about my efforts on this. She mentioned the yellow lights that I had thrown up. I attended a meeting that she and the distinguished chairman of the subcommittee allowed me to attend, and in that hearing—incidentally, Daniel Goldin was testifying—I asked this question: ''Mr. Goldin, is there a threshold for you? Is there a figure beyond which you are not willing to go? Is there a cost figure on the space station you are not willing to go beyond?'' He must have paused at least 15 seconds. Finally, he said, ''I really hadn't thought about it.''

I have thought a lot about it. I have thought almost of nothing else since I started working on this.

So I ask my colleagues, what is your threshold? In 1984, when Ronald Reagan first started talking about a space station at $8 billion, and now we are talking about $100 billion.

Let me show you something. You see this $98 billion figure here? That is not all of it. No. 1, the cost overruns are going to skyrocket from here on. But even if they didn't, this does not include getting the space station down. Add $3 billion for that. So you are already well over $100 billion. When Ronald Reagan said it would be $8 billion to build this thing, I can only shutter to think what Ronald Reagan might think today if his $8 million was up to $100 billion. The conservatives who were in the Senate when Ronald Reagan was President would be gasping for breath. Nobody ever believed we were headed for such a pickle.

If you believe that all the premier scientists in America don't know what they are talking about when they say microgravity research is of micro importance, vote no, vote against my amendment. If you think we are already spending enough at NIH on cancer, Alzheimer's, cardiovascular illnesses, vote no. If you think $11.5 million per man-hour for every hour of research that goes on in the space station is reasonable, vote against my amendment. That is right, $11.5 million an hour—as the Senator from Iowa has already said, at NIH you can get researchers who are the best in the country for $300 an hour. Divide the man-hours for research that you are going to get for this program for 10 years into $100 billion, it comes out to a cool $11.5 million per man-hour.

Is nobody disturbed by this?

Mr. President, I am reluctant to start reading it to you again. But I do want to quote Dr. Robert Park, a professor of physics at the University of Maryland and who has long been the spokesman for the American Physical Society, which is all the physicists in America. Here is what he said while testifying before a committee in the House on July 1, 1993. He was speaking

for the American Physical Society, which is 40,000 physicists. I promise you that virtually every one of them—except those who are employed by NASA—are opposed to this. Dr. Park, in testimony, speaking for all those physicists, said:

It is in the view of the American Physical Society that scientific justification is lacking for a permanently manned space station in Earth's orbit. We are concerned that the potential contribution of a manned space station to the physical sciences has been greatly overstated and that many of the scientific objectives currently planned for the space station could be accomplished more effectively, with a much lower cost, on Earth.

It goes on and on. He has a magnificent statement. He says:

The only unique property for the space station environment is microgravity. In 23 years of research, it has found little to no advantage from such an environment.

Mr. President, what are we afraid of? Here we have a chance to save $80 billion. That ''ain't'' beanbags. We are going to spend an additional $80 billion minimum on this program, plus the 20-something billion we have already spent. If we continue to rely on the Russians, you can depend on the space station costing $120 billion to $150 billion, easily—the most monumentally expensive scientific undertaking in the history of the world, all at the expense of the taxpayers.

I plead with you—plead with you—to use your common sense. You don't have to abandon common sense when you come on to the floor of the Senate. I promise you that you can justify this to your constituents. I said earlier, and I will say again, if you can't justify a vote against this program, you have no business being in the U.S. Senate.

Mr. President, I know there are legitimate concerns by people who have honest differences with me. I would certainly never denigrate my friend, JOHN GLENN. I know he believes fervently in this. We all wish him well in the endeavor he is about to take in another trip to space, and we applaud him. As far as I am concerned, I hope they get some beneficial research out of him. But I can tell you that he didn't have to go into a research project. If he just wanted to go up there and look out the window, it would be fine with me, and it would be fine with everybody else in America, too. Before I ever met him, he was a hero of mine. I had tears in my eyes, like every American did, when we saw JOHN GLENN get out of that capsule. We all shared in his joy. We have shared the joy of JOHN and Annie ever since he came to the Senate. We love him and we wish him well on everything—except the vote on this space station.

I yield the floor.

Mr. BOND. Mr. President, the offer still stands. I would be delighted to offer an amendment to name it after the distinguished Senator from Arkansas.

I now yield 5 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, I rise in support of the continued funding of the International Space Station. Mr. President, there is no denying that the International Space Station has problems. It has had real problems with the prime contractor, the performance of foreign partners and program management, all of which are acknowledged, but all of which, I repeat, are being addressed by NASA and the U.S. Congress.

In the Commerce Committee, a price cap was approved for the International Space Station. This price cap, in my opinion, begins to address many of the guiding principles that I have discussed here on the Senate floor—guiding principles which direct our investment in research and development, and that is good science, fiscal accountability, and program effectiveness. This program, indeed, represents a long-term investment, and it is very hard for us on the floor of the U.S. Senate and in this Congress to understand the importance of long-term investments. But this provides a long-term investment in a one-of-a-kind research facility.

Although the price tag of this facility is approaching $100 billion over the life of the station, the potential of the research to be conducted in this space station is enormous. As a scientist, as one who has conducted research, I understand that there are no guarantees in research. However, if we are to continue to dream, to continue to want to improve the quality of our lives, continue to promote the economic stability of this country, vis-a-vis our neighbors, we must continue to conduct such research, investing long-term.

The space station will provide a unique environment for research with a complete absence of gravity, allowing new insights into human health that we simply cannot explore today in any environment: research on cardiovascular disease, disease of the heart and the vessels of the body, understanding cancer, understanding hormonal disorders and osteoporosis and how the immune system functions. Yes, we have heard a lot about it in the last several hours—the whole issue of cost. We spent over $20 billion on this effort since its inception in 1985. Since the major redesign and the inclusion of the Russians in 1994, the program has spent an additional $11 billion. These amounts are for development only and don't include the costs associated with the shuttle to visit the Mir station.

The real question is, Should we sacrifice this $20 billion investment and terminate this project by some action today? By ending this project, we not only forego the importance of research to be conducted aboard the station, but also the technology development that will be necessary to build and operate the space station. Research and development simply has played too important a role in the economic vitality of our Nation to put it at such great risk. There are many that expect the next great industry to be space. And, yes; I hope the Senate will soon take up consideration of the Commercial Space Act of 1997 as a new industry. Commercial space accounted for $7 billion in 1995. By one estimate space could be a $120 billion worldwide business by the year 2000. This type of growth will mean substantial changes in how things are currently done.

Historically, the government has taken the lead on many long-term research projects. Many are high risk. The outcome we simply don't know. The benefits of that research we cannot predict.

The Federal Government should continue this tradition by continuing to build the International Space Station. However, NASA simply cannot be given a blank check. We, the Members of this body, must continue to hold NASA accountable for good management of the program.

We must be prepared to deal with the various risks associated with the program. There are many challenges; many we can't predict in assembling the components of the space station. The men and women who will make this happen need and will continue to need the support of the American people.

There has been much discussion of the report on the Cost Assessment and Validation Task Force. They don't recommend ending the program. They simply say the program plan shall be revised so that it is achievable within the financial resources available. I think Congress should determine what resources are available for the program and allow NASA to complete it accordingly.

Mr. President, I look forward to the launching of the first element of the station this fall, and I hope that we will soon see the beginning of another successful NASA project.

Mr. President, I urge support for continued funding of the International Space Station.

I yield the floor.

Mr. BOND. Mr. President, is the Senator prepared to yield back time?

Mr. BUMPERS. Mr. President, happily we have a Senator here. I have 4 minutes 20 seconds remaining. I would like to yield that to Senator DURBIN.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Thank you, Mr. President.

Ms. MIKULSKI. Mr. President, if the Senator will withhold, a question to the Senator from Arkansas: Will he yield back the time, or is he going to use it all?

Mr. BUMPERS. I only have 4 minutes 20 seconds. I fully expect the Senator from Illinois to use all of that. My time will be used.

Ms. MIKULSKI. I expect it, too.

Mr. BUMPERS. Under the unanimous-consent agreement we will still have 5 minutes each prior to the vote. Is that correct?

Ms. MIKULSKI. That is correct. If the Senator will withhold a second, I

wish to advise the Chair that I will leave the floor and delegate my authority to Senator GLENN until I return.

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

The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, before I start, I believe there is an inquiry as to whether there is any time remaining on the other side on this amendment.

The PRESIDING OFFICER. There are 4 minutes.

Mr. DURBIN. Mr. President, I rise in support of the Bumpers amendment. I thank the Senator from Arkansas. This is a battle he has been waging for many years. I joined him as a Member of the House, and I am happy to join him as a Member of the Senate.

Some might ask if I have taken leave of my senses to be on the floor of the U.S. Senate debating the elements of the space program with JOHN GLENN on the other side. How do I find myself in that predicament? In this instance, I have to say I disagree with my friend from Ohio and my long-time hero. I believe the Senator from Arkansas is right. In 1984, President Reagan said to the American people that he had a dramatic announcement to make. A permanent-manned space station, an international cooperative effort, is going to be a staging area for further space exploration. It is a great opportunity, and we will be able, at the cost of $8 billion from the U.S. taxpayers to make this happen. Over the years, we have watched the concept diminish and the price explode.

As the Senator from Arkansas explains to us, just last year, after a thorough professional study was done, they gave us an estimate that the first phase of this project would cost—no, not $17 billion, but in fact $24.7 billion, a 40-percent cost overrun. Those who have been watching this project since its inception and suggestion in 1984 have to wonder whether there is any end in sight.

For each year the cost of this project continues to mushroom, the uncertainty grows and the scope of the project diminishes. Over the years, the debate over this space station has been enlarged to go way beyond its original intent. It is now going to be a research laboratory.

I have listened to those who have argued for the space station say with a straight face, ''If we could just have this space station, then we might one day find a cure for AIDS, a cure for cancer. We need to get up in a weightless atmosphere with microgravity research, and that might be the breakthrough.''

Competent scientists rebut that conclusion, and common sense does as well, because we in the United States of America today fund only 20 percent of the approved applications for medical research at the National Institutes of Health. Here on God's green Earth we are unable to come up with the money for sound research to find a cure for diabetes, Alzheimer's, cancer, and heart disease, and instead, we are going to take another $80 billion and plow it into this project and send it up into space.

I know that some people are energized with the idea of space exploration, and I am one of them. I can remember JOHN GLENN, and I can remember the walk on the Moon, and so many other experiences in life, and going down to Cape Kennedy for a liftoff, and to feel that Earth rumble under your feet when that rocket takes off is something you will never forget. That is exciting.

Let me tell you what else is exciting. It is exciting to pick up the morning paper and to read that we have found a cure for a disease. It is exciting to be able to tell the parent of a child that their baby can live, that we have come through with a new medical breakthrough. It is exciting for us to know that the next generation may not have to worry as much about Parkinson's and Alzheimer's. I find these revelations just as exciting, if not more so, than a space liftoff.

The Senator from Arkansas presents a challenge to us today. He basically is saying to this Chamber, Will you look at the facts as presented? Will you acknowledge the dramatic increase in cost of this space station? Will you come to the understanding, as we did with the Superconducting Super Collider—that big tunnel in Texas, which we finally decided was headed for nowhere—come to the conclusion that this $80 billion could be better spent right here on Earth for real needs of real people, whether it is in the area of medical research or education?

I urge my colleagues to join me in supporting the Senator from Arkansas and to defeat this funding for the space station.

Thank you, Mr. President.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, how much time?

The PRESIDING OFFICER. Two minutes.

Mr. GLENN. I thank the Chair.

Mr. President, I want to reply to a couple of things which Senator HARKIN indicated a little bit earlier. I was a little bit disquieted by the fact that he indicated that NASA is now an arm of the military Air Force. I don't know where on Earth that came from because NASA has never been that. Military payloads have been put up. But it has not spilled over in that direction at all. It is still going along as a civilian agency. It was declared to be by Dwight Eisenhower, and has continued to be that every since.

As far as money being sucked out, there is $98 billion. We are talking about $2.3 billion in this bill for the next year for the International Space Station. Most of the hardware has already been constructed, or is in the final stages of being constructed.

The fact is that we have doubled the budget for NIH over the last couple of years. It is not that we are not doing things in that area.

I repeat what I said earlier. If we are to wait until every problem in our country is solved before we put money into basic fundamental research out there, that is just the wrong way to go.

Senator DURBIN talks about child diseases. Some of the protein crystal growth advances we are making these days is something that we can look forward to as maybe helping solve some of those childhood diseases.

Back to what the Senator from Iowa said again, though, I will point out that on the very flight that I will be on this fall in October, we have three different areas of commercialization of space in which one of the projects is commercial protein crystal growth. I will not go into details. My 2 minutes won't permit. But in that area, we are in the commercialization of protein crystal growth experiments. We are into another one on the commercial generic bioprocessing apparatus that we are taking up in space. We have another one. I have already been briefed on these. We will be taking part in some of the research that is being done at that time.

The other one is on what is called the cybex mission, and it is to perform IDA-funded, corporate microgravity biomedical cancer research; second purpose: perform other IDA corporate commercial microgravity research, and provide a turnkey service of commercial access to space.

That is the way NASA has been going. That is the direction they want to go.

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

Mr. GLENN. So this is almost built. It would be foolish to cut back now and waste the money we put into it right when it is just about to pay off in a great way, I think.

The PRESIDING OFFICER. The Senator from Missouri has 1 minute.

Mr. BOND. Mr. President, we have heard much discussion today about the cost of the space station. We have seen from independent analysis by leading scientists that there are truly significant scientific advances which can come from the International Space Station, and we noted it serves many other functions. As the international scientific endeavor is furthered, it offers practical applications in research and potentially commercial manufacturing and materials processing. This is a tremendous step forward. We have heard about the Chabrow report. In it the NASA advisory council says that the task force members, with considerable experience, found the program to be consistent with the level of funding and that they have endorsed it. We think that it is an important measure. We would urge when the vote occurs that Members oppose the amendment offered by Senator BUMPERS.

The PRESIDING OFFICER. All time has expired.

Under the previous order, the amendment is set aside until 6:20.

Mrs. HUTCHISON. Mr. President, I would like to take a moment to commend an extraordinarily successful collaboration between NASA and the JASON Project, a private foundation which is working to engage middle school students in grades 5–8 in science and technology. Each year, JASON electronically takes hundreds of thousands of our students on real scientific expeditions with world class scientists, researchers and explorers to work together with them on projects of discovery. NASA participates through three of its research centers and the expertise of many of its scientists. This collaboration is bringing real science to many students and teachers in the US and abroad, and I wanted to commend NASA's work with JASON as a model for public/private partnerships and educational leadership.

Mr. BOND. The committee is aware of NASA's partnership with JASON and we encourage NASA to continue and to expand this work during the next fiscal year.

HOUSING FOR THE MENTALLY ILL

Mr. DOMENICI. Mr. President, I would like to raise the issue of housing for the mentally ill as the Senate discusses this important VA–HUD–Independent Agencies Appropriations bill.

I have worked for many years to focus attention on the serious diseases that are mental illnesses. These are devastating diseases that can leave a person significantly disabled and in need of a variety of services, including affordable housing.

Mr. President, I recently met with representatives of a non-profit organization, Cornerstone, Inc., that has provided capital funding to construct quality housing for the seriously and chronically mentally ill who reside in the District of Columbia. This program began in 1994 when Congress directed that $5 million of funding previously for St. Elizabeth's Hospital be allocated for community-based housing. With $3 million of this funding, Cornerstone has leveraged other resources to a total of $15 million that has been used to construct over 300 units of housing for those with mental illness.

Cornerstone is now into its final year of funding under the original program. Continuation of this program with another $5 million in capital funding would enable over 350 patients currently residing at St. Elizabeth's to be housed in affordable housing at significant savings over continued residence at the Hospital. Housing supported by Cornerstone, Inc., costs less than $40,000 per unit compared to an estimated cost of $100,000 per patient at St. Elizabeth's Hospital. This is the type of public-private partnership that can do so much to help our communities.

Would the Chairman agree that it would be worthwhile for the Secretary of Housing and Urban Development to consider a proposal for continued funding of the Cornerstone, Inc. affordable housing program for the seriously and chronically mentally ill as the Department distributes its 1999 funding?

Mr. BOND. I understand the concern of the distinguished Senator from New Mexico in providing sufficient housing for the mentally ill. I know that here in the District of Columbia the supply of supportive housing is of ongoing concern. I would concur with my colleague with New Mexico that the Secretary of Housing and Urban Development should consider a proposal from Cornerstone, Inc., to continue constructing affordable housing for the seriously and chronically mentally ill in the District of Columbia.

Mr. DOMENICI. I thank the distinguished Chairman for his consideration of this important matter. I join him in urging the Secretary of Housing and Urban Development to work with Cornerstone, Inc., on the continuation of an affordable housing program for the mentally ill in the Nation's Capital.

Mr. LUGAR. Mr. President, Senator COATS and I have shared with you this year our strong support for $2 million through the HUD Economic Development Initiative Account for the Midwest Proton Radiation Institute (MPRI). The MPRI is an important economic development and cancer treatment initiative at Indiana University, Bloomington, Indiana. This is an important effort for the University, the City of Bloomington, and the State of Indiana. Funding for this project was not included as one of the 87 projects listed for this account in S. Rept. 105–216. The MPRI project—like several science-related projects slated to receive funding as listed in S. Rept. 105–216—is beneficial from an economic development perspective as well as in the area of health sciences research and cancer treatment. This is our only project request from the VA–HUD Subcommittee this year. As you move forward with consideration of the final VA–HUD Appropriations bill, I hope you will give consideration to including funds for this valuable and worthwhile economic development project of importance to my State.

Mr. BOND. I appreciate the Senator's strong interest in the Midwest Proton Radiation Institute. I believe this project will create economic growth in Indiana and contribute to improving our nation's cancer treatment activities. As we move to conference with the House on S. 2168, we will give this project every consideration for funding.

Mr. LUGAR. I thank the Chairman, for his comments and for his interest in this project.

Mr. COATS. Of the $85 million set aside for the EDI account in S. 2168—as stated in S. Rept. 105–216—only $67 million earmarked for individual projects in 40 states. It appears funding is available for additional projects within the appropriated spending provided in the bill. I believe the Midwest Proton Radiation Institute is an important effort that will be of great benefit to the city of Bloomington and to Indiana University. In addition, Senator LUGAR and I believe the MPRI is a worthwhile and appropriate project for funding under community development programs at the Department of Housing and Urban Development. I join with Senator LUGAR in requesting your assistance and consideration for funding for this important project as you move to conference with the House on the FY '99 VA–HUD Appropriations bill.

Mr. BOND. Yes, I share the Senator's view that the MPRI project is a meritorious one that should receive serious consideration for funding by HUD in FY 1999. I am pleased to know of your support for this MPRI initiative, and that you join with Sen. LUGAR in seeking funds for this effort.

Mr. COATS. I thank the Chairman.

SMALL SYSTEM TECHNICAL ASSISTANCE AND THE SAFE DRINKING WATER ACT

Mr. CHAFEE. Mr. President, page 67 of the committee report accompanying the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations bill of 1999 includes $8 million for the National Rural Water Association. In addition to the appropriation to the National Rural Water Association, the Committee notes that ''States are authorized to set aside 2 percent of the funds provided under their drinking water State revolving fund allotment.''

I ask my friend from Missouri if he and other members of the Appropriations Committee are implying that the 2 percent set aside authorized in Section 1452(g)(2) of the Safe Drinking Water Act Amendments of 1996 is to be used for grants made to the National Rural Water Association and various regional community action organizations?

Mr. BOND. Mr. President, I am not making such an argument. It was not the Committee's intention to imply, encourage or require States to use the 2 percent set aside authorized in Section 1452(g)(2) for the so called ''circuit rider'' program. The Committee is aware that Section 1452(g)(2) gives States the discretion to use up to 2 percent of their allotted revolving loan funds to provide technical assistance to small public water systems. The language was included in recognition of the fact that States have the ability to increase funding in this area above the $8 million provided directly in this bill at their discretion.

Mr. CHAFEE. Mr. President, I thank the chairman of the Subcommittee on VA, HUD and Independent Agencies for clarifying the report.

ENHANCED VOUCHERS

Mr. MACK. Mr. President, in the last two appropriations acts, the Congress provided enhanced section 8 tenant-based subsidies to low-income residents of certain multifamily housing properties whose owners have elected to prepay their FHA-insured mortgages. These enhanced vouchers were provided to protect residents from displacement from their homes. I understand, however, that the Department of Housing

and Urban Development (HUD) has interpreted the appropriations language so that previously assisted residents would pay an amount based on the same amount of rent on the date of prepayment regardless of a change in their adjusted income. In other words, HUD would require previously assisted residents to no longer base their rent contribution as a percentage of income. This policy interpretation will likely force a section 8 assisted resident to pay a higher percentage of their income in rent if their income decreased and potentially result in displacement.

Mr. President, HUD's interpretation seems contrary to the intent of the appropriations language and the statutory requirements under section 8 or other rental assistance programs. I would like to ask the Chairman of the VA, HUD Appropriations Subcommittee if HUD has correctly interpreted the intent of the appropriations language.

Mr. BOND. I appreciate the Senator's attention to this issue. HUD has incorrectly interpreted the enhanced voucher language. Previously assisted residents who receive enhanced vouchers should be paying the same percentage of income for rent as they had before they had received the enhanced voucher. This means that if a resident's income decreases, their rental contribution should also decrease. The purpose of providing enhanced vouchers to previously assisted residents was to ensure that these residents would be protected from displacement or unaffordable rent increases.

I would also like to state that I expect HUD to administer the enhanced voucher program in a manner that will ensure a smooth transition for residents in prepayment developments. I have heard of some administrative problems with the enhanced voucher program that has created undue and unnecessary hardship for the residents. I would like to reemphasize that the transition should be administered so that residents are able to continue their tenancy with as little disturbance as possible.

Mr. MACK. I appreciate the Senator's response and his leadership in protecting low-income families.

EXCEPTION RENTS FOR RURAL AREAS

Mr. HARKIN. Mr. President, under last year's VA/HUD appropriations act, the Congress created a program called ''mark-to-market'' to reduce over-market section 8 contract rents on FHA-insured multifamily properties. Section 514(g)(2)(A) of the mark-to-market program would authorize the Secretary of Housing and Urban Development (HUD) to allow for exception rents over the 120 percent of fair market rent (FMR) limit for up to five percent of the restructured units in a year. There is some confusion, however, if this five percent waiver is a national limit or a geographical limit. I am concerned that certain areas, such as the upper Midwest, the need for waivers may exceed five percent because of the proportion of elderly facilities and the way FMRs compare to the relative costs of operating those facilities in certain areas as well as the random circumstances that may occur in certain geographical areas in a given year.

I would like to ask the Chairmen of the HUD authorizing and appropriations subcommittees for their clarification on the congressional intent of this issue.

Mr. MACK. I thank my colleague from Iowa for raising this issue. The five percent waiver is a national limit, and the Secretary should exercise his authority in waiving this limitation for areas such as the upper Midwest.

Mr. BOND. I also thank my colleague from Iowa for raising this issue. I concur with the Chairman of the Housing Subcommittee that the five percent waiver is a national limit. This provision was included in mark-to-market to ensure that properties, especially those that serve elderly persons in rural areas, are not adversely affected by the debt refinancing and rent reduction process.

Mr. HARKIN. I thank the two Senators for their assistance in this matter and for their work on housing issues.

Mr. MACK. Mr. President, the ''mark-to-market'' program that was enacted last year in the VA/HUD appropriations act was expected to be implemented by late October of this year. While I applaud the efforts of the Secretary of Housing and Urban Development (HUD) in preparing the implementation of the law, I am still concerned about its progress and ability to meet the October deadline.

I am concerned about the President's failure after 9 months to nominate a Director of the Office of Multifamily Housing Assisted Restructuring and that interim regulations have not yet been published. I, however, would like to focus on the fact that HUD has not begun the process for selecting participating administrative entities (PAE). Without them, the program will not work. In the original mark-to-market legislation that passed the Senate as part of the Balanced Budget Act of 1997, State and local housing finance agencies (HFA) that had qualified under the mark-to-market demonstration and FHA risk-sharing programs would automatically qualify as PAEs. The Banking Committee felt strongly that HFAs not only were the best entities to administer mark-to-market, but it also had concerns about HUD's ability to select qualified entities in a timely and objective manner.

Mr. BOND. I thank Senator MACK for raising these concerns. I completely agree that it is critical that the PAEs be in place by October if the program is to be able to operate at that time. I also add that the consequences of not implementing mark-to-market in a timely manner are serious and could create havoc with contract expirations and renewals. Even if the program is only delayed, HUD may have to extend the contracts at above market levels to provide the PAEs adequate time to restructure the properties. This will result in additional costs to the government and result in shortfalls in the appropriation for renewals. Further, the uncertainty surrounding the rules and regulations of the program will make it difficult for project owners and residents to prepare for mark-to-market.

Mr. President, based on the Administration's less-than-adequate performance in selecting restructuring agents under the mark-to-market demonstration programs, I would say that the concerns expressed by the Chairman of the Housing Subcommittee are valid.

Mr. MACK. I thank the Chairman of the VA/HUD Appropriations Subcommittee for his response and shared concerns. I would like to stress that the credibility of HUD is directly linked to its successful implementation of the mark-to-market program. It is imperative that the Department not only ensures that the program is implemented in time and in compliance with the letter and spirit of the law, but it also ensures a smooth transition. I believe that the legislation provides the Secretary with sufficient flexibility in selecting PAEs and would highly recommend that the Secretary use its current restructuring agents to continue as PAEs under the permanent program, especially if the program is to be implemented in time. As I have advocated before, I would specifically recommend the use of State and local HFAs as PAEs.

HFAs have proven that they have the capacity and willingness to serve as the federal government's partners in affordable housing. Thirty HFAs have been qualified by HUD to participate under the mark-to-market demonstration program. Twenty-eight HFAs are participating in the FHA risk-sharing program. Almost every state HFA has administered the successful Low Income Housing Tax Credit program since the Congress created it in 1986. HFAs have financed more than 200,000 Section 8 units and administer Section 8 contracts on behalf of HUD in many cases. Thirty-four HFAs administer the HOME program, under which multifamily properties are being financed every year.

It is clear from this evidence that the HFAs are the most qualified to act as PAEs under the mark-to-market program and more importantly, they are publicly accountable and have missions that are aligned with HUD. I expect HUD to approve many HFAs as PAEs and provide them as much flexibility as possible within appropriate parameters to administer the program.

Mr. BOND. Based on their demonstrated performance as the Senator from Florida has pointed out and my own knowledge of the Missouri Housing Finance Agency, I would also expect HUD to approve many HFAs as PAEs. I also agree that HUD should not require the HFAs that act as PAEs to go

through any unnecessary administrative steps in restructuring properties. I would especially be concerned if HUD created impediments in the HFAs ability to provide financing, such as risk-sharing, for restructuring transactions.

OWNERS' RIGHT TO PREPAY FHA MORTGAGES

Mr. MACK. Mr. President, I understand that the Manager's Amendment to the VA/HUD Appropriations Bill contains an important provision that allows owners to prepay its FHA-insured multifamily housing mortgage. This provision would continue current policy.

I would like to ask Senator BOND, the Chairman of the VA, HUD Appropriations Subcommittee, if he could confirm this.

Mr. BOND. I thank the Chairman of the Housing Subcommittee for raising this issue. The Senator is correct that the Manager's Amendment contains language regarding the owner's right to prepay its mortgage and continues current housing policy that has been in effect for the past three years. This policy change was originally made in past appropriations legislation.

Under the appropriations legislation and this year's legislation, the Congress restored the owner's right to prepay its mortgage under the Low Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA). However, as a condition of prepayment, some resident protections were included in the appropriations law to prevent hardship for affected residents. Specifically, upon prepayment, an owner could not raise rents for 60 days and eligible residents were provided enhanced or ''sticky'' vouchers so that they could choose to remain in their homes at an affordable rent. The provision of sticky vouchers were provided in lieu of the resident protections under LIHPRHA. In other words, the provision of sticky vouchers and the prevention of raising rents for 60 days permanently replaces the LIHPRHA resident protections that included (1) providing relocation benefits, (2) keeping rents at levels existing at the time of prepayment for three years, and (3) requiring owners to accept voucher holders.

Mr. MACK. I thank my colleague for his assistance.

Mr. ROCKEFELLER. Mr. President, as the ranking member of the Committee on Veterans' Affairs, I am pleased to offer my support for S. 2168, the FY 1999 Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies appropriation bill, and most particularly for Title I, the section outlining funding for VA.

Once again, the chair of the VA–HUD Subcommittee, Senator BOND, the ranking member, Senator MIKULSKI, and the other members of the Subcommittee, have taken a reduced allocation and tremendous limitations on funding, and have miraculously created a bill which adequately addresses the needs of America's veterans. While I would always want to increase support for veterans programs further, I am enormously pleased with the result of their efforts. I would like to highlight several accomplishments in particular.

On the health care side of the ledger, the Committee on Appropriations recommended $17.25 billion for VA medical care, a substantial increase of $222 million over the President's request and $192 million above the FY 1998 level. When these funds—$17.25 billion—are coupled with receipts collected under the Medical Care Cost Fund, the Veterans Health Administration will have access to $17.92 billion in discretionary resources to care for sick and disabled veterans.

I am also particularly gratified by the Committee's report language on the need for community-based outpatient clinics (CBOCs) in the Eastern Panhandle of my home state of West Virginia. Indeed, the Committee noted that clinics in Petersburg and Franklin will benefit approximately 2,000 veterans who have been forced to drive long distances and spend the entire day at VA medical center for routine health care. I am hopeful that VA will begin providing needed health care services by the end of this year, if not sooner.

I must also mention the extraordinary work done by the Committee to appropriate substantial funds for the VA medical and prosthetic research account. For the first time in many years, the Administration had proposed funding this account at the level of $300 million. Although this amount represents an increase compared to last year, unfortunately, this level of funding is not sufficient even to keep up with inflation, much less provide for any real growth.

For many years, the VA research program has suffered from flatline funding that has hampered its ability to improve the quality of care provided to veterans, attract well-trained physicians, and advance medical treatments that can benefit the nation as a whole. In light of this, the Committee has gone beyond the $300 million mark and allocated an additional $10 million. These additional funds will produce research discoveries which will benefit veterans and non-veterans alike.

The bill before us also includes a substantial increase for grants for construction of state extended care facilities. The Committee recognized the important role State Veterans Homes play in providing domiciliary and nursing home care to veterans and chose to recommend $90 million for this program. This recommendation is $10 million more than the fiscal year 1998 funding.

The Committee also included report language which emphasizes the need for VA to ensure funding for grants and per diem payment assistance to community-based providers of services to homeless veterans. In the past three years, VA has closed approximately 4,500 acute mental health and substance abuse beds. At the same time, the number of unique patients receiving outpatient mental health and substance abuse treatment has increased by 8 percent. There is no question that outpatient based treatment for homeless veterans with mental illnesses and substance abuse disorders can be effective, but such treatment must be coupled with safe, supervised transitional housing programs. VA grant programs help to fill the void caused by the closure of inpatient services.

On the benefits side, I was very pleased to see that the Committee included an increase of $5 million for the Veterans Benefits Administration and tied the release of these funds to submission of a plan implementing the recommendations of the National Academy of Public Administration. VA continues to struggle to correctly adjudicate veterans' benefits claims in a timely manner, and faces a backlog of pending cases and an increase in new claims being filed. Additional funding, spent in a targeted manner, should greatly improve VA's decisionmaking ability.

The Committee has also recommended a $2.2 million increase in funds allocated for the Office of the General Counsel (OGC), Professional Group VII, which represents the Secretary before the U.S. Court of Veterans Appeals. There is a growing backlog of cases at the Court created by the loss of experienced attorneys and increased productivity of the Board of Veterans' Appeals (BVA). Our veterans should not have to wait additional time for a decision because the OGC does not have the staff to litigate their cases.

Mr. President, in closing, I am pleased with what the Committee on Appropriations has been able to do for VA. I applaud the leadership of all the members of the Appropriations Committee, and especially those members on the VA–HUD Subcommittee.

AMENDMENT NO. 3057

Mr. CHAFEE. Mr. President, I would like to thank Senators BOND and MIKULSKI for including a provision in the manager's amendment that makes it explicit that State Clean Water State Revolving Loan Fund programs may continue the practice of collecting a loan service fee to help cover the cost of administering the loans and managing the revolving loan fund.

Mr. President, there are approximately fourteen States that charge a loan administration fee to revolving loan fund borrowers to cover some of the costs associated with the loan transaction. As a service to the borrower, most of the States roll this fee into the loan so that it is repaid with interest over the duration of the loan. This is a tremendous help to the borrower, who is often unable to pay the fee upfront. The Environmental Protection Agency (EPA) has recently objected to this practice despite the fact that it has been used since the inception of the revolving loan fund. EPA contends that this practice violates the

four percent limitation on administrative fees in Title VI of the Clean Water Act.

The language included in the manager's amendment will resolve this problem by allowing States to charge administrative fees regardless of whether they exceed the four percent limitation. To ensure that this practice is not abused, the fees cannot exceed an amount the Administrator of EPA deems reasonable.

Mr. President, without this amendment many of the Clean Water State Revolving Loan Fund programs would face severe financial hardship that would be detrimental to the health of the revolving loan fund program.

Once again, I would like to thank Senators BOND and MIKULSKI for including this very important amendment in their manager's package.

FEMA

Mr. LEAHY. Mr. President, I have a great appreciation for the fine work Senator MIKULSKI and Senator BOND have put into crafting this difficult bill. The VA, HUD and Independent Agencies Appropriations bill in particular deals with many tough issues and competing demands. One of the smaller agencies which I would like to bring attention to today is the Federal Emergency Management Agency (FEMA).

Just a few weeks ago FEMA invited Lamoille County in Vermont to become a part of Project Impact, FEMA's pre-disaster mitigation program. This is a program that is partnering with communities, and the private sector, to make communities more resistant to natural disaster.

The importance of this kind of pre-disaster planning was driven home this past weekend as Lamoille, along with Addison, Chittenden, Franklin, Orange, Rutland, Washington, and Windsor Counties in Vermont were again devastated by severe storms and flooding. On June 30th, the President declared these areas in Vermont a major disaster. I toured the area with FEMA officials last week and, thanks to the hard work and spirit of the people of Vermont, the local public safety forces and FEMA, those communities are beginning to recover. Project Impact could help counties like Lamoille take steps to reduce the costs and public health risks of these kinds of disasters in the future.

FEMA Director, James Lee Witt is a friend to just about every member of the Senate. He and his staff, both here and in the regional offices, have been there for our states through all manner of natural disasters. To maintain FEMA's capability to respond so quickly to the needs of our states, I believe Congress should support the levels of funding for FEMA recommended in the President's budget. Again, I congratulate Senator BOND and Senator MIKULSKI for their fine work and know they share my support for FEMA and the work it does.

ENVIRONMENTAL SELF-EVALUATIONS

Mr. ALLARD. Mr. President I was prepared to offer an amendment to the VA/HUD Appropriations bill that would have taken away EPA's authority to withdraw Colorado's delegated environmental programs. EPA has been threatening Colorado's authorization to administer delegated programs because of an environmental self-evaluation law the State passed in 1994. As many listening know, self-evaluation laws allow companies, individuals, and local governments to go above and beyond what is required in seeking out environmental problems under their jurisdiction. In return the entity who performed the audit is protected from fines. Colorado's law makes good sense, in fact in the short time it has been in existence those who have availed themselves of it have found and corrected many environmental problems that otherwise would have gone undetected.

However, last February I became aware that EPA may not have been taking the State of Colorado seriously with respect to negotiations on the self-evaluation law. At that time I stated my intention to object to an EPA nominee. Subsequently, I dropped my objection to their nominee after speaking with Assistant Administrator Herman about my concerns. He agreed to do his best to ensure that negotiations occurred in good faith and that they were inclusive of Colorado's elected officials who had an interest in the manner. Over the past several weeks I became concerned that EPA had not followed through on this commitment.

I was particularly distressed at the prospect that EPA had promised me they would take an action and then turned around and ignored their promise. Earlier today Assistant Administrator Herman called me and assured me that he had been faithful with respect to the previous agreement we had made. However, he agreed to redouble his efforts in negotiating an agreement to the audit issue in Colorado that has broad based support because of broad based involvement among policy makers and other local officials.

While my inclination is still to offer my amendment, I am willing to forego it in this instance. However, should I find that EPA is attempting to exclude people from negotiations on Colorado's environmental audit law I will revisit this issue soon.

VETERANS' TOBACCO-RELATED ILLNESSES AND DISABILITY

Mr. MCCAIN. Mr. President, I had every intention to offer an amendment to the Veterans' Affairs/Housing and Urban Development Appropriations bill that would restore the $10.5 billion in funding that was so egregiously and eagerly taken from our nation's veterans to fund pork-laden highway programs in the Intermodal Surface Transportation Efficiency Act of 1998 (ISTEA). Unfortunately, there was simply no possibility that this amendment would be adopted, simply because of the inflexibility of the Appropriations Committee's allocation of funds between the Transportation and VA/HUD Subcommittees.

Because of the arcane rules of the Senate, I and my cosponsors are precluded from righting this profound wrong that has been perpetrated against those who have served and sacrificed for our country.

This amendment would not have been my first attempt to rectify this shameful treatment of our Veterans. On the tobacco bill, I sponsored legislation that would provide not less than $600 million per year to the Department of Veterans Affairs for veterans' health care activities for tobacco-related illnesses and disability and directed the Secretary of Veterans Affairs to assist such veterans as is appropriate. The amendment would have provided a minimum of $3 billion over five years for those veterans that are afflicted with tobacco-related illnesses and disability. Additionally, the amendment would have provided smoking cessation care to veterans from various programs established under the tobacco bill. Unfortunately, when the tobacco bill was returned to the Commerce, Science, and Transportation Committee, the funding vehicle for those afflicted veterans suffering from smoking-related illnesses, went with it.

The failure to address the tobacco-related health care needs of our men and women who faithfully served their country in uniform would be wrong. Congress cannot continue to rob from veterans, whose programs have been seriously underfunded for years, to pay for special interest projects.

Mr. President, I want to assure my colleagues, and more importantly, our veterans, that this issue is far from dead. I am even more compelled and committed to find a vehicle to restore the critical funding that was so selfishly taken by members of this body. Mr. President, our veterans—those who served and sacrificed, those who trusted, and in this case were betrayed by their government—deserve no less.

AMENDMENT NO. 3063

(Purpose: To amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage)

Mr. DASCHLE. Mr. President, I have an amendment and I send it to the desk.

The PRESIDING OFFICER. The clerk will report.

Mr. DASCHLE. Mr. President, I know there is an understanding that we will go to the veterans amendment at some point, and I would be happy to lay aside this amendment to accommodate Senator MCCAIN and others who may wish to offer their amendment, with the understanding that we might have a vote on both amendments at some point in the future. But I wanted to lay this amendment down, and I will be brief because I know the distinguished Senator from New Mexico also wishes to speak.

The PRESIDING OFFICER. If the leader will withhold, the clerk needs to report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 3063.

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

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

The amendment is printed in today's RECORD under ''Amendments Submitted.''

Mr. DASCHLE. Mr. President, the issue of patient protection is among the most important health questions facing the American people today. In survey after survey, the American people have said without equivocation that they want Congress to deal with this issue. More and more, from places all over the country, we hear reports about victims of our current system and cries for reform. The need to address this issue, this year, has become more and more pronounced.

For many months, we have worked in concert with the White House and with our House colleagues to come up with a way to comprehensively respond to the growing array of concerns and problems that people from all over the country have raised as they talk about the current situation we face with regard to health insurance and HMOs.

After a great deal of attention, study, thoughtful analysis, and working with over 100 organizations from all philosophical and political persuasions, we have introduced legislation that provides a number of very basic patient protections: providing access to needed specialists including pediatric specialists for children; ensuring access to an independent appeal board when insurance companies deny care and requiring timely resolution of those appeals; guaranteeing access to the closest emergency room so that people don't have to waste precious time as they drive miles to save their insurance company a few dollars; allowing patients to see the same doctor through a pregnancy or a difficult treatment even if their doctor stops participating in an HMO; allowing women direct access to their ob/gyn without asking their insurance company for permission; preventing drive-through mastectomies and other inappropriate insurance company interference with good medical practice; and holding HMOs accountable when their decisions to deny or delay health care result in injury or death.

These provisions, and a number of others that I will not list now, were very carefully thought through before we incorporated them in this patient protection bill. I do not know of another piece of legislation that has higher priority. I do not know of another piece of legislation that deserves the attention of the Senate more than this one.

Every day we fail to act on basic patient protections, the list of families who suffer continues to grow. We have fewer than 10 weeks remaining before the end of the session. We have yet to spend 1 day talking about the Patients' Bill of Rights, debating patient protections, and dealing with this issue in a comprehensive way. My hope is that we can work through this amendment and come up with a way in which to address this issue on this bill.

I also would like very much to be able to schedule debate and a vote on this legislation. To date, we have not been able to do that. So I offer this amendment in good faith and hope that we can finally come to closure on what I consider to be the single most important piece of health legislation facing the Congress and our country today.

I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I regret that the minority leader has chosen to add a totally new subject to this debate. I know there have been discussions at the leadership level about scheduling debate on it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

Mr. BOND. Objection.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued with the call of the roll.

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

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

AMENDMENT NO. 3062

The PRESIDING OFFICER. The pending question is the Bumpers amendment No. 3062.

Mr. BUMPERS. Mr. President, I yield myself 3 minutes.

I assume most everybody in this Senate now understands that we are debating an amendment that would terminate the space station, save $80 billion over the next 15 years, and this year alone put $1 billion in veterans medicine, $450 million into low-rent housing.

I hate to call a program that has been successful in most ways, almost comical, but there is no way to describe what is going on with the space station right now any other way. We have been told from the beginning it would cost $17.4 billion to build the station on Earth. There are three stages: No. 1, you have to build it; No. 2, you have to put it in space; No. 3, you have to operate it for 10 years.

What are we looking at? We are looking at a $100 billion cost today. Since last October 1, since last October 1, the Chabrow Commission, appointed by Daniel Goldin, the administrator of NASA, Jay Chabrow, probably the best space policy analyst in America, comes back and says the first part is not going to cost $17.4 billion; NASA is going to take 10 to 38 months longer than they told you, and it will cost $24.7 billion. That is $7.3 billion—a 43-percent cost overrun and we haven't even finished building it yet.

If you think that is a cost overrun, wait until the Russians start reneging. Jay Chabrow says you will not have this thing finished in early 2003. You will be lucky to have it finished early 2006. So when the Russians start reneging on their part of it, we have about 80 launches to deploy this thing, and the Russians are going to be responsible for about 40 of them, between 40 and 49. Who here believes that a country who can't even pay the electric bill at their principal cosmodrome is going to come through on their commitment with that many flights? Every time they renege it will cost us close to $1 billion.

I asked my colleagues this afternoon, and I repeat the challenge, I have talked endlessly about the cost overruns we are experiencing and the ones we are going to experience, and according to the way we have debated this thing this afternoon, those cost overruns are like Ross Perot's crazy aunt in the basement; we ignore it. I can tell you that crazy aunt in the basement will have a lot of company unless we kill this program now.

You can save $80 billion. We have yet to spend $80 billion. If the cost overruns are anything even close to what they are looking at now, what Jay Chabrow says is a distinct possibility, you are talking about $100 billion to $150 billion, and every research scientist in America says it is of highly questionable value. As a matter of fact, virtually every one of them are adamantly opposed to it.

I reserve the balance of my time.

Mr. BOND. I yield 2 minutes to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. I want to thank Senator BOND very much for allowing me to be in the summation. Because of a family emergency I just arrived.

Mr. President, I do admire the tenacity of the Senator from Arkansas, for he has tried 15 straight times to submarine the space station, in a mixed metaphor. But I do think the Senator is wrong.

I think the Senate will rise above his arguments, which would have the world's greatest superpower saying to all of the other nations that have put their money into this project, we are going to walk away from an experimental project, 90 percent complete. This project is succeeding. What we are going to be able to do has already begun to be tested in the early stages, and that is use microgravity conditions to grow tissue, which you can't do on Earth. You can't simulate this procedure on Earth. It means we will be able

to take defective tissues, without harming the patient, and experimenting without harming the patient. It is biomedical research. We have partners—the United States, Canada, Italy, Belgium, Netherlands, Denmark, Norway, Spain, France, Germany, the UK, Japan, and Russia—in this project. Yes, the Russians are having trouble. We know that. Does that mean we will walk away from all of our other international partners? The United States has been the leader in technical advances. It is why we have been able to get all of the benefits that we have seen from space research, because we have been willing to take the risk. Experiments are not precise. You make mistakes when you are the first one out there.

You can't draw the budget for the first time and say you have to stay within this budget. Yes, it may take a couple more years. But if we can find a cure for ovarian cancer, for breast cancer, for osteoporosis, then I think a couple of years or 3 years working this out together, perhaps getting new partners, which is what we ought to be doing, instead of saying let's walk away, 90 percent into a project, with all of the other countries that have depended on us.

We are the world's greatest superpower. We are not going to walk away from our partnership. We are not going to walk away from the leadership, at least that is not the country I represent. Most certainly, I don't think the Senate would do something so narrow.

Mr. BUMPERS. The Senator from Texas just alluded to curing breast cancer and curing several other diseases. You could fund the National Institutes of Health God knows how many times for what this thing will cost. You are not going to cure anything with this. That is the reason America's physicists, cell biologists, and medical scientists are all opposed to it.

You know what this space station is going to cost per man-hour of research?—$11.5 million per hour. Can you imagine us, with our eyes wide open, saying we are going to build a space station for research purposes that will cost $11.5 million an hour. It is the height of irresponsibility.

The American people have a right to expect us to be fiscally responsible. I want to ask my colleagues in closing, how far are you willing to go? What is the threshold beyond which you are not willing to go? We have gone from $8 billion to $100 billion for the space station and we are headed for $150 to $200 billion. We kill the Super Collider, we kill the Clinch River Breeder, and who here misses them? We save America billions of dollars. You have a chance to save $80 billion right now and help veterans, help veterans and help people who are desperately needing low-rent housing.

I plead with my opponents to support this amendment.

Mr. BOND. Mr. President, I yield the remaining time on this side to the distinguished Senator from Ohio.

Mr. GLENN. Mr. President, how much time remains?

The PRESIDING OFFICER. There are 2 minutes 48 seconds remaining.

Mr. GLENN. Mr. President, we have addressed costs here. This $96 billion is a fictitious figure; $40 billion of that, by NASA estimates, includes shuttle costs that are going to go on anyway. Besides all those big figures taken into a 15-year account here, what we are talking about in this bill is for fiscal 1999? We are talking about $2.3 billion versus $2.1 billion for last year, not a huge increase.

Now, there are always going to be competing needs for every bit of research. If we ever tried to solve all problems and to do everything we wanted to do before we made research, we would never have moved off the east coast. Basic research is a way of life, fundamental. This is a new laboratory we are working on. It is our experience that dollars spent on research seem to have a way of paying off in the future beyond anything we ever foresee at the outset. That has been the history of this country. We have gotten to the place now where much of the space program is increasingly going commercial.

On the flight we will be on, STS–95, we will have three specific projects. We will have basic research, besides what we are talking about, in the physical sciences, in the bio area. We will have the Spartan spacecraft making the measurements of the Sun and solar winds. We will have research on aging, with which I will be involved. We will have ultraviolet measurements that will be probably the most accurate ever made in space. These things cannot be done except in zero-G, not on the ground.

We are talking about payoffs in commercial areas with three different projects on STS–95. We are almost there. The figure was quoted a moment ago that 90 percent of our hardware has been built. I think 75 percent of the milestones have already been passed. The first elements are due to be launched later this year. I think the Russians are due to launch the first node, module, on November 20, and we are scheduled to launch the first United States one on December 3.

It is a 16-nation commitment that we have. Certainly, it is better to be working peacefully together than to be thinking about war, which we were a few years ago. It is the biggest, most incredible scientific engineering experiment ever tried internationally. I think there can be incredible scientific possibilities and results from this, not only in medicine, but learning about our world and our solar system, inspiring our young people to explore and to learn. The benefits are not out there in space. The benefits are for us right here on Earth. That is the important part of this whole thing. The Chabrow report said this. Although costs in scheduled growth have occurred, the magnitude of such growth has not been unusual, even when compared with other developmental programs of lesser complexity.

The PRESIDING OFFICER. The question occurs on amendment No. 3062 offered by the Senator from Arkansas.

Mr. BOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

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

The result was announced—yeas 33, nays 66, as follows:

[Rollcall Vote No. 185 Leg.]

YEAS—33

Abraham	Dorgan	Leahy
Ashcroft	Durbin	Levin
Baucus	Feingold	Lugar
Bryan	Harkin	Moynihan
Bumpers	Hollings	Reed
Byrd	Hutchinson	Snowe
Chafee	Jeffords	Specter
Coats	Johnson	Thomas
Collins	Kennedy	Warner
Conrad	Kohl	Wellstone
Daschle	Lautenberg	Wyden

NAYS—66

Akaka	Ford	McCain
Allard	Frist	McConnell
Bennett	Glenn	Mikulski
Biden	Gorton	Moseley-Braun
Bingaman	Graham	Murkowski
Bond	Gramm	Murray
Boxer	Grams	Nickles
Breaux	Grassley	Reid
Brownback	Gregg	Robb
Burns	Hagel	Roberts
Campbell	Hatch	Rockefeller
Cleland	Helms	Roth
Cochran	Hutchison	Santorum
Coverdell	Inhofe	Sarbanes
Craig	Kempthorne	Sessions
D'Amato	Kerrey	Shelby
DeWine	Kerry	Smith (NH)
Dodd	Kyl	Smith (OR)
Domenici	Landrieu	Stevens
Enzi	Lieberman	Thompson
Faircloth	Lott	Thurmond
Feinstein	Mack	Torricelli

NOT VOTING—1

Inouye

The amendment (No. 3062) was rejected.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, for the information of all Senators, this vote in relation to the space station was the last vote of the evening. Wednesday, the Senate will consider the IRS conference report. I expect a considerable amount of time for debate to occur with respect to this IRS reform and restructure bill. A lot of Senators put a lot of time into it. There are some important provisions I know they will want to emphasize. Therefore, a late afternoon or early evening vote can be

expected to occur with respect to the IRS reform legislation.

WELCOME BACK, SENATOR SPECTER

Mr. LOTT. Also, at this point I would like to welcome back our colleague, the senior Senator from Pennsylvania, Mr. SPECTER, who is recently back from surgery, and he just made this vote this afternoon.

(Applause, Senators rising.)

Mr. LOTT. I am sure he was watching that on TV essentially, but he did make this vote, and we are glad to have him back.

PRODUCT LIABILITY REFORM ACT OF 1997—MOTION TO PROCEED

The Senate continued with the consideration of the motion.

Mr. LOTT. Mr. President, I know of no further requests for time on the pending motion to proceed to the product liability bill.

Mr. DASCHLE. Mr. President, could we have order?

The PRESIDING OFFICER. The Senate will come to order.

Senators will take their conversations outside.

Mr. LOTT. I believe the question is on the motion?

The PRESIDING OFFICER. That is the regular order.

Is there further debate on the motion?

The motion was agreed to.

PRODUCT LIABILITY REFORM ACT OF 1997

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 648) to establish legal standards and procedures for product liability litigation, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3064

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment 3064.

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

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

The amendment is printed in today's RECORD under ''Amendments Submitted.''

CLOTURE MOTION

Mr. LOTT. Mr. President, I send a cloture motion to the desk.

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

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the pending amendment to Calendar No. 90, S. 648, the Product Liability Reform Act of 1997:

Mr. LOTT. Mr. President, this is the cloture motion on the substitute product liability bill, and so for the information of all Senators, this vote will occur on Thursday of this week. I will consult with the Democratic leader as to exactly what time that will be.

And I now ask that the mandatory quorum under rule XXII be waived.

Mr. BYRD. Mr. President, reserving the right to object, and I do not intend to object, may we have a reading of those Members who signed the cloture motion.

The PRESIDING OFFICER. The clerk will continue to read.

The legislative clerk continued the reading of the cloture motion.

Senators Trent Lott, Don Nickles, Slade Gorton, Phil Gramm, John McCain, Spencer Abraham, Dan Coats, Dick Lugar, Lauch Faircloth, John Chafee, Sam Brownback, Ted Stevens, Jon Kyl, Jeff Sessions, Mike Enzi, and Judd Gregg.

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

Mr. LOTT. As a reminder, then, to all Senators, under the provisions of rule XXII, all first-degree amendments must be filed by 1 p.m. on Wednesday, and all second-degree amendments must be filed 1 hour prior to the cloture vote.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998—CONFERENCE REPORT

Mr. LOTT. I now move to proceed to the conference report to accompany H.R. 2676, the IRS reform bill.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill, H.R. 2676, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of June 24, 1998.)

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. Mr. President, my reaction is, here we go again. Yet another piece of legislation laid down without any opportunity——

Mr. FORD. Mr. President, may we have order? I make a point of order the Senate is not in order.

The PRESIDING OFFICER. The Senate will come to order. The minority leader has the right to be heard. The Senate will come to order.

The minority leader.

Mr. DASCHLE. I thank the distinguished Senator from Kentucky.

Mr. President, I am very disappointed with the action just taken by my good friend, the majority leader. He has filed cloture on one of the most controversial, complex, far-reaching pieces of legal legislation that we will address in this decade. We have done this before, and it would seem to me that our colleagues would understand that when this happens, we are denying the very function of the U.S. Senate, the right of every Senator to offer amendments, the right to have a deliberative——

Mr. DODD. Mr. President, the Senate is not in order.

(Mr. ALLARD assumed the Chair.)

Mr. DASCHLE. It is the right of all Senators to fulfill the functions of their responsibilities as U.S. Senators to offer amendments, to have a debate. For us to file cloture, for the Senate to file cloture on a bill of this import, without one speech, without one amendment, without any consideration, is absolutely reprehensible.

I am very, very disappointed that the majority leader has seen fit to do it. I guess I would ask, What are they afraid of? What is it they don't want us to offer? What is it about the amendment process that worries our colleagues on the other side? What is it about not having a good debate that so appeals to them? Mr. President, I don't know.

But I do know this. Senators on this side of the aisle will continue to fight for our rights to offer amendments, regardless of circumstance. There are many of our colleagues who may support this bill on final passage, and I respect their rights even though I disagree. I personally think this bill is as bad as all the others that have been proposed, and I hope that we have a good debate about how good or how bad this legislation truly is. But for us to start the debate by saying that there will be little or no debate, especially when it comes to our opportunity to offer amendments, precluding the very right of every Senator to be heard, precluding the opportunity for us to offer ways in which we think it could be improved.

So we will have this debate over and over and over again. But on so many occasions now, our colleagues on the other side insist on denying the rights of every Senator to be heard. That doesn't have to happen. This is not the House of Representatives. This is not the most deliberative body in the world so long as we continue to utilize this practice. There is a time and a place for cloture, but that time and that place is not as soon as the bill is laid down. Many of us could have objected to the motion to proceed. We could have voted against going to the motion to proceed. We could have even filibustered the motion to proceed. We didn't do that. Why? Because, in good faith,

we felt it was important to get on to the bill. But now what do we have? Another in a continued pattern by our Republican colleagues to curtail debate, to curtail thoughtful consideration of a very important issue.

I don't know of a more complicated bill that any one of us will have to address in this session of Congress than product liability. We could offer a pop quiz today, and I am sure many of our colleagues would probably fail simply because we are not familiar with all the ramifications of this issue. So for us, now, just at the beginning of the debate to say we don't want amendments, we are not even sure we want a lot of debate, we are just going to get this out of our way so we can move on to other things, that is not the way the Senate ought to work. That is not what we ought to be doing here.

What goes around comes around. This issue is going to come around again and again and again. We will not be denied our rights.

So I am just very hopeful that even many of our Republican colleagues who may have misgivings about this bill will join Democrats in defeating cloture when the occasion arises on Thursday.

Several Senators addressed the Chair.

Mr. DASCHLE. I would be happy to yield to the Senator from Massachusetts.

Mr. KERRY. Mr. President, I would simply ask the minority leader if he might draw any parallel or distinction between the way this bill is now being handled and other bills are handled, versus the tobacco legislation and the question of cloture on that?

Mr. DASCHLE. I think the Senator from Massachusetts raises a very important point. Exactly. We have seen this in a series of different episodes over the course of the year. It is a dangerous precedent to be setting. It is a remarkable admission from the other side that they are unwilling to face the reality here, to face the opportunity to have a good debate on key votes having to do with improvement of the bill, having to do with different views on a bill. Just as we saw with tobacco.

I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, am I correct that the Senator from South Dakota had offered an amendment to the appropriations bill on the Patients' Bill of Rights and that, if we had not had the majority leader's requests at this time, tonight we in this body would be debating the Patients' Bill of Rights? Am I correct?

Mr. DASCHLE. The Senator from Massachusetts raises a very important note here. It seems that our colleagues on the other side are reverting to two practices: One is to file cloture as soon as a bill is laid down. That is what they did in this case. That is what they did—what they did on the Coverdell bill. The other practice is to offer a bill, and as soon as we offer an amendment that is in disagreement with their larger scheme, they pull the bill. That is what happened to the Ag appropriations bill when we offered tobacco on Ag appropriations. That is what just happened on the VA–HUD bill.

So it seems to me there are two actions taken by our Republican colleagues with some frequency here: File cloture, deny the colleagues the right to offer amendments because of cloture; or pull the bill and move on to something else and never come back. So the Senator from Massachusetts raises a very good point.

Mr. KENNEDY. If the Senator will further yield, as I understand it now, as a result of the action of the majority leader, the Ag appropriations bill has returned to the calendar and the VA–HUD appropriations bill has returned to the calendar. So it appears, would the Senator not agree with me, that it is not the Democrats who are holding up the appropriations process and procedure—we were prepared to move ahead—but evidently it is the majority leader who has sent these matters back to the calendar when it is our responsibility to go forward?

I am just wondering if the leader can tell us whether he has had any opportunity to talk to the majority leader about when we will have an opportunity to at least have discussion or debate on the measures that evidently are objectionable to the majority leader? Are we going to have any opportunity to debate these measures, or are we going to be required to continue this charade and continue to try to offer these amendments on other appropriations as well?

Mr. DASCHLE. Unfortunately, I have to report to the Senator from Massachusetts that there doesn't appear to be any end in sight to this gagging of Democrats, to this notion that you either proceed on our terms or we won't proceed at all.

As the Senator from Massachusetts just noted, we are no longer in a position where the regular order is to go back to an appropriations bill. They have been shelved. They have been put back on the calendar. Now, we have to move to a motion to proceed to bring the bills back, where at least before we had the bills as the regular order should we fail to reach any kind of an agreement on how to proceed on a current bill.

Mr. KENNEDY. Just finally, and I thank the Senator, does he find it somewhat ironic that the Republican leadership is effectively gagging the Senate from debating rules on HMOs which are gagging doctors from giving the best health care advice? That we are being gagged here on the floor of the U.S. Senate, so to speak, as well, by Republican leadership who have refused to permit a debate on this issue? There is a certain irony in that.

Mr. DASCHLE. That is the irony, I would say to the Senator from Massachusetts. And the real sad thing is that this goes beyond the bill. This goes to the fact that 3,000 kids a day start smoking. It goes to the tremendous number of victims of managed care abuses all over this country, in every State of the Union, who have said if you do anything in Congress this year, we want you to fix managed care. We don't want you to wait until we lose more people. We want you to solve this problem this year. And that is what we are trying to do. We have 10 weeks to go, fewer than 40 legislative days. If we don't do it now, when are we going to do it?

The Senator from Massachusetts makes a very important point. I yield to the Senator from Vermont.

Mr. LEAHY. Mr. President, if the Democratic leader can yield for a question, I ask the Senator from South Dakota—and I am looking around the floor, and I see a number of Senators on the floor. I see only two who have served here longer than I. I ask my question in the form of that context.

In the 24 years I have been here, Democrats have been twice in the majority, twice in the minority. Thus, the Republicans twice in the minority and twice in the majority. Would it not be the experience of the Senator from South Dakota, as it has been mine, that no matter which party was in the majority, the Senate and the Senate rules and those who have led the Senate have always reflected the need of the Senate rules to protect both sides, both the majority and the minority, so that the United States of America would know that there was a full debate on real issues where all voices were heard, not just the voice maybe of temporarily the majority, but all voices would be heard?

And would it not be the experience of the Senator from South Dakota that this procedure, something I have not seen in my 24 years here, this procedure is said to make sure there will not be a vote where all Americans are heard, will make sure there is not a debate where all Americans are heard, but will be done in such a way that only one segment of our country will be heard? Will that not be the experience of the Senator from South Dakota?

Mr. DASCHLE. The Senator from Vermont speaks with a wealth of experience that goes well beyond what this Senator has had in his 12 years in the Senate. But like him, I have not seen this practice used with the frequency and the amazing degree of persistence demonstrated by the majority leader to cut off debate, to gag the Senate, to stop an open opportunity for us to debate key issues, complicated issues such as this.

The Senator is right, this experience is one that I think really bears a great deal of explanation to the American people. Why on key issue after issue—why on education, why on tobacco, why on all these issues that we face this year—does the Senate majority persist in precluding a good opportunity to have the kind of debate the American

people expect and want and need. The Senator from Vermont is absolutely right.

This is not the Senate's brightest moment. This is a very, very disappointing episode in what has been a pattern all year long, and it is disappointing not only to us but the American people. I yield to the Senator from Illinois.

Mr. DURBIN. I say to the Senator, I agree completely with his comments.

If the Members of the U.S. Senate serving in the 2d session of the 105th Congress were charged in court with having passed meaningful legislation to help America, I am afraid there is not enough evidence to convict us, because if you look at what we have been about over the last several months, with the exception of renaming Washington National Airport, we have little to show for the time we have spent in Washington and only 10 weeks to go.

The Senator is so correct, the President, in his State of the Union Address, challenged this Congress, leaders on both sides of the aisle, to address the issues America really cares about: Saving Social Security, campaign finance reform, tobacco legislation, education, child care, doing the things that American families would really applaud, responding to their needs.

Yet, we stand here today in the first week of July and we hear, again, an effort by the majority leader to not only stop the train in an effort to stop legislation moving forward, but to stop the debate in what is supposed to be the world's greatest deliberative body.

It is a disappointment to me, and I think to a lot of people who are following this session of the U.S. Senate, that we are back here this week and not about the business that people really care about across America.

I stand in support of what our leader, Senator DASCHLE, said, that it is a deprivation of our responsibility as U.S. Senators representing States across this country and as representing families who expect us to respond to these needs, when you think of the opportunities we have already missed—the campaign finance reform bill killed on the floor of the Senate by the Republican leadership, and then we turned around with an opportunity to protect millions of our children from tobacco addiction, killed on the floor of the U.S. Senate by the Republican leadership time and time again.

Here is an effort by the Democrats to bring out legislation to protect families and patients who go to their doctors wanting the very best in medical care and find themselves twisted in knots by the insurance industry and, once again, efforts on the Republican side to stop us.

I am afraid that when all is said and done this will turn out to be one of the worst Congresses in this century in terms of its productivity. And if we are to be measured by our productivity, I am not sure that many Senators can collect their paychecks and talk about their pensions based on what we have been able to do or failed to do in the last few months.

Mr. DASCHLE. The Senator from Illinois is absolutely right.

The PRESIDING OFFICER. If the Senator will suspend, I remind Senators on the floor that they must pose a question——

Mr. DURBIN. Does the Senator agree?

The PRESIDING OFFICER. And then the speaker who has the floor will yield. Otherwise, I request they go through the Chair.

The Senator from South Dakota is recognized.

Mr. DASCHLE. I thank the Chair for the clarification. Let me just say, the Senator from Illinois is absolutely right, he was asking if I agreed with his characterization of the way this Senate has performed.

Sometime this year, our Republican colleagues will be asked, ''Tell us what you did on tobacco.'' They will say nothing.

Our Republican colleagues will be asked, ''Tell us what you did on campaign reform.'' Our colleagues will say nothing.

Our Republican colleagues will be asked, ''Well, tell us what you did on education; what did you do to build infrastructure; what did you do to reduce class size?'' And our Republican colleagues will have to say nothing.

Our Republican colleagues are going to be asked, ''Well, tell us what did you do, then, on trying to address one of the most important health care questions our country is facing today in managed care?'' And, again, our Republican colleagues will say nothing.

Mr. President, the list continues to grow. Why? Because they appear to be afraid of a debate, appear to be afraid to take this issue to its successful conclusion. If we don't go along, we don't do anything on that particular issue. That isn't the way this Senate is supposed to perform.

I yield to the Senator from Connecticut.

Mr. DODD. Mr. President, I inquire of the distinguished Democratic leader if he is not aware of what the effect of this cloture motion may be on the product liability legislation? I raise that question of the Democratic leader because I am a cosponsor of this bill. I am one of a handful of Democrats who have supported the work of my good friend, Senator GORTON from the State of Washington, and Senator JAY ROCKEFELLER, our colleague from West Virginia, who are the lead sponsors of this legislation.

I raise the point with the Democratic leader; I go back to the days of Jack Danforth and working on a proposal some 10 years ago on product liability legislation, tort reform. As someone who authored, along with Senator DOMENICI, the securities litigation reform bill and uniform standards, I am very interested in seeing us get a bill done here. We have indications the White House is going to be supportive of this legislation. For the first time, we might be able to do something about this issue.

I am inclined to agree with the managers and principal authors of this bill that we probably ought to keep this bill pretty clean. So I am sympathetic to that notion.

But I cannot imagine at this point filing cloture on this bill. I disagree with the majority of my colleagues on this side who disagree with this bill, but I will fight with every power in me as a Member of this body to see to it that any Member has a right to raise amendments about this bill.

I may vote against all the amendments, but if we reach a point here, Mr. President—and I say this to ask a question of the Democratic leader—if we reach the level where we end up becoming sort of a mirror image of the House, the other body, where we deprive the minority, as the rules of the House allow, to cut off debate where the will of the majority prevails, then we turn this institution into nothing more than a mirror image of the institution down the hall. But in this body it is something different. Here, the rights of the minority are to be protected. And so the right to offer amendments, to be heard, is sacrosanct when dealing with the U.S. Senate.

So it is with a deep sense of regret that I inform my colleagues, who have worked hard on this bill, that I will oppose a cloture motion. I hope other Democrats who support this bill will do likewise, so that we can get back to the business of debating this bill, take the day or 2 that it needs to be debated here, let the amendments be offered, let us defeat them if we have a majority here, and get about the business of passing this legislation so that this Congress might deal with product liability legislation.

I raise that, Mr. President, in the form of a question to my colleague, the Democratic leader, because I am saddened by this. Why are we filing cloture on this bill? We are coming this close to, for the first time, dealing with tort reform, really dealing with this issue, not in as comprehensive a way as some would like, but a real chance for the first time ever. And you are taking people like me who support this bill and asking me to vote in a way that would disallow my colleagues from offering amendments on this legislation and thereby killing this bill. It will destroy this bill on tort reform over this procedure.

So I raise the question to the Democratic leader, if in fact it is not unwittingly maybe what the majority leader, who has offered the cloture motion, is achieving by forcing those of us who support this bill to oppose a cloture motion and then depriving us of legislation being heard and fully debated?

Mr. DASCHLE. Well, the Senator from Connecticut has demonstrated his characteristic eloquence again. I would answer in the affirmative. I do not

know what motivation there may have been on the part of the majority leader, but I must say this, that it complicates dramatically the position of those who support this legislation, complicates it dramatically. As the Senator from Connecticut correctly points out, it could actually kill the very bill they are trying to pass.

Now, for those of us who want to protect Senators' rights, we are surprised and I guess somewhat amazed at the actions just taken by the majority. Keep in mind, if we pass cloture, all relevant amendments will be barred. And yet our Republican colleagues have already laid an amendment down, an amendment, I might add, that nobody has seen. You talk about a legislative pig in a poke; there isn't a Senator on this side, maybe with one exception, who has seen the amendment just laid down by the majority leader—not one, with one exception perhaps. I have not talked to Senator ROCKEFELLER.

So I am astounded that our Republican colleagues would say, ''We want our amendments, but we don't want you to have any. We're going to pass our amendment, but on the chance that you could pass one of yours, we're going to preclude them all.''

Mr. President, the Senate cannot work that way. As the Senator from Connecticut just pointed out, we are acting more and more like the House of Representatives. If any one of our colleagues wishes to run, let them declare their candidacy. There are all kinds of open seats, uncontested seats, on the other side. Go run. But if you want to be a U.S. Senator, live up to the responsibilities of the U.S. Senate. This is supposed to be the greatest deliberative body in the world.

How deliberative can we be when, vote after vote, amendment after amendment, bill after bill, this side is precluded from offering amendments either because the majority leader pulls the bill or they file cloture immediately upon filing? That cannot work, Mr. President.

So I appreciate the wisdom of the Senator from Connecticut, and I must say the courage, because clearly there could be Senators who misinterpret, were it not for his eloquent explanation just now, why he is going to work to protect Senators' rights.

I must say, there will be Senators on the other side who will want their rights protected at some point. Majority or minority, it does not matter, it happens to all of us.

So I appreciate the position taken by the Senator from Connecticut. I hope all of our colleagues have heard his explanation and his reasons. And I hope a lot of our Republican colleagues will join us. Cloture must be defeated. We must protect Senators' rights, and we must protect the institution of the U.S. Senate.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, this Senator is puzzled, truly puzzled, by the remarks which he has just had the privilege of hearing. The minority leader protests that we cannot have a debate on product liability because cloture has been filed on this substitute amendment. He is joined by one of the supporters of the bill, the senior Senator from Connecticut, who evidently wants a debate on product liability.

But it is overwhelmingly evident from the remarks of the Senator from Massachusetts, the Senator from Illinois, and the responses to those remarks on the part of the minority leader, that they do not have the slightest interest in a debate on product liability—not the slightest interest in a debate on product liability.

They want a debate on their agenda. And they want a debate on their agenda whether it has already occupied weeks of the Senate's time or not, whether they have already been offered a debate on that agenda or not in a reasonable time, at which they could be taken up as individual matters.

No. The net result, Mr. President, of the remarks of the minority leader is that they wish the right, at any time and under any set of circumstances, to set the agenda of the Senate, the subject matter that the Senate will be debating, and they want to engage in that agenda not once, not twice, but on an unlimited basis whenever they wish to bring it up.

The Senator from Illinois implied, at least, that he wanted another debate on what he calls ''campaign reform,'' on a proposal blatantly unconstitutional, a proposal clearly violating the free speech guarantees in the first amendment to the Constitution of the United States, a debate which the Senate had for more than 2 weeks and a debate which the Senator from Illinois and the minority leader lost—lost only after threatening a filibuster themselves against any campaign reform advocated by a majority of the Members on this side, campaign reforms based on seeing to it that individuals did not have to contribute to campaigns with which they did not agree, campaign reform based on bringing light into the source of the kind of money that so devastated and discredited the Presidential election of 1996.

Then the Senator from Illinois, and I believe the Senator from Massachusetts, spoke about tobacco legislation. Tobacco legislation, Mr. President? Does my memory fail me? Did we not debate tobacco legislation for the better part of 4 weeks on a bill relating to tobacco? I believe that we did. And I believe that the positions taken by most of the Members on the other side of the aisle ended up unsuccessful. And so what have we had since then? Four weeks is not enough?

Immediately thereafter, they attempted to redebate tobacco on another issue important to the people of the United States. They have now destroyed the debate on a bill for the support of the Department of Agriculture and all of our agricultural across the United States by insisting that we can't debate agriculture for 2 days and pass a bill without having another 4, 6 or 8 weeks on their tobacco agenda.

The Senator from Illinois says that nothing was done with respect to education. I seem to remember at least a week, maybe 2 weeks, debating the subject of reform of education in the United States. In fact, I believe it was just 2 weeks ago that we passed a bill on that subject and sent it to the President who has determined that he will veto. This Senator proposed to this body a true reform in the way in which we deal with education, one that would have trusted our State education officials, our local education officials, our teachers and our parents to make decisions about the education of their children without the constant interference of bureaucrats in Washington, DC, who impose more than half of the rules regulating the conduct in our schools, while coming up with 7 or 8 percent of the money. Not a single Member on that side of the aisle was willing to vote for that proposal, and they said the entire education reform bill would be filibustered to death if it were included in any bill sent to the President of the United States.

Oh, no, Mr. President, we have debated education reform. We have passed in this body true education reform. I don't think at this point that there is much point in going over it again.

Here today we were debating a vitally important appropriations bill for veterans, for the Department of Housing and Urban Development. We had a thoughtful debate, dividing both parties on the space station. We were about to debate mortgage limitations and do the business of the Senate when the minority leader says, oh, no; we are not going to let the majority of the Appropriations Committee go through an appropriations bill. We will debate our proposal for health care changes, and we will do it right now.

Now, he did that in spite of the fact that when I was sitting in your seat as the acting President of the Senate, the majority leader 3 weeks ago came down here and offered a full opportunity to the minority to debate their health care proposals together with our health care proposals and to have direct votes on those proposals before the end of this month of July 1998. That offer was totally rejected by the very people who now demand we engage in that debate today as a part of an important bill on a totally and completely different subject.

Mr. KENNEDY. Will the Senator yield?

Mr. GORTON. No, the Senator will not yield. The Senator will not yield.

So this Senate has debated a change in our campaign reform laws. It has debated education reform and passed a bill on the subject. It has debated tobacco legislation. And it is more than

willing and will debate health care legislation with the proposals of both parties considered in that connection.

But no majority party, no majority leader, has ever permitted a set of circumstances under which the minority not only determines the agenda, but when the agenda is to be debated and how many times it is to be debated, even though that prevents a debate on vitally important appropriations bills for the conduct of the government, and in this case a debate on an important product liability bill. As the manager of that bill, had the minority leader said we would like to do what we did just 2 years ago and have a debate and several amendments about product liability, the way that the senior Senator from Connecticut was speaking about the subject a few moments ago, I have no doubt that that desire would be granted. I have no doubt that proposed changes in the substitute bill that is now before the Senate would have been debated. I think those proposed changes would have been defeated.

Two years ago this Congress did spend, I think, a full week or more on a much broader and more all-encompassing product liability bill. It was debated then by the minority party as a product liability bill without the attempt to move on to a totally and completely unrelated subject. It was passed. It was sent to the President of the United States for reasons that this Senator did not consider to be particularly persuasive. The President of the United States vetoed that bill.

Then the junior Senator from West Virginia, Senator ROCKEFELLER, and I worked diligently for almost 2 years in coming up with a bill to be proposed here on that subject with which the President of the United States would agree and with which the President of the United States does agree. We are now told that an attempt actually to debate that subject and to vote on this bill is somehow or another an infringement on the rights of the minority party.

I heard during the course of the last week over this, the minority party does want one change in the bill on product liability having to do with guns. That amendment, I am informed by the Parliamentarian, will be germane after cloture. It can be debated and it can be voted upon. For all practical purposes, any limitation of an already modest bill on product liability can be debated and voted upon after cloture. It is difficult to persuade this Senator that anyone on this side of the aisle wants to expand this product liability bill and cause it to cover a greater field related to product liability than it does at the present time.

That was the pretense set forth in the initial remarks of the minority leader, that he wishes a fuller and more complete debate on product liability. But that pretense was shattered instantly by the Senators who asked him to yield to questions and simply stated, and I repeat it again, that they wanted to debate subjects totally unrelated to product liability. Three of the four subjects they mentioned have already been debated at length on the floor of this Senate and decided—decided in a way they don't like—but decided pursuant to the rules of the Senate of the United States.

The fourth will clearly be debated, will be debated on its own merits, and will be debated at a time at which both the members of the minority party and the members of the majority party can set forth their proposals and have the merits of their proposal both fully debated and determined and decided under the rules of the Senate.

This artificial fury that we have listened to here for most of the last hour is directed partly at party politics and partly as a highly skillful way of destroying a product liability bill to which the President of the United States, the leader of their party, has agreed. It may well be successful. The Senator from Connecticut is right if he refuses to support a bill that he has supported through his entire career because it won't also carry debates on campaign laws, health care, education, and tobacco, then unfortunately all of the work of which he was a part, and the Senator from West Virginia was a part, and many of us were a part of on this side, and the President of the United States was a part, may be wasted.

I think that may very well be the goal of those who engage in this artificial outrage about whether or not we should deal with product liability for a few days and debate that issue, finish it, have a vote on it, finish our appropriations bills, have votes on each of them, and deal with a health care debate before the end of this month. That only is the desire of the majority leader in the normal management of the Senate, just as it was the desire under identical circumstances when the majority leader was on the other side of the aisle.

It is probably a more open debate on issues of interest to the minority than I could remember during the course of Congresses in which my party was in the minority. But this rhetoric this afternoon here has little, if anything, to do with product liability, or a debate on this product liability bill, or attempts to improve or to amend this product liability bill with product liability provisions. It has to do with the demand of the minority leader that he determine not only the agenda, not only the subjects that the Senate will debate, but the length of time that debate will take, the number of times the debates on particular subjects will be taken.

The Senate cannot operate under those sets of circumstances. It ought not to operate under those circumstances. I have little hope for those who simply oppose any legal reform whatsoever, even when the President has agreed to it. I do hope that those who believe in product liability, those who were on the other side on each of the three issues that have already been debated, and those who will have the opportunity to debate health care when they wish to do so, will have the courage to see to it that we are able to debate this product liability bill and reach a conclusion on it in a reasonable period of time, so that we can go on to other subjects that are of importance to the Senate and to the American people.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I compliment my colleague. I am disappointed in the minority leader's statement, and also its tone. A lot of us came back from the one-week break for the Fourth of July and said we have work to do, we have appropriations bills to pass, we have product liability reform bill to pass, we have the IRS reform bill. And then somebody says this is an unbelievable procedure. No, it is not. We are moving to a conference report. That has priority under the rules of the Senate. We are moving to a conference report on a bill that already passed the House and the Senate, and, hopefully, the President will sign it. I think it may be one of the most notable and significant achievements of this Congress.

Then our colleagues say, wait a minute, you are denying us an opportunity to offer an amendment. I disagree. The Senator from Arkansas had an amendment on the space station that lasted most of the afternoon. We were clearly willing to take amendments. We had an amendment that Senator KOHL from Wisconsin and I were going to offer dealing with FHA. That was bipartisan. We were trying to do the Senate's work. As a matter of fact, the Senate was planning on staying on the VA appropriations bill so we could finish tonight, tomorrow, or the next day, to do our work. The minority leader tried to place an amendment—or did file an amendment called the Patients' Bill of Rights on the appropriations bill. He has a right to do so, but he knows it is not the time or place to do it.

For the information of our colleagues and the viewing public, the majority leader has already said we will take up the so-called issue dealing with health care and the regulation of managed care, with the very nice title of ''The Patients' Bill of Rights.'' We will take it up this month. But in the meantime, let's finish our work, let's pass the IRS reform bill, let's pass appropriations bills.

We are willing to have a decent amount of time on the so-called Patients' Bill of Rights this month and to consider alternatives. The Senator from Massachusetts has an alternative. I am working on an alternative. I may have a couple of other ideas. And we are willing to consider relevant amendments. I think it is a mistake to do it

all month. Maybe some want to. Maybe they think there is political fodder to be gained. Some of us know we have some work to do. That is our intention.

The majority leader made it clear that we have work to do. We are going to be voting on Mondays and Fridays. We should be passing bills. We have only passed 2 appropriations bills; we have 13 to do. The House passed five, and next week they will probably pass another five. We are, in the meantime, hoping to get two bills done this week. Unfortunately, instead, the minority said we need to put the Patients' Bill of Rights on one and then the smoking bill—even though we have spent 4 weeks on the tobacco bill. Maybe if they came up with a better alternative, we could pass a bill. But they came up with one that would cost hundreds of billions of dollars, and I think we rightfully rejected it.

They said, ''We don't have an opportunity to debate our issues.'' They had 4 weeks on the so-called tobacco bill. Campaign finance reform has been in the Senate on numerous occasions, including this Congress. We insisted on having one amendment that said campaign contributions would be voluntary. Most of our colleagues on the Democrat side said, ''No, no, we can't have voluntary campaign contributions. That would be unheard of. We can't have that kind of reform.''

One of our colleagues said that the Senate can't work this way. Really, what they are trying to say is, ''We want to have product liability reform on the floor, and we want to dump our entire Democrat agenda on,'' half of which they tried and could not get passed previously. They want to dump it on this bill or on the appropriations bills, and they will keep trying until maybe something will stick.

And then they said, ''Wait a minute, if you file cloture''—cloture, for the information of people not aware of the Senate rules, it would eliminate a lot of extraneous amendments. They are acting like that hasn't happened before. George Mitchell, as majority leader, was the instigator of the quick-draw cloture motion. He would file cloture so fast, it would make your head spin. He did it time and time again. I don't like cloture. I think it happens to be too restrictive.

The Senator from Washington, who was managing the bill, has said we are perfectly willing to work with colleagues if they have amendments they want to discuss on product liability. We can work that up and come up with an agreement. Obviously, our colleagues on the minority side said, ''No. We want to put our whole agenda on. We want another debate on tobacco and the Patients' Bill of Rights, and debate on schools or education''—you name it. They want to put everything on there except product liability.

In other words, they don't really want product liability. They have that right, but we also have a right to try to get the Senate's business done. So we are going to pass the conference report on IRS reform. We are going to take that up tomorrow. Again, I hope all of my colleagues will support that. We are going to have a vote on cloture on product liability reform. If colleagues are really interested in having legitimate amendments dealing with that issue, they could make a proposal and we could probably work that out—if we keep the amendments relevant. Are we going to say you can dump your entire agenda on it? No. At least it is my hope that we don't do that. That is the reason we have cloture—to keep amendments germane, finish our work, and be done with it.

So I am disappointed in the rhetoric and the tone that we heard tonight. I hope we will come back and say, wait a minute, we only have 4 weeks this month and a few weeks in September—all of the month of September, and maybe part of October to finish the Senate's business. We have to pass a lot of appropriations bills. I still hope we will get a budget. I hope we will pass tax relief. So we have some significant reform that needs to happen, and we need to do the work of the Senate.

I notice my friend from Massachusetts on the floor. He has a bill called the Patients' Bill of Rights. I am perfectly willing to debate that issue. We are willing to spend some time on that issue and give colleagues a vote on the Democrat proposal, which has been recently introduced—I guess today—on the VA-HUD appropriations bill. It doesn't belong on an appropriations bill. There is a point of order. That is legislation on an appropriations bill. That is the reason we have the rule. It does not belong there. The majority leader said we will take it up sometime this month, and with some amendments dealing with that issue, relevant health care amendments.

If our colleagues are just interested in rhetorical flourishes and maybe campaign issues, they can make that attempt. But that won't legislate. That won't change the law. If they are interested in changing the law, I urge them to work with us. Let's come up with an agreement where we can bring the issue up, have an adequate amount of debate on the so-called Patients' Bill of Rights, and have different alternatives considered and voted on.

I make that point. This side is willing. We had a significant debate on tobacco. We are willing to have a debate on the so-called Patients' Bill of Rights. We have had debate on campaign reform. We have had debate on education. Now we have to finish the appropriations bills. We have to do the work of the Senate. It is going to take both sides working together to make that happen.

I hope we will have greater cooperation exhibited in the future for the Senate to really get its work done in a timely, efficient, and productive manner.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I am encouraged certainly by the comments of the acting floor leader now that he says we will have an opportunity to debate the issues on the Patients' Bill of Rights. We look forward to that opportunity. But I will just take a few moments of the Senate's time—I will not take a great deal of time—to really correct the Record.

As the Senator from Oklahoma remembers, and should remember very clearly, the U.S. Senate overturned in 1995 the longstanding rule that we would not have legislation on appropriations. And it was the Republican Party that overturned that concept. Every single Republican, including the Senator from Oklahoma, voted to overturn the ruling of the chair and allow legislation on appropriations. So, now we have legislation on appropriations. I think it is regrettable, and should the Republican leader want to alter and change that, I think he would find that there would be strong support for that.

But, Mr. President, I want to get back and talk for just a moment or two about what the issues really are. We have just listened to our friends from the States of Washington and Oklahoma speak on the floor about what cannot be done, or what should not be done.

Earlier this afternoon, in a time-honored process and procedure, the minority leader, Senator DASCHLE, sent to the desk of the U.S. Senate an amendment to provide for a Patients' Bill of Rights, a recognition that in this country too often those who are making health care decisions are actually insurance company accountants rather than doctors. Too often the doctors, who represent the best interests of the patients, are caught in this extraordinary dilemma and understand that they are put between a rock and a hard place. Too often in our country we find that managed care is mismanaged care. And we have heard examples of this on the Senate floor time and time again over the period of these past weeks. I dare say that we have had few days that have gone by when Senators have not spoken about particular tragedies that have been experienced in their States.

Senator DASCHLE's amendment should have allowed the Senate to debate the issue of the Patients' Bill of Rights, debate it this afternoon, debate it this evening, debate it tomorrow, but debate it and reach some kind of a conclusion on the issue. The President has spoken. He spoke as recently as this afternoon in support of the legislation that was included in Senator DASCHLE's proposal.

That is what this is about. We have that opportunity to debate managed care reform. The Democratic leader offered the Patients' Bill of Rights. It is an issue that Republicans and Democrats across the country want us to do

something about. We are being denied that opportunity because the majority leader pulled the bill down and put it back on the calendar, as was his wont to do, and we are again denied the opportunity to debate this critically important issue.

So our efforts to move toward that debate have been temporarily deferred—deferred perhaps for a day or two, but certainly not longer than a day or two. We are going to come back to that issue and keep coming back. And our friends on the majority side better get used to it. They may get into a situation where they are going to put appropriations bill after appropriations bill after appropriations bill back on the calendar because the Senate will want to debate a Patients' Bill of Rights, and the Republican Leadership will want to continue to deny us that opportunity. Mr. President, we will continue to demand debate because the American people are demanding it.

You can say, Why are we in this kind of a situation? Why aren't we following a regular order, the procedure that everyone learns in civics class and in their study of American history, that says when legislation is introduced, it goes to the committee, the committee marks it up, it comes to the floor, it is acted upon on the floor, the two bodies get together in a conference, and, if they agree, they send it to the President of the United States?

The reason the Senator from South Dakota offered the amendment is because we could not get a markup and we could not get a hearing in the appropriate committee. We were denied that opportunity—denied it, turned down, thumbs down to the Senators who supported that legislation. No, you can't have a hearing on that legislation in our committee. The Republicans told those of us on the Labor and Human Resources Committee that not only can't you have that hearing, but, if you introduce the legislation, we will not give you a markup on it. We will not let you have a debate in the committee. We are going to obstruct the whole committee process so you will not be able to advance your issues, and the issues of the American people.

I did not hear that talked about by the Senator from Washington. I did not hear that talked about from the Senator from Oklahoma. The majority leader has put forward several lists of his priorities for the session, and the Patients' Bill of Rights is not on any one of them—not on any one of them. The Republican leadership wants to stonewall—stonewall on this issue, which is of such great importance to families all across the country. That is why the Democratic leader offered this amendment, because the Republican leadership is trying to stonewall it.

So, Mr. President, are we going to say—those of us who favor patient protection legislation—that we are going to be denied consideration of the committee, we are going to be denied a markup in the committee, and we are going to be denied floor debate by the majority leader and the Republican leadership, that we are not even going to consider this issue in the U.S. Senate?

No. That is not the kind of U.S. Senate that our Founding Fathers intended, nor has today been one of our best and greatest days. But we are going to debate this issue, and we are going to act on it. Make no mistake about it.

And we are going to come right back after that and consider an increase in the minimum wage. Our Republican friends better hear that as well. We can't get the markup on the increase in the minimum wage for workers in this country—workers who have not benefited by the extraordinary explosion of the stock markets and the extraordinary increase in the accumulation of wealth. These are men and women who are working 40 hours a week, 52 weeks of the year, primarily single women, primarily women who are heads of households with children. This is a women's issue. It is a children's issue. It is a fairness issue. And we are going to consider it this year. We know Republican leaders are opposed to that.

What else is new? They were opposed to it last time. And we were able to be successful. It wasn't on the Republican agenda the last time we saw an increase in the minimum wage. The increase in the minimum wage has never been on the Republican agenda. Yet we have been successful in doing so. And we will be successful in doing so this time.

So that is why we find ourselves where we do this evening. And here the Democratic leader offers our amendment, makes a brief comment—a brief comment—about it. And then, bingo, the bill is pulled. Now we hear from the Republican leadership that, Oh, well, you objected to a consent agreement that could get this proposal before the Senate and to act on it.

I would love to take the time of the Senate to go through this, but let me just include the appropriate parts of this proposal. Let me just mention a very interesting aspect of the consent agreement, to which the Senator from Washington referred. I asked him to yield so we could go through this agreement together. He refused the opportunity to do so. I can understand why, too. I might have wanted to do the same if I had to defend this proposed agreement. This is what was included in the agreement. And I will include the whole agreement. But let me read a section:

I ask unanimous consent that the Chair not entertain a motion to adjourn or recess for the August recess prior to a vote on or in relation to the majority leader's bill and the minority leader's amendment.

And that following those votes:

It be in order for the majority leader—

Listen to this—

to return the legislation to the calendar.

''Return the legislation to the calendar.''

And the Senator from Washington has the audacity to say on the floor of the Senate that the consent that was offered by the majority leader would have actually gotten these measures up?

You know what this proposal is effectively saying? This says that after the votes, even if we win the Patients' Bill of Rights with a majority of the Members of the Senate, it will be in order for the majority leader to—send it to the President of the United States if the House has already acted on it? No. To send it to the House of Representatives if they have not acted on it? No. Under the majority leader's proposal, if we pass it, after a debate, the majority leader sends it right back up there to the desk. It is over. Good-bye, farewell, so long, to protections for the patients of this country.

Now, that is a farce, an absolute farce. I could go through the whole consent agreement, but it should not be given any more attention because it is a farce offered, evidently, only to make a political point.

The Patients' Bill of Rights is a commonsense plan that guarantees fundamental protections that every good insurance company already provides and that every American who pays insurance premiums deserves to have when serious illness strikes.

But the Republican leader's position is to protect the insurance industry instead of protecting the patients. They know they cannot do that in the light of day, so their strategy is to work behind closed doors to kill the bill, keep it bottled up in committee, no markup, no floor debate, no vote. That has been the strategy. Ask any Member of this body whether they can contest that. They cannot. No markup, no floor debate, no vote, no fair time agreement.

Mr. Willis Gradison, the head of the Health Insurance Association of America, when asked in an interview published in the Rocky Mountain News to sum up the strategy of the businesses opposed to patient protections, replied:

There's a lot to be said for ''just say no.''

''Just say no.'' The author of the article goes on to report that at a strategy session last month called by a top aide to Senator DON NICKLES, Gradison advised Republicans to avoid taking public positions that could draw fire during the election campaign. Opponents will rely on Republican leaders in both Chambers to keep managed care legislation bottled up.

Well, they have done a good job of bottling it up tonight. We would have had an opportunity for debate if they had not pulled down the underlying legislation. But, no, they bottled it up by sending the bill right back to the calendar.

That has been the strategy for the past year—keep the Patients' Bill of Rights bottled up, engage in a campaign of misinformation and disinformation, cater to the special interests, ignore insurance company abuses, and ignore the will of the

American people. We are seeing that strategy in this Chamber this evening.

Now, Mr. President, the rights that are included in our legislation are commonsense components of quality care that every family believes they were promised when they signed up for insurance coverage and paid their premiums. Virtually all of the protections that this legislation provides already apply to Medicare, are recommended by the National Association of Insurance Commissioners, which is a bipartisan group, or were recommended by the President's Advisory Commission, another nonpartisan group, or even established as voluntary standards by the managed care industry itself through their trade association.

These commonsense rights include access to appropriate specialists when a patient's condition requires specialty care. It would allow people with chronic illnesses or disabilities to have referrals to the specialists they need on a regular basis.

It assures that patients whose plans cover prescription drugs can have access to drugs needed to save their life or protect their health even if the drugs are not included on their plan's restricted list.

They are assured that persons suffering from serious symptoms can go to the nearest emergency room without worrying that their plan will deny coverage. No patients with the symptoms of a heart attack should be forced to put their life at risk by driving past the emergency room down the street to the managed care hospital farther away, and that is happening here in the United States tonight.

No patient with symptoms of a stroke should be forced to delay treatment to the point where paralysis and disability are permanent because an accountant in the managed care headquarters does not respond promptly and appropriately.

Reforms must protect the integrity of the doctor-patient relationship. Gag clauses and improper incentive arrangements should have no place in American medicine. They are absolutely appalling, Mr. President.

This amendment only says that any reform worthy of the name must guarantee that insurance plans meet the special needs of women and children. Women should have access to gynecologists for needed services. No woman with breast cancer should be forced to endure a drive-through mastectomy against the advice of her doctor or be denied reconstructive surgery following breast cancer surgery if that is her choice.

No child with a childhood cancer should be told that a urologist who happens to be in the plan's network will treat him, even if that urologist has no experience or expertise with children or with that type of cancer.

Patients should have the right to appeal their plans' decisions to independent third parties. Today, if a health plan breaks its promise, the only recourse for most patients is to go to court, a time-consuming, costly process that may not provide relief in time to save a life or prevent a disability.

Independent review was recommended unanimously by the President's Commission. Republicans and Democrats alike recommended independent review unanimously. It has worked successfully in Medicare for more than three decades. Families deserve the basic fairness that only a timely, impartial appeal can provide.

Without such a mechanism, any rights guaranteed to patients exist on paper only, and they are often worth no more than the paper on which they are printed. When the issues are sickness and health, and often as serious as life and death, no health insurance company should be allowed to be both judge and jury.

When health plan's misconduct results in serious injury or death, patients and their families should be able to hold those plans accountable for their actions. Every other industry in America can be held responsible for its actions. Why should health plans whose decisions can truly mean the difference between life and death enjoy this unique immunity?

We had a debate on the issues of immunity not long ago with regard to the tobacco industry, and this body voted overwhelmingly not to give immunity to tobacco. These health plans have immunity today under the ERISA provisions. That is not right and we ought to address it. Every day and every night that we delay it, the health, the good health of American families is threatened. You would think, when you listen to the Republican leadership talk about scheduling, that it doesn't matter a twiddle whether this debate goes on today or tomorrow or next week or next month or next year. It does. And every day we delay means that more families' health protections are threatened.

Under the Employee Retirement and Income Security Act, patients whose lives have been devastated or destroyed by the reckless behavior of their health plan have no ability to go to court to obtain appropriate redress. ERISA preempts all State remedies, so patients are limited to Federal ERISA remedies, which will only cover the cost of the procedure for which the plan failed to pay.

Just the cost of the procedure—some remedy. You can be crippled for life by cancer of the spine because the plan refused to authorize a test costing a few hundred dollars to detect the cancer in its early stages, and all you can get back to help support your family is the cost of the test. That is no remedy. That is wrong. And our bill does something about it.

During the debate on the tobacco legislation, as I mentioned, Republicans and Democrats alike voted overwhelmingly to support the proposition that no industry in America should be exempt from accountability because of its actions, but because of the ERISA preemption, one industry alone—the health insurance industry—enjoys this protection. That is wrong and today the Senate should have the opportunity to say it is wrong.

ERISA preemption applies to the millions of Americans who get their coverage through a private employer, but it does not apply to 23 million State and local employees and their families. It does not apply to Medicaid patients. It does not apply to Medicare. And we have not heard a shred of evidence that the ability of State and local employees, Medicaid patients and Medicare patients to sue their health plans has imposed significant costs on those plans. That case has not been made.

Mr. President, 23 million State and county employees have that kind of ability to sue, and we have not seen that the costs of their plans have been higher than others. So I challenge my colleagues who oppose this provision to explain to the American people why State and local government employees should be able to hold their taxpayer-financed health plans accountable if they are injured or killed by the plan's behavior, but equally hard-working Americans employed by private companies should be denied this basic right. Explain that to me.

Our legislation simply removes the Federal preemption provision. It creates no Federal right to sue and lets States take whatever steps they see fit. So many of those who oppose this legislation are fond of talking about the need to keep Washington out of decisions by States, but when the profits of special interests are at stake, it suddenly becomes better for bureaucrats in Washington rather than elected State and local officials to decide what is best for people in their State. This amendment should not be controversial for any Member of the Senate who is serious about protecting patients from insurance company abuse. It is supported by the American Medical Association—and more than 170 other organizations, Mr. President. Let me just give you a few.

The Patients' Bill of Rights is supported by the American Medical Association, the Consortium of Citizens with Disabilities, the American Cancer Society, the National Alliance for the Mentally Ill, the National Partnership for Women and Families, the National Association of Children's Hospitals, the AFL–CIO, the American Association of Retired Persons and many other groups representing physicians, health care providers, children, women, families, consumers, persons with disabilities, small businesses, Americans with serious illnesses, religious organizations, and working families.

Find me another piece of pending legislation that has that kind of support. But we are told we cannot even debate it tonight. We are told we cannot even consider it tonight. We are told we cannot even move this legislation to have

a rollcall vote to see who is for it and who is against it.

It is rare for such a broad and diverse coalition to come together in support of legislation. But they have done so to end the flagrant abuses that hurt so many families. The choice is clear. The Senate should stand with patients, families and physicians, not the well-heeled special interests that put profits ahead of patients.

The American people know what is going on. Movie audiences across the country erupt in cheers when actress Helen Hunt attacks the abuses of managed care in the film ''As Good As It Gets.'' Helen Hunt won an Oscar for that performance, but managed care is not winning any Oscars from the American people. Everyone knows that managed care today is not as good as it gets.

It is time for Congress to end the abuses of patients and physicians by HMOs and managed care health plans. Too often, managed care is mismanaged care. No amount of distortions or smokescreens by insurance companies can change those facts. A Patients' Bill of Rights can stop these abuses, and let's pass it before more patients have to suffer.

We want to tell our friends on the other side of the aisle that they are going to see this amendment day after day after day after day, until this body has a chance to debate it and vote on it. Let me give the assurance of that.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. I ask that I be allowed to proceed as in morning business.

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

DEBATING THE HEALTH CARE BILL

Mr. SESSIONS. Mr. President, I know there has been some brouhaha this afternoon about not being able to debate a health care bill, and I came down here earlier today to talk about the bill we were on, the VA–HUD bill, an extremely important piece of legislation that was set regularly on this agenda. Amendments were being offered to it. Everybody has known for some time that we were going to be dealing with health care and managed care and HMOs and that sort of thing. It is certainly going to be coming up on our agenda when the time is right, and everybody will have full opportunity to debate that issue. I hope we do. I expect we can make some improvement in our health care policy in America.

But the bill that we were on was important. I submit it was a political act by people in this body to derail where we were going, to introduce onto the VA–HUD bill this kind of massive change in agenda to try to create a debate on health care when this body was on another item. That is what the majority leader is for, to try to set agenda in a rational way. He has done that. We are going to be on health care later, but we should have stayed on the bill that we were on.

NASA

Mr. SESSIONS. Mr. President, I am disappointed the administration has seen fit to reduce NASA's budget by $183 million this year. Frankly, I think it ought to be increased. I would like to share a couple of thoughts about that with the Members of this body and the people who may be listening.

From 1983 to 1992, NASA's budget went up from $7 to $14 billion. That is less than 1 percent of the national budget in this country, but that was a significant increase. During that time, they made two planetary launches. In the last number of years, that budget has seen a significant reduction. In fact, according to a committee that was formed in 1991, a committee on the future of space formed by President Bush, they had the expenditures for NASA going up to as high as $40 or $50 billion. As it turned out, under the previously agreed-upon budget for NASA, we should be at about $16 or $18 billion. In fact, that budget has been cut every year, and over the last 5 years they have sustained a $27 billion reduction in what was projected for their budget even under our last budget agreement.

People say, ''Jeff, that is just numbers; it doesn't mean much.'' NASA has cut its employees since 1993 by 25 percent. They have cut their employees 25 percent. There is no agency in this American Government that has done a better job of producing more for less than they have.

In fact, the fiscal year 1994 budget for NASA was $14.5 billion, and the fiscal year 1998 for NASA is $13.6 billion.

During this same time, they have been sustaining these substantial losses in income. They are now making planetary launches one every 10 weeks. Whereas they used to do two planetary launches in 9 years, they are now doing them one every 10 weeks, even though their budget is down and employees are down 25 percent. They are doing some remarkable things.

Last July 4, the Martian lander landed, and we saw those vivid photographs that were shipped all over the world. The American people and the people of the world stood in amazement as we saw the actual ground of the planet Mars. It was an exciting time. My family and I watched that in our home with amazement and pride at what this country had accomplished.

Let me point this out: 20 years before, we had done another Martian landing. We had not had one in 20 years. The Martian landing 20 years before, in actual dollars, cost 10 times as much as the one last year. They were able to accomplish this landing last year for one-tenth of the cost 20 years before.

This is the kind of achievement that is important for our country. The whole world watched it. Mr. Dan Goldin, who directs the NASA program, told us that they had more hits on their web site from around the world than they even had in the United States. It was by far the biggest single time of people tuning in to the NASA web site from all over the world.

The world was watching America. We are the leader in space. We need to remain the leader in space. We are a nation of explorers. That is our heart and soul. That is our national characteristic. We have explored this Earth pretty well. We are now exploring the heavens. We need to continue forward with that.

Sure, the space station has gone over, but from the numbers I have just told you, even though the space station has cost more than it should—and a lot of that is involved with trying to work with the Russians, who have not been very effective in fulfilling their portion of it, and we need to evaluate that—everything else they have been doing has been doing more for less.

We are going to be able to continue to have repeat launches at less cost and more success and highly technical launches that can bring us the kind of science and improvements in our life that can benefit the entire world. This is the kind of thing with which America needs to be involved. I am excited about it.

I wish we were still on that bill. I had some things to say about it. We are going to handle health care as we go down the road, but I think it is important for the people of America to note that we moved off that bill because the other party sought to change the agenda that was set, to go off on an entirely new tangent, attaching to this bill an entirely different subject matter that requires a great deal of debate and discussion. That was not the appropriate thing to do, and the majority leader did the only thing he could, which is pull down the bill.

Mr. President, I thank you for this time, and I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, July 6, 1998, the federal debt stood at

$5,529,920,619,100.92 (Five trillion, five hundred twenty-nine billion, nine hundred twenty million, six hundred nineteen thousand, one hundred dollars and ninety-two cents).

Five years ago, July 6, 1993, the federal debt stood at $4,337,116,000,000 (Four trillion, three hundred thirty-seven billion, one hundred sixteen million).

Ten years ago, July 6, 1988, the federal debt stood at $2,554,838,000,000 (Two trillion, five hundred fifty-four billion, eight hundred thirty-eight million).

Fifteen years ago, July 6, 1983, the federal debt stood at $1,328,674,000,000 (One trillion, three hundred twenty-eight billion, six hundred seventy-four million).

Twenty-five years ago, July 6, 1973, the federal debt stood at $454,404,000,000 (Four hundred fifty-four billion, four hundred four million) which reflects a debt increase of more than $5 trillion—$5,075,516,619,100.92 (Five trillion, seventy-five billion, five hundred sixteen million, six hundred nineteen thousand, one hundred dollars and ninety-two cents) during the past 25 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTVIE MESSAGES REFERRED

As in executive session the President Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on July 7, 1998, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills and joint resolution:

S. 731. An act to extend the legislative authority for construction of the National Peace Garden memorial, and for other purposes.

H.R. 651. An act to extend the deadline under the Federal Power Act for construction of a hydroelectric project located in the State of Washington, and for other purposes.

H.R. 848. An act to extend the deadline under the Federal Power Act applicable to the construction of the AuSable Hydroelectric Project in New York, and for other purposes.

H.R. 960. An act to validate certain conveyances in the City of Tulare, Tulare County, California, and for other purposes.

H.R. 1184. An act to extend the deadline under the Federal Power Act for the construction of the Bear Creek Hydroelectric Project in the State of Washington, and for other purposes.

H.R. 1217. An act to extend the deadline under the Federal Power Act for construction of a hydroelectric project located in the State of Washington, and for other purposes.

H.R. 2202. An act to amend the Public Health Service Act to revise and extend the bone marrow donor program, and for other purposes.

H.R. 2864. An act requiring the Secretary of Labor to establish a program under which employers may consult with State officials respecting compliance with occupational safety and health requirements.

H.R. 2877. An act to amend the Occupational Health Act of 1970.

H.R. 3035. An act to establish an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies.

H.R. —. An act to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements, and for other purposes.

H.J. Res. 113. Joint resolution approving the location of a Martin Luther King, Jr., Memorial in the Nation's Capital.

The enrolled bills and joint resolution were signed subsequently by the President pro tempore (Mr. THURMOND).

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time and placed on the calendar:

H.R. 2431. An act to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes.

H.R. 3150. An act to amend title 11, of the United States Code, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communication was laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC 5802. A communication from the Secretary of Energy, transmitting a draft of proposed legislation entitled ''The Comprehensive Electricity Competition Act''; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S.J. Res. 44. A Joint Resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

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. TORRICELLI (for himself and Mr. WELLSTONE):

S. 2265. A bill to amend the Social Security Act to waive the 24-month waiting period for Medicare coverage of individuals disabled with amyotrophic lateral sclerosis (ALS), to provide Medicare coverage of drugs used for treatment of ALS, and to amend the Public Health Service Act to increase Federal funding for research on ALS; to the Committee on Finance.

By Mr. THURMOND (for himself and Mr. HELMS):

S. 2266. A bill to amend the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973 to exempt State and local agencies operating prisons from the provisions relating to public services; to the Committee on Labor and Human Resources.

By Mr. D'AMATO (for himself and Mr. MURKOWSKI):

S. 2267. A bill to amend the Internal Revenue Code of 1986 to grant relief to participants in multiemployer plans from certain section 415 limits on defined benefit pension plans; to the Committee on Finance.

By Mr. BINGAMAN:

S. 2268. A bill to amend the Internal Revenue Code of 1986 to improve the research and experimentation tax credit, and for other purposes; to the Committee on Finance.

By Mr. D'AMATO (for himself and Mr. TORRICELLI):

S. 2269. A bill to establish a cultural and training program for disadvantaged individuals from Northern Ireland and the Republic of Ireland; to the Committee on Foreign Relations.

By. Mr. FAIRCLOTH:

S. 2270. A bill to amend the Federal Deposit Insurance Act with respect to raising the level of the Deposit Insurance Fund reserve ratio and with respect to refunds of excess assessments, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By. Mr. SESSIONS (for Mr. HATCH):

S. 2271. A bill to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law, and for other purposes; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself, Mr. TORRICELLI, Mr. MURKOWSKI, Mr. HELMS, Mr. LUGAR, Mr. MACK, Mr. GORTON, Mr. THOMAS, Mr. MCCAIN, Mr. GRAMM, Mr. HUTCHINSON, Mr. BOND, Mr. DOMENICI, Mr. KEMPTHORNE, Mr. KYL, Mr. ABRAHAM, Mr. HATCH, Mr. BURNS, Mr. WARNER, Mr. COVERDELL, Mr. FAIRCLOTH, Mr. MCCONNELL, Mr. CRAIG, Mr. SMITH of New Hampshire, and Mr. BROWNBACK):

S. Con. Res. 107. A concurrent resolution affirming United States commitments to Taiwan; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TORRICELLI (for himself and Mr. WELLSTONE):

S. 2265. A bill to amend the Social Security Act to waive the 24-month waiting period for Medicare coverage of individuals disabled with amyotrophic lateral sclerosis (ALS), to provide Medicare coverage of drugs used for treatment of ALS, and to amend the Public Health Service Act to increase Federal funding for research on ALS; to the Committee on Finance.

AMYOTROPHIC LATERAL SCLEROSIS (ALS) RESEARCH, TREATMENT, AND ASSISTANCE ACT OF 1998

● Mr. TORRICELLI. Mr. President, today I introduce legislation that will improve the lives of 30,000 Americans, 850 of whom live in my State of New Jersey, who are stricken with Amyotrophic Lateral Sclerosis (ALS). Many of us know ALS as the disease that struck down the famed Yankees 1st baseman, Lou Gehrig. Today, few of us are aware of the tragic effects ALS still has on its victims.

First diagnosed over 130 years ago, ALS is a fatal neurological disorder that usually strikes individuals over 50 years old. Each year, over 5,000 new cases are diagnosed, and tragically, life expectancy is only 3 to 5 years. The financial costs to families of persons with ALS can be up to $200,000 a year.

Mr. President, the legislation I introduce today addresses the need for the federal government to provide increased medical services and research for ALS. First, the bill waives the 24-month waiting period that ALS patients must endure in order to receive Medicare services. Since the life-expectancy for ALS patients is only a few short years, it is crucial that these individuals have access to Medicare services as soon as possible. It makes absolutely no sense to require individuals to wait two years to receive Medicare services when their life expectancy is only three to five years.

Next, the legislation will ensure Medicare provides coverage for all Food and Drug Administration (FDA) drugs used to treat ALS. Medicare typically does not provide coverage for drug therapies, but in the case of ALS, the need for an exception is clear. In addition, expanding Medicare coverage for ALS therapies will hopefully stimulate further research.

Finally, the bill recognizes the need to increase critical research into ALS by authorizing $25 million to the National Institutes of Health.

Mr. President, this legislation is simple, it's modest, and the logic is overwhelming. ALS is a disease that strikes at every community, with the potential for every American. No one is immune, and everyone is vulnerable. I am pleased to be joined by my colleague Senator WELLSTONE in introducing legislation that represents a first real step toward improving the quality of life for people with ALS while bringing us much closer to finding a cause and a cure.

Mr. President, I ask unanimous consent that the text of the bill, in its entirety, be printed in the RECORD.

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

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

SECTION 1. SHORT TITLE; FINDINGS; PURPOSES.

(a) SHORT TITLE.—This Act may be cited as the ''Amyotrophic Lateral Sclerosis (ALS) Research, Treatment, and Assistance Act of 1998''.

(b) FINDINGS.—Congress finds the following:

(1) Amyotrophic lateral sclerosis (ALS), commonly known as Lou Gehrig's Disease, is a progressive neuromuscular disease characterized by a degeneration of the nerve cells of the brain and spinal cord leading to the wasting of muscles, paralysis, and eventual death.

(2) Approximately 30,000 individuals in the United States are afflicted with ALS at any time, with approximately 5,000 new cases appearing each year.

(3) ALS usually strikes individuals who are 50 years of age or older.

(4) The life expectancy of an individual with ALS is 3 to 5 years from the time of diagnosis.

(5) There is no known cure or cause for ALS.

(6) Aggressive treatment of the symptoms of ALS can extend the lives of those with the disease. Recent advances in ALS research have produced promising leads, many related to shared disease processes that appear to operate in many neurodegenerative diseases.

(c) PURPOSES.—The purposes of this Act are—

(1) to assist individuals suffering from ALS by waiving the 24-month waiting period for medicare eligibility on the basis of disability for ALS patients and to provide medicare coverage for outpatient drugs and therapies for ALS; and

(2) to increase Federal funding of research into the cause, treatment, and cure of ALS.

SEC. 2. WAIVER OF 24-MONTH WAITING PERIOD FOR MEDICARE COVERAGE OF INDIVIDUALS DISABLED WITH AMYOTROPHIC LATERAL SCLEROSIS (ALS).

(a) IN GENERAL.—Section 226 of the Social Security Act (42 U.S.C. 426) is amended—

(1) by redesignating subsection (h) as subsection (j); and

(2) by inserting after subsection (g) the following new subsection:

''(h) For purposes of applying this section in the case of an individual medically determined to have amyotrophic lateral sclerosis (ALS), the following special rules apply:

''(1) Subsection (b) shall be applied as if there were no requirement for any entitlement to benefits, or status, for a period longer than 1 month.

''(2) The entitlement under such subsection shall begin with the first month (rather than twenty-fifth month) of entitlement or status.

''(3) Subsection (f) shall not be applied.''.

(b) CONFORMING AMENDMENT.—Section 1837 of such Act (42 U.S.C. 1395p) is amended by adding at the end the following new subsection:

''(j) In applying this section in the case of an individual who is entitled to benefits under part A pursuant to the operation of section 226(h), the following special rules apply:

''(1) The initial enrollment period under subsection (d) shall begin on the first day of the first month in which the individual satisfies the requirement of section 1836(1).

''(2) In applying subsection (g)(1), the initial enrollment period shall begin on the first day of the first month of entitlement to disability insurance benefits referred to in such subsection.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits for months beginning after the date of enactment of this Act.

SEC. 3. MEDICARE COVERAGE OF DRUGS TO TREAT AMYOTROPHIC LATERAL SCLEROSIS (ALS).

(a) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking ''and'' at the end of subparagraph (S);

(2) by striking the period at the end of subparagraph (T) and inserting ''; and''; and

(3) by adding at the end the following:

''(U) any drug (which is approved by the Federal Food and Drug Administration) prescribed for use in the treatment or alleviation of symptoms relating to amyotrophic lateral sclerosis (ALS);''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to drugs furnished on or after the first day of the first month beginning after the date of enactment of this Act.

SEC. 4. INCREASED FEDERAL FUNDS FOR RESEARCH INTO AMYOTROPHIC LATERAL SCLEROSIS (ALS).

For the purpose of conducting or supporting research on amyotrophic lateral sclerosis through the National Institutes of Health, there are authorized to be appropriated $25,000,000 for fiscal year 1999, and such sums as may be necessary for each of the fiscal years 2000 through 2003. Such authorization is in addition to any other authorization of appropriations that may be available for such purpose.●

By Mr. THURMOND (for himself and Mr. HELMS):

S. 2266. A bill to amend the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973 to exempt State and local agencies operating prisons from the provisions relating to public services; to the Committee on Labor and Human Resources.

STATE AND LOCAL PRISON RELIEF ACT

Mr. THURMOND. Mr. President, I rise today to introduce legislation to address an undue burden that has arisen out of the Americans with Disabilities Act.

The purpose of the ADA to give disabled Americans the opportunity to fully participate in society and contribute to it. This was a worthy goal. But even legislation with the best of intentions often has unintended consequences. I submit that one of those is the application of the ADA to state and local prisons throughout America.

Last month, the Supreme Court ruled in Pennsylvania Department of Corrections versus Yeskey that the ADA applies to every state prison and local jail in this country. The circuit courts were split on the issue. The Fourth Circuit Court of Appeals, my home circuit, forcefully concluded that the ADA, as well as its predecessor and companion law, the Rehabilitation Act, did not apply to state prisoners, focusing on federalism concerns and the fact that the Congress did not make clear that it intended to involve itself to this degree in an activity traditionally reserved to the states.

However, the Supreme Court did not agree, holding that the language of the

Act is broad enough to clearly cover state prisons. It is not an issue on the Federal level because the Federal Bureau of Prisons voluntarily complies with the Act. The Supreme Court did not say whether applying the ADA to state prisons exceeded the Congress' powers under the Commerce Clause or the Fourteenth Amendment, but we should not wait on the outcome of this argument to act. Although it was rational for the Supreme Court to read the broad language of the ADA the way it did, it is far from clear that we in the Congress considered the application of this sweeping new social legislation in the prison environment.

The Seventh Circuit recognized that the ''failure to exclude prisoners may well have been an oversight.'' The findings and purpose of the law seem to support this. The introductory language of the ADA states, ''The Nation's proper goals regarding individuals with disabilities are to assure quality of opportunity, full participation, independent living, and economic self-sufficiency'' to allow ''people with disabilities * * * to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous.'' Of course, a prison is not a free society, as the findings and purpose of the Act envisioned. Indeed, it is quite the opposite. In short, as the Ninth Circuit explained, ''The Act was not designed to deal specifically with the prison environment; it was intended for general societal application.''

In any event, now that the Supreme Court has spoken, it is time for the Congress to confront this issue. The Congress should act now to exempt state and local prisons from the ADA. If we do not, this law will have broad adverse implications for the management of these institutions. Prisoners will file an endless number of lawsuits demanding special privileges, which will involve Federal judges in the intricate details of running our state and local prisons.

Mr. President, we should continuously remind ourselves that the Constitution created a Federal government of limited, enumerated powers. Those powers not delegated to the Federal government were reserved to the states or the people. As James Madison wrote in Federalist No. 45, ''the powers delegated to the Federal government are few and definite. * * * [The powers] which are to remain in the State governments are numerous and indefinite.'' The Federal government should avoid intrusion into matters traditionally reserved for the states. We must respect this delicate balance of power. Unfortunately, federalism is more often spoken about than respected.

Although the entire ADA raises federalism concerns, the problem is especially acute in the prison context. There are few powers more traditionally reserved for the states than crime. The crime laws have always been the province of the states, and the vast majority of prisoners have always been housed in state prisons. The First Congress enacted a law asking the states to house Federal prisoners in their jails for fifty cents per month. The first Federal prison was not built until over 100 years later, and only three existed before 1925.

Even today, as the size and scope of Federal government has grown immensely, only about 6% of prisoners are housed in Federal institutions. Managing that other 94% is a core state function. As the Supreme Court has stated,

> Maintenance of penal institutions is an essential part of one of government's primary functions—the preservation of societal order through enforcement of the criminal law. It is difficult to imagine an activity in which a State has a stronger interest, or one that is more intricately bound up with state laws, regulations, and procedures.

The primary function of prisons is to house criminals. Safety and security are the overriding concerns of prison administration. The rules and regulations, the daily schedules, the living and working arrangements—these all revolve around protecting prison employees, inmates, and the public. But the goal of the ADA is to take away any barrier to anyone with any disability. It requires the authorities to provide ''reasonable accommodation'' for essentially any disability unless doing so would impose an ''undue burden'' or ''a direct threat to the health or safety of others,'' as broadly defined by the courts. Accommodating inmates will interfere with the ability of prison administrators to keep safety and security their overriding concern.

The practical effect of the ADA will be that prison officials will have to grant special privileges to certain inmates and to excuse others from complying with generally-applicable prison rules.

The ADA presents a perfect opportunity for prisoners to try to beat the system, and use the courts to do it. There are over 1.6 million inmates in state prisons and local jails, and the numbers are rising every year. Indeed, the total prison population has grown about 6.5% per year since 1990. Prisons have a substantially greater percentage of persons with disabilities that are covered by the ADA than the general population, including AIDS, mental retardation, psychological disorders, learning disabilities, drug addiction, and alcoholism. Further, administrators control every aspect of prisoners' lives, such as assigning educational and vocational training, recreation, and jobs in prison industries. Combine these facts, and the opportunities for lawsuits are endless.

For example, in most state prison systems, inmates are classified and assigned based in part on their disabilities. This helps administrators meet the disabled inmates' needs in a cost-effective manner. However, under the ADA, prisoners probably will be able to claim that they must be assigned to a prison without regard to their disability. Were it not for their disability, they may have been assigned to the prison closest to their home, and in that case, every prison would have to be able to accommodate every disability. That could mean every prison having, for example, mental health treatment centers, services for hearing-impaired inmates, and dialysis treatment. The cost is potentially enormous.

Adequate funding is hard for prisons to achieve, especially in state and local communities where all government funds are scarce. The public is angry about how much money they have to spend to house prisoners. Even with prison populations rising, they do not want more of their money spent on prisoners. Often, there is simply not enough money to make the changes in challenged programs to accommodate the disabled. If prison administrators do not have the money to change a program, they will probably have to eliminate it. Thus, accommodation could mean the elimination of worthwhile educational, recreational, and rehabilitative programs, making all inmates worse off.

Apart from money, accommodation may mean modifying the program in such a way as to take away its beneficial purpose. A good example is the Supreme Court's Yeskey case itself. Yeskey was declared medically ineligible to participate in a boot camp program because he had high blood pressure. So, he sued under the ADA. The boot camp required rigorous physical activity, such as work projects. If the program has to be changed to accommodate his physical abilities, it may not meet its basic goals, and the authorities may eliminate it. Thus, the result could be that everyone loses the benefit of an otherwise effective correctional tool.

Another impact of the ADA may be to make an already volatile prison environment even more difficult to control. Many inmates are very sensitive to the privileges and benefits that others get in a world where privileges are relatively few. Some have irrational suspicions and phobias. An inmate who is not disabled may be angry if he believes a disabled prisoner is getting special treatment, without rationally accepting that the law requires it, and could take out his anger on others around him, including the disabled prisoner.

We must keep in mind that it is judges who will be making these policy decisions. To determine what vague phrases like ''reasonable accommodation'' and ''undue burden'' mean, judges must get involved in intricate, fact-intensive issues, Essentially, the ADA requires judges to micromanage prisons. Judges are not qualified to second-guess prison administrators and make these complex, difficult decisions. Prisons cannot be run by judicial decree.

The Supreme Court in recent years has recognized this. In apply Constitutional rights to prisoners, the Court

has tried to get away from micromanagement and has viewed prisoner claims deferentially in favor of the expertise of prison officials. It has stated that we will not ''substitute our judgment on difficult and sensitive matters of institutional administration for the determinations of those charged with the formidable task of running a prison. This approach ensures the ability of corrections officials to anticipate security problems and to adopt innovative solutions to the intractable problems of prison administration, and avoid unnecessary intrusion of the judiciary into problems particularly ill suited to resolution by decree.''

Take for example a case from the Fourth Circuit, my home circuit, from 1995. The Court explained that a morbidly obese inmate presented corrections officials ''with a lengthy and ever-increasing list of modifications which he insisted were necessary to accommodate his obese condition. Thus, he demanded a larger cell, a cell closer to support facilities, handrails to assist him in using the toilet, wider entrances to his cell and the showers, non-skid matting in the lobby area, and alternative outdoor recreational activities to accommodate his inability to stand or walk for long periods.'' It is not workable for judges to resolve all of these questions.

It is noteworthy that a primary purpose of the Prison Litigation Reform Act was to stop judges from micromanaging prisons and to reduce the burdens of prison litigation. As the Chief Justice of the Supreme Court recently recognized, the PLRA is having some success. However, this most recent Supreme Court decision will hamper that progress.

Moreover, the ADA delegated to Federal agencies the authority to create regulations to implement the law. State and local correction authorities must fall in line behind these regulations. In yet another way, we will have the Justice Department exercising regulatory oversight over our state and local communities.

Prisons are fundamentally different from other places in society. Prisoners are not entitled to all of the rights and privileges of law-abiding citizens, but they often get them. They have cable television. They have access to better gyms and libraries than most Americans. The public is tired of special privileges for prisoners. Applying the ADA to prisons is a giant step in the wrong direction. Prisoners will abuse the ADA to get privileges they were previously denied, and the reason will be the overreaching hand of the Federal government. We should not let this happen.

Mr. President, the National Government has gone full circle. We have gone from asking the states to house Federal prisoners to dictating to the states how they must house their own prisoners. There must be some end to the powers of the Federal government, and to the privileges it grants the inmates of this Nation. I propose that we start by passing this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2266

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 ''State and Local Prison Relief Act''.

SEC. 2. EXEMPTIONS FOR STATE AND LOCAL AGENCIES OPERATING PRISONS.

(a) AMERICANS WITH DISABILITIES ACT OF 1990.—Section 201(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131(1)) is amended by adding at the end the following: ''The term 'public entity' does not include any department, agency, district, or instrumentality of a State or local government that operates a prison, as defined in section 3626(g) of title 18, United States Code, with respect to the services, programs, or activities relating to the prison.''.

(b) REHABILITATION ACT OF 1973.—Section 504(b) of the Rehabilitation Act of 1973 (29 U.S.C. 794(b)) is amended by adding at the end of the following: ''Notwithstanding the preceding sentence, for the purposes of this section, the term 'program or activity' does not include any operations relating to a prison, as defined in section 3626(g) of title 18, United States Code, by any entity described in any of paragraphs (1) through (4).''.

By Mr. D'AMATO (for himself and Mr. MURKOWSKI):

S. 2267. A bill to amend the Internal Revenue Code of 1986 to grant relief to participants in multiemployer plans from certain section 415 limits on defined benefit pension plans; to the Committee on Finance.

MULTIEMPLOYER DEFINED BENEFIT PENSION LEGISLATION

Mr. D'AMATO. Mr. President, today I introduce legislation with my friend and colleague, Senator MURKOWSKI, to correct an inequity in the Tax Code that deprives working people of hard earned pension benefits. The problem is section 415 of the Internal Revenue Code, which sets compensation based limits and a dollar limit on pension plans. In effect, these section 415 limits discourage retirement savings.

Workers are being denied the full benefits that they have earned through many years of labor and on which they and their spouses have counted in planning their retirement. We can all appreciate the frustration and anger of workers who are told, upon applying for their pension, that the federal government won't let their pension plan pay them the full amount of the benefits that they earned under the rules of their plan. For some workers, this benefit cutback means that they will not be able to retire when they wanted or needed to. For other workers, it means retirement with less income to live on, and in some cases, retirement without health care coverage and other necessities of life.

The bill that Senator MURKOWSKI and I are introducing today will give these workers relief from the most confiscatory provisions of section 415 and enable them to receive the full measure of their retirement savings, consistent with the policy goals of the National Summit on Retirement Savings recently sponsored by the President and the Congress.

Mr. President, Congress has recognized and corrected the adverse effects of section 415 on government employee pension plans. In fact, as part of the Small Business Jobs Protection Act of 1996 and the Tax Relief Act of 1997, we exempted government employee pension plans from the compensation-based limit, from certain early retirement limits, and from other provisions of section 415. Relief measures for workers covered by multiemployer plans have been passed three times by the Senate, most recently in the Senate version of the Taxpayer Relief Act of 1997. Unfortunately, those changes were not maintained in the Senate/House Conference Report.

Section 415 was enacted more than two decades ago when the pension world was quite different than today. The section 415 limits were designed to contain the tax-sheltered pensions that could be received by highly paid executives and professionals. The passage of time and Congressional action has stood this original design on its head. Today, the limits are forcing cutbacks in the pensions of rank-and-file workers. Executives and professionals are now able to receive pensions far in excess of the section 415 limits by establishing non-qualified supplemental retirement programs.

Generally, section 415 limits the benefits payable to a worker by defined benefit pension plans to the lesser of (1) the worker's average annual compensation for the three consecutive years when his compensation was the highest (the compensation-based limit); and (2) a dollar limit that is sharply reduced if a worker retires before the Social Security normal retirement age of 65 or 66.

The compensation-based limit assumes that the pension earned under a plan is linked to each worker's salary, as is typical in corporate pension plans (e.g., a percentage of the worker's final year's salary for each year of employment). That assumption is wrong as applied to multiemployer pension plans. Multiemployer plans, which cover more than ten million individuals, have long based their benefits on the collectively bargained contribution rates and years of covered employment with one or more of the multiple employers which contribute to the plan. In other words, benefits earned under a multiemployer plan generally have no relationship to the wages received by a worker from the contributing employers. The same benefit level is paid to all workers with the same contribution and covered employment records regardless of their individual wage histories.

A second assumption underlying the compensation based limit is that workers' salaries increase steadily over the course of their careers so that the three highest salary years will be the last three consecutive years. While this salary history may be the norm in the corporate world, it is unusual in the multiemployer plan world. In multiemployer plan industries like building and construction, a worker's wage earnings typically fluctuate from year-to-year according to several variables including the availability of covered work and whether the worker is unable to work due to illness or disability. An individual worker's wage history may include many dramatic ups-and-downs. Because of these fluctuations, the three highest years of compensation for many multiemployer plan participants are not consecutive. Consequently, the section 415 compensation-based limit for these workers is artificially low; lower than it should be if they were covered by corporate plans.

The dollar limit under section 415 is forcing severe cutbacks in the earned pensions of workers who retire under multiemployer pension plans before they reach age 65. For example, construction work is physically hard, and is often performed under harsh climatic conditions. Workers are worn down sooner than those in most other industries. Often, early retirement is a must. Multiemployer pension plans accommodate these needs of their covered worker by providing for early retirement, disability, and service pensions that provide a subsidized, partial or full pension benefit.

As it stands now, section 415 is forcing cutbacks in these pensions because the dollar limit is severely reduced for each year you are under the normal Social Security retirement age. For a worker who retires at age 50, the dollar limit restricts their pension at about $40,000 per year.

This reduced limit applies regardless of the circumstances under which the worker retires and regardless of his plan's rules regarding retirement age. A multiemployer plan participant who becomes disabled and is forced into early retirement is nonetheless subject to the reduced limit. In addition, a construction worker who, after 30 years of demanding labor, has well-earned a 30-and-out service pension at age 50, is nonetheless subject to the reduced limit.

Our bill will ease this early retirement benefit cutback by extending to workers covered by multiemployer plans some of the more favorable early retirement rules that now apply to government employee pension plans and other retirement plans. These rules still provide for a reduced dollar limit for retirements earlier than age 62, but the reduction is less severe than under the current rules that apply to multiemployer plans.

Mr. President, I am particularly concerned that early retirees who suffer pension benefit cutbacks will not be able to afford the health care coverage that they need. Workers who retire before they become eligible for Medicare are typically required to pay all or a substantial part of the cost of their health insurance. Section 415 pension cutbacks deprive workers of income they need to bear these health care costs. This is contrary to the sound public policy of encouraging workers and retirees to responsibly provide for their health care.

I urge my colleagues on both sides of the aisle to cosponsor this important and necessary legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2267

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

SECTION 1. TREATMENT OF MULTIEMPLOYER PLANS UNDER SECTION 415 LIMIT ON DEFINED BENEFIT PENSION PLAN BENEFITS.

(a) DOLLAR LIMIT REDUCTION.—Subparagraph (F) of section 415(b)(2) of the Internal Revenue Code of 1986 (relating to plans maintained by governments and tax-exempt organizations) is amended—

(1) by striking ''AND TAX-EXEMPT ORGANIZATIONS'' in the heading and inserting '', TAX-EXEMPT ORGANIZATIONS, AND MULTIEMPLOYER PLANS'', and

(2) by inserting in the first sentence ''a multiemployer plan (as defined in section 414(f)),'' after ''subtitle''.

(b) AVERAGE COMPENSATION LIMIT.—Paragraph (11) of section 415(b) of such Code (relating to a special limitation rule for governmental plans) is amended to read as follows:

''(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL AND MULTIEMPLOYER PLANS.—In the case of a governmental plan (as defined in section 414(d)) or a multiemployer plan (as defined in section 414(f)), subparagraph (B) of paragraph (1) shall not apply.''.

(c) COMBINING AND AGGREGATION OF PLANS.—

(1) COMBINING OF PLANS.—Subsection (f) of section 415 of such Code (relating to combining of plans) is amended by adding at the end the following:

''(3) EXCEPTION FOR MULTIEMPLOYER PLAN.—Notwithstanding paragraph (1) and subsection (g), a multiemployer plan (as defined in section 414(f)) shall not be combined or aggregated with any other plan maintained by an employer for purposes of applying the limitations established in this section.''.

(2) CONFORMING AMENDMENT FOR AGGREGATION OF PLANS.—Subsection (g) of section 415 of such Code (relating to aggregation of plans) is amended by striking ''The Secretary'' and inserting ''Except as provided in subsection (f)(3), the Secretary''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1997.

By Mr. BINGAMAN:

S. 2268. A bill to amend the Internal Revenue Code of 1986 to improve the research and experimentation tax credit, and for other purposes; to the Committee on Finance.

RESEARCH AND EXPERIMENTATION TAX CREDIT LEGISLATION

Mr. BINGAMAN. Mr. President, last Tuesday, June 30, 1998, the research and experimentation tax credit expired, once again. Once again, U.S. industry was left in a state of uncertainty as to how to value its investments in research and development, which are really investments in the economic future of our country. Today, I am introducing a bill to extend permanently and improve the research and experimentation tax credit. It is the fruit of analysis from the staff of the Joint Economic Committee, of which I am the ranking member. It is also the product of consultations with a spectrum of groups who share my concern for our Nation's future scientific and technological strength. The bill would, briefly, make the existing R&E tax credit permanent, improve the economic efficiency and practicality of the alternative incremental credit, convert the existing basic research credit into a flat credit, and accompany the basic research credit (which is aimed mostly at research in universities) with a new credit for nonprofit research consortia. The bill also makes a number of technical and clarifying adjustments to the basic research credit, so that it will be easier to use.

I am not the first Member of this body to propose to make the R&E tax credit permanent, or to propose improvements in its functioning. I plan to work with other similarly-minded Senators in the days to come to see if we can construct an even broader coalition to make these permanent improvements in the R&E tax credit a reality this year.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2268

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

SECTION 1. PERMANENT EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Section 45C(b)(1) of the Internal Revenue Code of 1986 is amended by striking subparagraph (D).

SEC. 2. IMPROVED ALTERNATIVE INCREMENTAL CREDIT.

(a) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (as amended by section 1 of this Act) is amended by adding at the end the following new subsection:

''(h) ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

''(1) IN GENERAL.—At the election of the taxpayer, the credit under subsection (a)(1) shall be determined under this subsection by taking into account the modifications provided by this subsection.

''(2) DETERMINATION OF BASE AMOUNT.—

''(A) IN GENERAL.—In computing the base amount under subsection (c)—

''(i) notwithstanding subsection (c)(3), the fixed-based percentage shall be equal to 85 percent of the percentage which the aggregate qualified research expenses of the taxpayer for the base period is of the aggregate gross receipts of the taxpayer for the base period, and

''(ii) the minimum base amount under subsection (c)(2) shall not apply.

''(B) START-UP AND SMALL TAXPAYERS.—In computing the base amount under subsection (c), the gross receipts of a taxpayer for any taxable year in the base period shall be treated as at least equal to $1,000,000.

''(C) BASE PERIOD.—For purposes of this subsection, the base period is the 8-taxable year period preceding the taxable year (or, if shorter, the period the taxpayer (and any predecessor) has been in existence).

''(3) QUALIFIED RESEARCH.—

''(A) IN GENERAL.—Notwithstanding subsection (d), the term 'qualified research' means research with respect to which expenditures are treated as research and development costs for the purposes of a report or statement concerning such taxable year—

''(i) to shareholders, partners, or other proprietors, or to beneficiaries, or

''(ii) for credit purposes.

Such term shall not include any research described in subparagraph (F) of (H) of subsection (d)(4).

''(B) FINANCIAL ACCOUNTING STANDARDS.—

''(i) IN GENERAL.—Subparagraph (A) shall only apply to the extent that the treatment of expenditures as research and development costs is consistent with the Statement of Financial Accounting Standards No. 2 Accounting for Research and Development Costs.

''(ii) SIGNIFICANT CHANGES.—If the Secretary determines that there is any significant change in the accounting standards described in clause (i) after the date of enactment of this subsection—

''(I) the Secretary shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate of such change, and

''(II) such change shall not be taken into account for any taxable year beginning before the date which is 1 year after the date of notice under subclause (I).

''(C) TRANSITION RULE.—At the election of the taxpayer, this paragraph shall not apply in computing the base amount for any taxable year in the base period beginning before January 1, 1999.

''(4) ELECTION.—An election under this subsection shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.''

(b) ASSISTANCE TO SMALL AND START-UP BUSINESSES.—The Secretary of the Treasury or his delegate shall take such actions as are appropriate to—

(1) provide assistance to small and start-up businesses in complying with the requirements of section 41 of the Internal Revenue Code of 1986, and

(2) reduce the costs of such compliance.

(c) CONFORMING AMENDMENT.—Section 41(c) of the Internal Revenue Code of 1986 is amended by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

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

SEC. 3. MODIFICATIONS TO CREDIT FOR BASIC RESEARCH.

(a) ELIMINATION OF INCREMENTAL REQUIREMENT.—

(1) IN GENERAL.—Paragraph (1) of section 41(e) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) IN GENERAL.—The amount of basic research payments taken into account under subsection (a)(2) shall be determined in accordance with this subsection.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 41(a)(2) of such Code is amended by striking ''determined under subsection (e)(1)(A)'' and inserting ''for the taxable year''.

(B) Section 41(e) of such code is amended by striking paragraphs (3), (4), and (5) and by redesignating paragraphs (6) and (7) as paragraphs (3) and (4), respectively.

(C) Section 41(e)(4) of such Code (as redesignated) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(D) Clause (i) of section 170(e)(4)(B) of such Code is amended by striking ''section 41(e)(6)'' and inserting ''section 41(e)(3)''.

(b) BASIC RESEARCH.—

(1) SPECIFIC COMMERCIAL OBJECTIVE.—Section 41(e)(4) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following new subparagraph:

''(F) SPECIFIC COMMERCIAL OBJECTIVE.—For purposes of subparagraph (A), research shall not be treated as having a specific commercial objective if all results of such research are to be published in such a manner as to be available to the general public prior to their use for a commercial purpose.''

(2) EXCLUSIONS FROM BASIC RESEARCH.—Section 41(e)(4)(A) of the Internal Revenue Code of 1986 (as redesignated by subsection (a)) is amended by striking clause (ii) and inserting the following:

''(ii) basic research in the arts or humanities.''

(c) EXPANSION OF CREDIT TO RESEARCH AT FEDERAL LABORATORIES.—Section 41(e)(3) of the Internal Revenue Code of 1986 (as redesignated by subsection (a)(2)(C) of this section) is amended by adding at the end the following new subparagraph:

''(E) FEDERAL LABORATORIES.—Any organization which is a federal laboratory within the meaning of that term in section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6)).''

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

SEC. 4. CREDIT FOR EXPENSES ATTRIBUTABLE TO CERTAIN COLLABORATIVE RESEARCH CONSORTIA.

(a) CREDIT FOR EXPENSES ATTRIBUTABLE TO CERTAIN COLLABORATIVE RESEARCH CONSORTIA.—Subsection (a) of section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by—

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

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

(3) adding at the end the following new paragraph:

''(3) 20 percent of the amounts paid or incurred during the taxable year (including as contributions) to a qualified research consortium.''

(b) QUALIFIED RESEARCH CONSORTIUM DEFINED.—Subsection (f) of such Code is amended by adding at the end the following new paragraph:

''(6) QUALIFIED RESEARCH CONSORTIUM.—The term 'qualified research consortium' means any organization which—

''(A) is described in section 501(c)(3) and is exempt from tax under section 501(a).

''(B) is organized and operated primarily to conduct scientific or engineering research,

''(C) is not a private foundation,

''(D) to which at least 15 unrelated persons paid or incurred (including as contributions), during the calendar year in which the taxable year of the organization begins, amounts to such organization for scientific or engineering research,

''(E) to which no 3 unrelated persons paid or incurred (including as contributions) during such calendar year more than 50 percent of the total amounts received by such organization during such calendar year for scientific or engineering research, and

''(F) to which no single person paid or incurred (including as contributions) more than 25 percent of such total amounts.

All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related persons for purposes of subparagraphs (D) and (E), and as a single person for purposes of subparagraph (F).''

(c) CONFORMING AMENDMENT.—Paragraph (3) of section 41(b) of such Code is amended by striking subparagraph (C).

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

By Mr. FAIRCLOTH:

S. 2270. A bill to amend the Federal Deposit Insurance Act with respect to raising the level of the Deposit Insurance Fund reserve ratio and with respect to refunds of excess assessments, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

LEGISLATION TO PROVIDE A REFUND OF EXCESS RESERVES IN THE BANK INSURANCE FUND

Mr. FAIRCLOTH. Mr. President, in 1991, the Congress reformed the FDIC and mandated that the fund keep a reserve to deposit ratio of 1.25%. Fortunately, no government funds were used to keep the FDIC solvent when this was mandated in 1991. It was thought by many that it would take years for the fund to reach that level, but, enough funds flowed into the Bank Insurance Fund that this reserve level was met relatively quickly.

What has been happening for the past few years, however, is that the Fund is generating billions in interest and is now well over the designated reserve ratio of 1.25%. The Fund can only be used to provide for losses to the insurance fund, however, because the BIF is considered on budget these excess funds are effectively being used to exaggerate the government surplus. The law envisioned a stop in the need for additional premiums once that fund hit its legal limit, but it never made provisions for excess reserves building and building year after year.

Rather than this money piling up in the Bank Insurance Fund, I think it would be put to greater use if these funds were recycled back into the banking system, and back into our economy.

Today, I am introducing legislation that would require that the Fund provide a refund of this excess revenue when it reaches a reserve level of 1.5%. This means that the Fund could maintain a cushion of 20% above the level that is required by law, but once that outer level is reached, the excess would have to be refunded.

Mr. President, the Bank Insurance Fund is composed entirely of non-government funds. The money in this Fund is derived from assessments on the banking industry. The Congress chose a level at which the Fund could operate safely, and that level is being met, in fact, it is being exceeded. At the end of 1997, the Fund held nearly

$28 billion. I think it is wrong, however, to use the money paid by the banking industry to earn revenue for the government and not recycle that money back into the economy. The Fund earned nearly $1.5 billion in interest last year.

If this amount of money were put back into the economy, $1.5 billion in capital could sustain another $15 billion in loans.

I do not know when the Fund will reach 1.5% reserve to deposit ratio. The FDIC is projecting that the reserve ratio could be anywhere between 1.36% and 1.43% by the end of this year. Clearly, my legislation means that sometime within the next two years, there will be a level reached at which this money will be put back into the economy.

When I first came to Washington, I noticed that many believed money was simply appropriated. Actually, money has to be created. Somebody, somewhere had to do something, drive a truck, wait on a table, build a house—somebody had to create wealth. This is the point of this legislation—we need to send money back into the private sector so that it can be used to create new wealth, new jobs and new opportunities. Letting this money accumulate in Washington will not create new opportunities for the American people. That is why I am introducing this legislation, which I think is balancing the need for both a safe and sound deposit insurance fund and the need to keep dollars in banking system for new lending and new growth.

ADDITIONAL COSPONSORS

S. 236

At the request of Mr. GRAMS, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 236, a bill to abolish the Department of Energy, and for other purposes.

S. 358

At the request of Mr. DEWINE, the names of the Senator from North Dakota [Mr. DORGAN] and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 374

At the request of Mr. ROBB, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 374, a bill to amend title 38, United States Code, to extend eligibility for hospital care and medical services under chapter 17 of that title to veterans who have been awarded the Purple Heart, and for other purposes.

S. 411

At the request of Mrs. HUTCHISON, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 411, a bill to amend the Internal Revenue Code of 1986 to provide a tax credit for investment necessary to revitalize communities within the United States, and for other purposes.

S. 484

At the request of Mr. DEWINE, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 484, a bill to amend the Public Health Service Act to provide for the establishment of a pediatric research initiative.

S. 1252

At the request of Mr. D'AMATO, the names of the Senator from Georgia [Mr. COVERDELL] and the Senator from Virginia [Mr. ROBB] were added as cosponsors of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

At the request of Mr. GRAHAM, the name of the Senator from Georgia [Mr. CLELAND] was added as a cosponsor of S. 1252, supra.

S. 1423

At the request of Mr. HAGEL, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 1423, a bill to modernize and improve the Federal Home Loan Bank System.

S. 1529

At the request of Mr. KENNEDY, the names of the Senator from Maryland [Mr. SARBANES] and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 1529, a bill to enhance Federal enforcement of hate crimes, and for other purposes.

S. 1563

At the request of Mr. SMITH, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 1563, a bill to amend the Immigration and Nationality Act to establish a 24-month pilot program permitting certain aliens to be admitted into the United States to provide temporary or seasonal agricultural services pursuant to a labor condition attestation.

S. 1684

At the request of Mr. HUTCHINSON, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 1684, a bill to allow the recovery of attorneys' fees and costs by certain employers and labor organizations who are prevailing parties in proceedings brought against them by the National Labor Relations Board.

S. 1757

At the request of Ms. SNOWE, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 1757, a bill to amend the Public Health Service Act to extend the program of research on breast cancer.

S. 1868

At the request of Mr. NICKLES, the names of the Senator from Texas [Mrs. HUTCHISON] and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 1868, a bill to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide; to authorize United States actions in response to religious persecution worldwide; to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

S. 1924

At the request of Mr. MACK, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 1993

At the request of Ms. COLLINS, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 1993, a bill to amend title XVIII of the Social Security Act to adjust the formula used to determine costs limits for home health agencies under medicare program, and for other purposes.

S. 2017

At the request of Mr. D'AMATO, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 2017, a bill to amend title XIX of the Social Security Act to provide medical assistance for breast and cervical cancer-related treatment services to certain women screened and found to have breast or cervical cancer under a Federally funded screening program.

S. 2040

At the request of Mr. BAUCUS, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 2040, a bill to amend title XIX of the Social Security Act to extend the authority of State medicaid fraud control units to investigate and prosecute fraud in connection with Federal health care programs and abuse of residents of board and care facilities.

S. 2049

At the request of Mr. KERREY, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 2049, a bill to provide for payments to children's hospitals that operate graduate medical education programs.

S. 2154

At the request of Mrs. BOXER, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 2154, a bill to promote research to identify and evaluate the health effects of silicone breast implants, and to ensure that women and their doctors receive accurate information about such implants.

S. 2157

At the request of Mr. CLELAND, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 2157, a bill to amend the Small Business Act to increase the authorized funding level for women's business centers.

S. 2158

At the request of Mr. ROBERTS, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 2158, a bill to amend the Arms Export Control Act to provide that certain sanctions provisions relating to prohibitions on credit, credit guarantees, or other financial assistance not apply with respect to programs of the Department of Agriculture for the purchase or other provision of food or other agricultural commodities.

S. 2180

At the request of Mr. LOTT, the names of the Senator from Washington [Mrs. MURRAY], the Senator from Mississippi [Mr. COCHRAN], the Senator from Alabama [Mr. SESSIONS], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 2180, 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. 2234

At the request of Mr. DORGAN, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 2234, a bill to require the Secretary of Agriculture to carry out a trade compensation assistance program if the President, any other member of the executive branch, or any other provision of law causes exports from the United States to any country to be suspended for reasons of national security policy, and to require the Secretary of Defense to reimburse the Commodity Credit Corporation for the cost of each such program.

S. 2245

At the request of Mr. LAUTENBERG, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from New Jersey [Mr. TORRICELLI], the Senator from Connecticut [Mr. DODD], and the Senator from Rhode Island [Mr. REED] were added as cosponsors of S. 2245, a bill to require employers to notify local emergency officials, under the appropriate circumstances, of workplace emergencies, and for other purposes.

SENATE JOINT RESOLUTION 50

At the request of Mr. BOND, the names of the Senator from California [Mrs. BOXER] and the Senator from Colorado [Mr. ALLARD] were added as cosponsors of Senate Joint Resolution 50, a joint resolution to disapprove the rule submitted by the Health Care Financing Administration, Department of Health and Human Services on June 1, 1998, relating to surety bond requirements for home health agencies under the medicare and medicaid programs.

SENATE CONCURRENT RESOLUTION 103

At the request of Mr. MOYNIHAN, the names of the Senator from Wisconsin [Mr. KOHL] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Concurrent Resolution 103, a concurrent resolution expressing the sense of the Congress in support of the recommendations of the International Commission of Jurists on Tibet and on United States policy with regard to Tibet.

SENATE RESOLUTION 193

At the request of Mr. REID, the names of the Senator from South Dakota [Mr. JOHNSON] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Resolution 193, a resolution designating December 13, 1998, as ''National Children's Memorial Day.''

SENATE RESOLUTION 199

At the request of Mr. TORRICELLI, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Illinois [Mr. DURBIN] were added as cosponsors of Senate Resolution 199, a resolution designating the last week of April of each calendar year as ''National Youth Fitness Week.''

AMENDMENT NO. 3013

At the request of Mr. CAMPBELL the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of amendment No. 3013 intended to be proposed to S. 1112, a bill to require the Secretary of the Treasury to mint coins in commemoration of Native American history and culture.

SENATE CONCURRENT RESOLUTION 107—AFFIRMING U.S. COMMITMENTS TO TAIWAN

Mr. LOTT (for himself, Mr. TORRICELLI, Mr. MURKOWSKI, Mr. HELMS, Mr. LUGAR, Mr. MACK, Mr. GORTON, Mr. THOMAS, Mr. MCCAIN, Mr. GRAMM, Mr. HUTCHINSON, Mr. BOND, Mr. DOMENICI, Mr. KEMPTHORNE, Mr. KYL, Mr. ABRAHAM, Mr. HATCH, Mr. BURNS, Mr. WARNER, Mr. COVERDELL, Mr. FAIRCLOTH, Mr. MCCONNELL, Mr. CRAIG, Mr. SMITH of New Hampshire, and Mr. BROWNBACK) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 107

Whereas at no time since the establishment of the People's Republic of China on October 1, 1949, has Taiwan been under the control of the People's Republic of China;

Whereas the United States began its long, peaceful, friendly relationship with Taiwan in 1949;

Whereas since the enactment of the Taiwan Relations Act in 1979, the policy of the United States has been based on the expectation that the future relationship between the People's Republic of China and Taiwan would be determined by peaceful means;

Whereas in March 1996, the People's Republic of China held provocative military maneuvers, including missile launch exercises in the Taiwan Strait, in an attempt to intimidate the people of Taiwan during their historic, free and democratic presidential election;

Whereas officials of the People's Republic of China refuse to renounce the use of force against democratic Taiwan;

Whereas Taiwan has achieved significant political and economic strength as one of the world's premier democracies and as the 19th largest economy in the world;

Whereas Taiwan is the seventh largest trading partner of the United States and imports more than twice as much annually from the United States as does the People's Republic of China;

Whereas no treaties exist between the People's Republic of China and Taiwan that determine the future status of Taiwan: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) affirms its long standing commitment to Taiwan and the people of Taiwan in accordance with the Taiwan Relations Act (Public Law 96–8);

(2) affirms its expectation, consistent with the Taiwan Relations Act, that the future of Taiwan will be determined by peaceful means, with the consent of the people of Taiwan, and considers any effort to determine the future of Taiwan by other than peaceful means a threat to the peace and security of the Western Pacific and of grave concern to the United States;

(3) affirms its commitment, consistent with the Taiwan Relations Act, to make available to Taiwan such defense articles and defense services in such quantities as may be necessary to enable Taiwan to maintain a sufficient self-defense capability;

(4) affirms its commitment, consistent with the Taiwan Relations Act, that only the President and Congress shall determine the nature and quantity of defense articles and services for Taiwan based solely upon their judgment of the needs of Taiwan; and

(5) urges the President of the United States to seek a public renunciation by the People's Republic of China of any use of force, or threat to use force, against democratic Taiwan.

Mr. LOTT. Mr. President, this resolution does not break new ground with regard to Taiwan. It simply reaffirms our support of the principles of the 1979 Taiwan Relations Act. It calls on the President to seek a Chinese renunciation of the use of force to affect Taiwan's future.

President Clinton gave two impressive performances at Beijing University and at the joint press conference, but I am very much concerned about the perception of what he had to say, of what the effect is of what he had to say with regard to Taiwan. Instead of pressing Beijing to renounce the use of force against Taiwan, President Clinton accepted Beijing's position on Taiwan. By ending the ambiguity of the U.S. position, we have harmed democratic Taiwan's position.

Congress has pressed previous administrations to change its policies with regard to Taiwan. In fact, the Taiwan Relations Act of 1979 was a clear example of congressional restraint on executive actions on Taiwan. In 1995, we urged the President to grant a visa to Taiwan's President to enter the U.S. for a college reunion. The administration changed its position after Congress took that action.

This resolution is necessary to correct the effects of the statements that were made in Shanghai. Before Shanghai, U.S. policy was to acknowledge

Beijing's position. Now we have prepared to make Beijing's position our policy.

China refuses to take the use of force off the table. We should not unilaterally deny Taiwan membership to international organizations, and we should not take action in concert with the dictatorship in Beijing without even consulting the 21 million people under democratic rule in Taiwan.

Instead of undermining Taiwan, we should support our fundamental national interest in the peaceful resolution of differences. We do not want to see a war in the Taiwan Straits. Deterrence is the way to avoid such a possibility.

We should support the provision of missile defenses to Taiwan so that they can protect their democracy from a dictatorship's missiles. We should support Taiwan's membership in international organizations where they are willing and able to help an organization's goals—such as free trade and economic stability.

There is a second resolution, S. Con. Res. 30, on the issue of Taiwan's membership in the IMF and the World Bank. It has already been passed out of the Foreign Affairs Committee by unanimous vote. I hope we can pass that resolution this week.

I thank Senator TORRICELLI and the rest of our cosponsors. I urge other colleagues to join us because this is certainly a bipartisan issue. I look forward to rapid Senate action on the resolution to reaffirm our relationship with Taiwan and the primacy of the Taiwan Relations Act.

I ask unanimous consent, Mr. President, that editorials from the Wall Street Journal and the Washington Post be printed in the RECORD at this point.

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

[From the Washington Post, July 2, 1998]

SIDING WITH THE DICTATORS

The outlines of a deal are beginning to emerge. China gives President Clinton air time for his speech. Mr. Clinton says what China wants to hear on Taiwan. Then, in classic Clinton fashion, the White House tries to have things both ways, denying that U.S. policy has changed when in fact it has, and not for the better.

Past administrations recognized the Beijing government as the legitimate government of China and ''acknowledged'' China's position with regard to Taiwan. But ''acknowledge'' did not mean ''accept.'' The ultimate fate of Taiwan was something for Taiwan and China to work out, peacefully. Beyond that, the United States deliberately left its policy shrouded in ambiguity.

But recently officials of the Clinton administration have explicitly adopted a ''three no's'' formula much more pleasing to the Communist Chinese: no support for one Taiwan-one China; no support for Taiwan independence; no support for Taiwan membership in international organizations such as the United Nations. Now Mr. Clinton has given that policy a presidential stamp of approval—and on Chinese soil, to boot.

Why does it matter? Because Taiwan's 21 million people have forged a prosperous democracy over the past decades. There is no justification for the United States to oppose their right eventually to determine their own future. It would be fine for U.S. officials to reiterate that such a determination must take place peacefully and to encourage Taiwan-China dialogue. It would be fine for U.S. officials to warn Taiwan not to expect U.S. support for a unilateral declaration of independence. What's not fine is for the United States at this time to rule out independence or any other option the Taiwanese people eventually might choose.

When China threatened Taiwan militarily in 1996, Mr. Clinton responded with admirable resolve. But now he is trading away the human rights of Taiwan's 21 million people and sending an unfortunate signal to other democracies that might hope to rely on U.S. moral support.

As a practical matter, he's also significantly weakening Taiwan's bargaining power if and when Taiwan and China begin negotiations. China's main card always has been the threat of force; Taiwan's has been its campaign to establish sovereignty through membership in world organizations and other means. By explicitly and needlessly slamming the door on that campaign, Mr. Clinton has sided with the dictators against the democrats. To pretend this is no change only heightens the offense.

[From the Wall Street Journal, July 2, 1998]

BILL'S KOWTOW

Just when we were giving President Clinton credit for sounding the right notes in China, he managed to turn his visit into a fiasco after all. His kowtowing to China's ''three no's'' over Taiwan is likely to set off a cycle of reactions and counterreactions that ultimately will damage rather than improve Sino-American relations.

The bedrock of U.S. policy toward Taiwan has always been the Shanghai Communiqué, issued in 1972 as the two nations began their rapprochement, and affirmed in later agreements and the Taiwan Relations Act of 1979. In this document the U.S. declared that it ''acknowledges that all Chinese on either side of the Taiwan Strait maintain there is but one China and that Taiwan is part of China. The United States government does not challenge that position. It reaffirms its interest in a peaceful settlement of the Taiwan question by the Chinese themselves.'' This was careful ambiguity, for example in not dealing with the possibility that what the U.S. acknowledged might someday no longer be true.

A shred of this policy remained, of course, in President Clinton's remark that U.S. policy ''has been'' that reunification ''has to be done peacefully.'' This is something short of a demand that China renounce the use of force. And Mr. Clinton's mouthing of the ''three no's'' formula tool place only in a carefully choreographed exchange with a specially selected Chinese scholar, with National Security Adviser Sandy Berger rushing around with notes. That is to say, it was something the Administration was rather ashamed of, despite the claim that is was no change in previous policy.

On that point, consider the President's language: ''We don't support independence for Taiwan; or two Chinas; or one Taiwan, one China. And we don't believe that Taiwan should be a member in any organization for which statehood is a requirement.'' Anyone who reads English can see that this is miles beyond the careful language Richard Nixon and Henry Kissinger crafted in 1972.

So President Clinton got access to Chinese TV for some statements about human rights and Tibet, giving him the aura he wanted back home, and we continue to believe, some beneficial impact within China. Mr. Clinton also got a dollop of personal frosting with Jiang Zemin's public assurance that his government had investigated ''the so-called political contributions in the United States'' and discovered ''there never was such a thing.'' There were also some trade contracts.

Yet even with the President in Shanghai, the on-again, off-again U.S. visit by a local opera company was definitely called off. This is not a trifle, since the pique of some petty official overrode contracts supported by both the Chinese parties and the U.S. parties. This is precisely the danger of business with China, as a visiting U.S. President should take time to notice.

President Jiang, by contrast, got his number one priority, Mr. Clinton carving the next slice of salami toward the Chinese goal of getting the U.S. to coerce Taiwan to join China, or alternatively to stand aside while China invades. Only two years ago, after all, the People's Liberation Army was ''testing'' its missiles over the Taiwan Strait, closing Taiwan's major ports and forcing the U.S. to dispatch two aircraft carrier battle groups to the area.

The issue of Taiwanese membership in international organizations is especially ridiculous. We can dismiss the United Nations as congenitally symbolic, and the sovereignty requirement would not preclude Taiwan's application to the World Trade Organization, which recognizes ''customs territories.'' But Taiwan is already excluded from presumably serious organizations such as the International Monetary Fund and the World Bank, though it is among the world's top 20 economies and holds enormous monetary reserves. The world's remaining superpower should be acting to curb this ongoing farce, not entrench it.

Mr. Clinton climbed to the pinnacle of politics by pleasing the audience of the moment, but the ultimate impact of his démarche will depend on others offstage, on Taiwan and Capitol Hill. The Taiwanese are understandably upset, with their foreign ministry declaring that the U.S. and China ''are in no position to conduct bilateral negotiations on anything related to our future.'' Even more to the point, Parris Chang, a leader of the pro-independence Democratic Progressive Party said, ''It's wrong, morally and politically, for Clinton to collude with the Communist dictatorship to restrict the future of a democratic country, Taiwan.''

The Democratic Progressives' position is that Taiwan is plainly a separate country, and that recognizing reality is always progress. They are already likely to form the next government in Taipei, and Mr. Clinton's acceding to the three no's almost surely improved their standing among Taiwan's voters. Back in Washington, Congress, historically supportive of Taiwan and already restive over its foreign-policy prerogatives, will resist Mr. Clinton's unilateral change in long-standing American policy.

Taiwan is now plainly a democratic nation, and has every right to determine its own future. In the end, the U.S. will not resist this principle, whatever Mr. Clinton said in Shanghai this week. The danger in Mr. Clinton's words is that the Chinese leaders who heard them will not only be disappointed but turn truculent.

Mr. LOTT. These articles, certainly newspapers that don't always take the same editorial positions, certainly agree in this case and express their concern about siding with Beijing on this very important issue relating to the freedom and the democracy of Taiwan.

I thank the handlers of this bill and the managers for yielding of this time. We wanted to get this submission done this afternoon.

I am glad to yield to Senator TORRICELLI.

Mr. TORRICELLI. I want to thank the majority leader for yielding the time. I am very pleased to join with the majority leader and my colleagues in offering this resolution regarding the commitment of the United States to Taiwan.

Like the majority leader, I, too, want to congratulate President Clinton for an extraordinarily successful visit to the People's Republic of China. He covered the issues of human rights, security, our economic relationships—I believe there was real progress made.

Mr. President, it is sometimes said that international conflicts begin more often from miscalculation than design. I believe it is of service to the Senate and to our country to make clear upon President Clinton's return both what was said and accomplished and, indeed, what remains in place with regard to the U.S. relations with the people and the government on Taiwan.

American policy toward Taiwan is governed by the Taiwan Relations Act. There are 4 principle components of this Act, accepted by this Congress, the bedrock policy of this country, and they remain unchanged.

First, the future of Taiwan will be determined by peaceful means. The Taiwan Relations Act does not say that the people of Taiwan and the mainland will be reunited by peaceful means. It says the future will be determined by peaceful means. That has not been altered.

Second, the United States affirms that one of its principle objectives is the preservation and enhancement of the human rights of the people of Taiwan.

Third, that the United States does not maintain as its policy the isolation of Taiwan, its government, or its people but there are many members of this institution, and, indeed, in this government, that believe it would enhance the security of the region and both peoples if Taiwan were admitted to international organizations.

Fourth, the United States remains committed to sell those defensive means necessary for the security of the people of Taiwan.

Mr. President, at a time of economic turbulence in Asia, it is notable that there is one government and one people that are a bedrock of economic stability. Taiwan is a model of development of democratic capitalism. It is a leader in technology and international trade, with a standard of living obtained for its people that is the envy of Asia. It is also notable that at a time when it is necessary for the President of the United States to discuss human rights with other countries, to discuss their means of government, that Taiwan remains a stable democracy, respecting the freedom of religion and of speech and of expression, where people choose their own leadership.

For all these reasons, Mr. President, it is important that there not be any miscalculation. The policy of this country toward Taiwan is governed by the Taiwan Relations Act. We remain committed to that democracy and to its security. This is not of some small moment. This is, after all, the 19th largest economy in the world. Taiwan is the seventh largest trading partner of the United States—a vibrant democracy in the family of democratic nations.

There are many of us who believe that in future years the security of the region would be enhanced by Taiwan's enhanced relationship with the United Nations, by its entry into the World Trade Organization and the Asian Development Bank, where its economic power could be heard and, indeed, enhance its economic stability.

Mr. President, for all those who have watched this recent trip to Asia, it bears reminding that this Congress wrote the Taiwan Relations Act. The Taiwan Relations Act governs the relationship between the United States and all issues affecting the future of Taiwan and its people. Only this Congress can change the Taiwan Relations Act.

Mr. President, we are all proud of President Clinton's trip to China. I believe that he came home with real substantive accomplishments. I believe it is also useful, as the majority leader has pointed out, to make clear both what has changed and what has not. The American commitment to Taiwan has not changed. It will not change. It is a bedrock of the American commitment to maintain special relationships with nations that choose their own leaders and live in the democratic family of countries.

I thank the majority leader for his leadership on this issue. I am proud to join with him on this concurrent resolution.

Mr. MURKOWSKI. Mr. President, I rise to speak on the issue of Taiwan and the events concerning Taiwan which transpired during our President's trip to China. While President Clinton maintains that he did not make any concessions on Taiwan, or in any way alter our longstanding policy towards Taiwan, I am concerned that, indeed, he may have; and I think the facts back me up and show that President Clinton may have, in no small way, initiated changes in our policy towards Taiwan.

I am specifically concerned with two incidents, Mr. President. First, during a question-and-answer period at Beijing University, President Clinton responded to a question on Taiwan. He remarked that ''when the United States and China reached agreement that we would have a one China policy, we also reached agreement that reunification would occur by peaceful means.''

Well, Mr. President, to my knowledge, the United States and China have never reached an agreement that the Taiwan question would be resolved through reunification. While the United States has not ruled out reunification as a possibility, we have also not ruled out the possibility that the question of Taiwan could be resolved in some other manner, as long as it was done peacefully. So there is a difference.

Our Federal law on this question is quite clear. Section 2(b)(3) of the Taiwan Relations Act states that ''The future of Taiwan will be determined by peaceful means.'' The United States has also signed three joint communiques with the People's Republic of China which further elaborate our position on Taiwan. While they all speak to the peaceful resolution of the Taiwan question, none—none—go so far as to speak to the question of reunification.

So why am I concerned with the President's choice of words while he was in China? Because I think it is misleading, dangerously misleading. It indicates to the Chinese and the Taiwanese that our policy on Taiwan has changed, when the President says it has not.

The second incident which raises concern, Mr. President, is when President Clinton seemingly adopted the ''Three-No's'' policy long advocated by China. The ''Three-No's'' policy states the United States does not support one Taiwan, one China; the United States does not support Taiwan independence; and the United States does not support Taiwan's membership in nation-state based international organizations.

As the July 2, 1998, editorial in the Washington Post correctly points out, the United States has long ''acknowledged'' China's position on Taiwan, but has never ever accepted China's position on Taiwan. There is a significant difference.

I ask unanimous consent that a copy of this editorial be printed in the CONGRESSIONAL RECORD following my remarks.

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

(See Exhibit 1.)

Mr. MURKOWSKI. Considered collectively, which I know the Chinese Government is doing, this could appear to be a major concession by the United States on the issue of Taiwan. My guess is that the Chinese now believe that if the Taiwanese people declare independence, the United States will not support them. What does that say for democracy and the ideals that we have sworn to uphold and support?

In 1996, when the Chinese military conducted military exercises off the coast of Taiwan in order to influence Taiwan's national Presidential elections, President Clinton rightly responded; swiftly and with resolve. He showed that the United States will not tolerate the threat of the use of force against Taiwan, just as we will not tolerate the use of force against Taiwan.

Mr. President, I am concerned that the President's statements made in

China have now sent the wrong message, and one that could be destabilizing both to Taiwan and to the entire Asian theater.

I think the United States should pursue our own ''three-no's'' policy on the question of Taiwan, and they are: We will not accept any nonpeaceful resolution of the Taiwan question; we will not force Taiwan to the table with China, nor will we be an intermediary in resolving this dispute; and we will not turn our backs on democracy and the right of the Taiwanese people, or any people, to live according to free democratic principles.

So finally, Mr. President, well in advance of President Clinton's trip to China, I and a number of colleagues in the Senate sent a letter to the President urging him to press the Chinese Government on renouncing the threat of the use of force against Taiwan.

I ask unanimous consent that a copy of this letter be printed in the CONGRESSIONAL RECORD following my remarks.

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

(See Exhibit 2.)

Mr. MURKOWSKI. I, again, call on the President to insist that the Chinese Government renounce the threat of the use of force against Taiwan and take great effort to clarify that our position in support of Taiwan and our commitment to Taiwan has not changed.

Mr. President, I yield the floor, and I thank the floor manager, Senator BOND, for the courtesy extended me at this time.

Mr. BOND. Mr. President, I thank the Senator from Alaska.

I ask unanimous consent that I be added as a cosponsor to the resolution.

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

EXHIBIT 1

SIDING WITH THE DICTATORS

The outlines of a deal are beginning to emerge. China gives President Clinton air time for his speech. Mr. Clinton says what China wants to hear on Taiwan. Then, in classic Clinton fashion, the White House tries to have things both ways, denying that U.S. policy has changed when in fact it has, and not for the better.

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But recently officials of the Clinton administration have explicitly adopted a ''three no's'' formula much more pleasing to the Communist Chinese: no support for one Taiwan-one China; no support for Taiwan independence; no support for Taiwan membership in international organizations such as the United Nations. Now Mr. Clinton has given that policy a presidential stamp of approval—and on Chinese soil, to boot.

Why does it matter? Because Taiwan's 21 million people have forged a prosperous democracy over the past decades. There is no justification for the United States to oppose their right eventually to determine their own future. It would be fine for U.S. officials to reiterate that such a determination must take place peacefully and to encourage Taiwan-China dialogue. It would be fine for U.S. officials to warn Taiwan not to expect U.S. support for a unilateral declaration of independence. What's not fine is for the United States at this time to rule out independence or any other option the Taiwanese people eventually might choose.

When China threatened Taiwan militarily in 1996, Mr. Clinton responded with admirable resolve. But now he is trading away the human rights of Taiwan's 21 million people and sending an unfortunate signal to other democracies that might hope to rely on U.S. moral support.

As a practical matter, he's also significantly weakening Taiwan's bargaining power if and when Taiwan and China begin negotiations. China's main card always has been the threat of force; Taiwan's has been its campaign to establish sovereignty through membership in world organizations and other means. By explicitly and needlessly slamming the door on that campaign, Mr. Clinton has sided with the dictators against the democrats. To pretend this is no change only heightens the offense.

EXHIBIT 2

UNITED STATES SENATE,
Washington, DC, May 21, 1998.

Hon. WILLIAM J. CLINTON,
The President, The White House,
Washington, DC.

DEAR MR. PRESIDENT: As you prepare for your summit with the leaders of the People's Republic of China in Beijing, we thought it appropriate to share with you our thoughts regarding U.S. relations with the people and the government of Taiwan. We believe Taiwan has made extraordinary progress in recent years as the Republic of China has moved to establish a vibrant democracy with free elections, free press, and improved trading practices.

We believe the American people are united in their support for freedom and democracy in Taiwan. Time and again, Congress has made clear our commitment to Taiwan, beginning with the 1979 Taiwan Relations Act, and through many resolutions and bills since then.

Although we do not know what will be on the summit agenda, we do know that the PRC is often eager to try and persuade the United States to compromise our support for Taiwan and its democracy. Mr. President, we urge you to oppose any efforts at the summit by the PRC leadership to diminish American support for Taiwan. We believe it is important for the United States to make clear at the summit that while the U.S. supports a peaceful dialogue between Taipei and Beijing, the U.S. has committed not to pressure Taiwan on this issue and to not play any mediation role. You should reiterate statements made recently by members of your administration calling on the PRC to renounce the use of force or the threat of force against Taiwan.

Further, we urge you to reject any plans for a ''Fourth Communique'' on issues related to Taiwan; to not weaken our defensive arms sales commitment to Taiwan (either by agreeing to set an end date or by agreeing to hold prior consultations with the PRC); to not make any commitment to limit future visits by the elected representatives of the Republic of China; to not agree to revise the Taiwan Relations Act; and to not alter the U.S. position regarding sovereignty over Taiwan.

We in Congress are prepared to reiterate the commitment of the American people to freedom and democracy for the people and government of Taiwan. We look forward to your reassurance on these issues in advance of the summit.

Sincerely,

FRANK H. MURKOWSKI.
ROBERT G. TORRICELLI.
TRENT LOTT.
JESSE HELMS.

ALFONSE D'AMATO.
TIM JOHNSON.
TOM DASCHLE.
CRAIG THOMAS.
CHUCK HAGEL.
LARRY E. CRAIG.
CONNIE MACK.

AMENDMENTS SUBMITTED

PRODUCT LIABILITY REFORM ACT OF 1998

FEINGOLD AMENDMENT NO. 3061

(Ordered to lie on the table.)

Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill (S. 648) to establish legal standards and procedures for product liability litigation, and for other purposes; as follows:

After section 302, add the following:

TITLE IV—EQUAL ACCESS TO JUSTICE REFORM

SEC. 401. EQUAL ACCESS TO JUSTICE REFORM.

(a) SHORT TITLE.—This title may be cited as the ''Equal Access to Justice Reform Amendments of 1998''.

(b) AWARD OF COSTS AND FEES.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504(a)(2) of title 5, United States Code, is amended by inserting after ''(2)'' the following: ''At any time after the commencement of an adversary adjudication covered by this section, the adjudicative officer may ask a party to declare whether such party intends to seek an award of fees and expenses against the agency should such party prevail.''.

(2) JUDICIAL PROCEEDINGS.—Section 2412(d)(1)(B) of title 28, United States Code, is amended by inserting after ''(B)'' the following: ''At any time after the commencement of an adversary adjudication covered by this section, the court may ask a party to declare whether such party intends to seek an award of fees and expenses against the agency should such party prevail.''.

(c) HOURLY RATE FOR ATTORNEY FEES.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504(b)(1)(A)(ii) of title 5, United States Code, is amended by striking all beginning with ''$125 per hour'' and inserting ''$125 per hour unless the agency determines by regulation that an increase in the cost-of-living based on the date of final disposition justifies a higher fee);''.

(2) JUDICIAL PROCEEDINGS.—Section 2412(d)(2)(A)(ii) of title 28, United States Code, is amended by striking all beginning with ''$125 per hour'' and inserting ''$125 per hour unless the court determines that an increase in the cost-of-living based on the date of final disposition justifies a higher fee);''.

(d) PAYMENT FROM AGENCY APPROPRIATIONS.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504(d) of title 5, United States Code, is amended by adding at the end the following: ''Fees and expenses awarded under this subsection may not be paid from the claims and judgments account of the Treasury from funds appropriated pursuant to section 1304 of title 31.''.

(2) JUDICIAL PROCEEDINGS.—Section 2412(d)(4) of title 28, United States Code, is amended by adding at the end the following: ''Fees and expenses awarded under this subsection may not be paid from the claims and judgments account of the Treasury from funds appropriated pursuant to section 1304 of title 31.''.

(e) OFFERS OF SETTLEMENT.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504 of title 5, United States Code, is amended—

(A) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(B) by inserting after subsection (d) the following new subsection:

''(e)(1) At any time after the filing of an application for fees and other expenses under this section, an agency from which a fee award is sought may serve upon the applicant an offer of settlement of the claims made in the application. If within 10 days after service of the offer the applicant serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof.

''(2) An offer not accepted shall be deemed withdrawn. The fact that an offer is made but not accepted shall not preclude a subsequent offer. If any award of fees and expenses for the merits of the proceeding finally obtained by the applicant is not more favorable than the offer, the applicant shall not be entitled to receive an award for attorneys' fees or other expenses incurred in relation to the application for fees and expenses after the date of the offer.''.

(2) JUDICIAL PROCEEDINGS.—Section 2412 of title 28, United States Code, is amended—

(A) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(B) by inserting after subsection (d) the following new subsection:

''(e)(1) At any time after the filing of an application for fees and other expenses under this section, an agency of the United States from which a fee award is sought may serve upon the applicant an offer of settlement of the claims made in the application. If within 10 days after service of the offer the applicant serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof.

''(2) An offer not accepted shall be deemed withdrawn. The fact that an offer is made but not accepted shall not preclude a subsequent offer. If any award of fees and expenses for the merits of the proceeding finally obtained by the applicant is not more favorable than the offer, the applicant shall not be entitled to receive an award for attorneys' fees or other expenses incurred in relation to the application for fees and expenses after the date of the offer.''.

(f) ELIMINATION OF SUBSTANTIAL JUSTIFICATION STANDARD.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504 of title 5, United States Code, is amended—

(A) in subsection (a)(1), by striking all beginning with '', unless the adjudicative officer'' through ''expenses are sought''; and

(B) in subsection (a)(2), by striking ''The party shall also allege that the position of the agency was not substantially justified.''.

(2) JUDICIAL PROCEEDINGS.—Section 2412(d) of title 28, United States Code, is amended—

(A) in paragraph (1)(A), by striking '', unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust'';

(B) in paragraph (1)(B), by striking ''The party shall also allege that the position of the United States was not substantially justified. Whether or not the position of the United States was substantially justified shall be determined on the basis of the record (including the record with respect to the action or failure to act by the agency upon which the civil action is based) which is made in the civil action for which fees and other expenses are sought.''; and

(C) in paragraph (3), by striking '', unless the court finds that during such adversary adjudication the position of the United States was substantially justified, or that special circumstances make an award unjust''.

(g) REPORTS TO CONGRESS.—

(1) ADMINISTRATIVE PROCEEDINGS.—No later than 180 days after the date of the enactment of this Act, the Administrative Conference of the United States shall submit a report to Congress—

(A) providing an analysis of the variations in the frequency of fee awards paid by specific Federal agencies under the provisions of section 504 of title 5, United States Code; and

(B) including recommendations for extending the application of such sections to other Federal agencies and administrative proceedings.

(2) JUDICIAL PROCEEDINGS.—No later than 180 days after the date of the enactment of this Act, the Department of Justice shall submit a report to Congress—

(A) providing an analysis of the variations in the frequency of fee awards paid by specific Federal districts under the provisions of section 2412 of title 28, United States Code; and

(B) including recommendations for extending the application of such sections to other Federal judicial proceedings.

(h) EFFECTIVE DATE.—The provisions of this title and the amendments made by this title shall take effect 30 days after the date of the enactment of this Act and shall apply only to an administrative complaint filed with a Federal agency or a civil action filed in a United States court on or after such date.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

BUMPERS (AND OTHERS) AMENDMENT NO. 3062

Mr. BUMPERS (for himself, Mr. BRYAN, Mr. WELLSTONE, Mrs. HUTCHISON, Mr. LEAHY, Mr. KOHL, Mr. WYDEN, Mr. FEINGOLD, Mr. DURBIN, and Mr. HUTCHINSON) proposed an amendment to the bill (S. 2168) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes; as follows:

Strike line 21 on page 76 through line 4 on page 77 and insert the following:

''For termination of the International Space Station project, $850,000,000. In addition to the other provisions of this Act, $1,000,000,000 shall be available for the Veterans Health Administration Medical Care account and $450,000,000 shall be available for the Housing Certificate Fund account within the Department of Housing and Urban Development's budget.''

DASCHLE AMENDMENT NO. 3063

Mr. DASCHLE proposed an amendment to the bill, S. 2168, supra; as follows:

At the appropriate place, insert the following:

TITLE ___—PATIENTS' BILL OF RIGHTS

SEC. ___001. SHORT TITLE.

This title may be cited as the ''Patients' Bill of Rights Act of 1998''.

Subtitle A—Health Insurance Bill of Rights

CHAPTER 1—ACCESS TO CARE

SEC. ___101. ACCESS TO EMERGENCY CARE.

(a) COVERAGE OF EMERGENCY SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides any benefits with respect to emergency services (as defined in paragraph (2)(B)), the plan or issuer shall cover emergency services furnished under the plan or coverage—

(A) without the need for any prior authorization determination;

(B) whether or not the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee by a nonparticipating health care provider—

(i) the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider, and

(ii) the plan or issuer pays an amount that is not less than the amount paid to a participating health care provider for the same services; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) DEFINITIONS.—In this section:

(A) EMERGENCY MEDICAL CONDITION BASED ON PRUDENT LAYPERSON STANDARD.—The term ''emergency medical condition'' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) EMERGENCY SERVICES.—The term ''emergency services'' means—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate an emergency medical condition (as defined in subparagraph (A)), and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(b) REIMBURSEMENT FOR MAINTENANCE CARE AND POST-STABILIZATION CARE.—In the case of services (other than emergency services) for which benefits are available under a group health plan, or under health insurance coverage offered by a health insurance issuer, the plan or issuer shall provide for reimbursement with respect to such services provided to a participant, beneficiary, or enrollee other than through a participating

health care provider in a manner consistent with subsection (a)(1)(C) if the services are maintenance care or post-stabilization care covered under the guidelines established under section 1852(d)(2) of the Social Security Act (relating to promoting efficient and timely coordination of appropriate maintenance and post-stabilization care of an enrollee after an enrollee has been determined to be stable), or, in the absence of guidelines under such section, such guidelines as the Secretary shall establish to carry out this subsection.

SEC. ___102. OFFERING OF CHOICE OF COVERAGE OPTIONS UNDER GROUP HEALTH PLANS.

(a) REQUIREMENT.—

(1) OFFERING OF POINT-OF-SERVICE COVERAGE OPTION.—Except as provided in paragraph (2), if a group health plan (or health insurance coverage offered by a health insurance issuer in connection with a group health plan) provides benefits only through participating health care providers, the plan or issuer shall offer the participant the option to purchase point-of-service coverage (as defined in subsection (b)) for all such benefits for which coverage is otherwise so limited. Such option shall be made available to the participant at the time of enrollment under the plan or coverage and at such other times as the plan or issuer offers the participant a choice of coverage options.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to a participant in a group health plan if the plan offers the participant—

(A) a choice of health insurance coverage through more than one health insurance issuer; or

(B) two or more coverage options that differ significantly with respect to the use of participating health care providers or the networks of such providers that are used.

(b) POINT-OF-SERVICE COVERAGE DEFINED.—In this section, the term ''point-of-service coverage'' means, with respect to benefits covered under a group health plan or health insurance issuer, coverage of such benefits when provided by a nonparticipating health care provider. Such coverage need not include coverage of providers that the plan or issuer excludes because of fraud, quality, or similar reasons.

(c) CONSTRUCTION.—Nothing in this section shall be construed—

(1) as requiring coverage for benefits for a particular type of health care provider;

(2) as requiring an employer to pay any costs as a result of this section or to make equal contributions with respect to different health coverage options; or

(3) as preventing a group health plan or health insurance issuer from imposing higher premiums or cost-sharing on a participant for the exercise of a point-of-service coverage option.

(d) NO REQUIREMENT FOR GUARANTEED AVAILABILITY.—If a health insurance issuer offers health insurance coverage that includes point-of-service coverage with respect to an employer solely in order to meet the requirement of subsection (a), nothing in section 2711(a)(1)(A) of the Public Health Service Act shall be construed as requiring the offering of such coverage with respect to another employer.

SEC. ___103. CHOICE OF PROVIDERS.

(a) PRIMARY CARE.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall permit each participant, beneficiary, and enrollee to receive primary care from any participating primary care provider who is available to accept such individual.

(b) SPECIALISTS.—

(1) IN GENERAL.—Subject to paragraph (2), a group health plan and a health insurance issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary or appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care provider who is available to accept such individual for such care.

(2) LIMITATION.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating providers with respect to such care.

SEC. ___104. ACCESS TO SPECIALTY CARE.

(a) OBSTETRICAL AND GYNECOLOGICAL CARE.—

(1) IN GENERAL.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for a participant, beneficiary, or enrollee to designate a participating primary care provider—

(A) the plan or issuer shall permit such an individual who is a female to designate a participating physician who specializes in obstetrics and gynecology as the individual's primary care provider; and

(B) if such an individual has not designated such a provider as a primary care provider, the plan or issuer—

(i) may not require authorization or a referral by the individual's primary care provider or otherwise for coverage of routine gynecological care (such as preventive women's health examinations) and pregnancy-related services provided by a participating health care professional who specializes in obstetrics and gynecology to the extent such care is otherwise covered, and

(ii) may treat the ordering of other gynecological care by such a participating physician as the authorization of the primary care provider with respect to such care under the plan or coverage.

(2) CONSTRUCTION.—Nothing in paragraph (1)(B)(ii) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological care so ordered.

(b) SPECIALTY CARE.—

(1) SPECIALTY CARE FOR COVERED SERVICES.—

(A) IN GENERAL.—If—

(i) an individual is a participant or beneficiary under a group health plan or an enrollee who is covered under health insurance coverage offered by a health insurance issuer,

(ii) the individual has a condition or disease of sufficient seriousness and complexity to require treatment by a specialist, and

(iii) benefits for such treatment are provided under the plan or coverage,

the plan or issuer shall make or provide for a referral to a specialist who is available and accessible to provide the treatment for such condition or disease.

(B) SPECIALIST DEFINED.—For purposes of this subsection, the term ''specialist'' means, with respect to a condition, a health care practitioner, facility, or center (such as a center of excellence) that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

(C) CARE UNDER REFERRAL.—A group health plan or health insurance issuer may require that the care provided to an individual pursuant to such referral under subparagraph (A) be—

(i) pursuant to a treatment plan, only if the treatment plan is developed by the specialist and approved by the plan or issuer, in consultation with the designated primary care provider or specialist and the individual (or the individual's designee), and

(ii) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

Nothing in this subsection shall be construed as preventing such a treatment plan for an individual from requiring a specialist to provide the primary care provider with regular updates on the specialty care provided, as well as all necessary medical information.

(D) REFERRALS TO PARTICIPATING PROVIDERS.—A group health plan or health insurance issuer is not required under subparagraph (A) to provide for a referral to a specialist that is not a participating provider, unless the plan or issuer does not have an appropriate specialist that is available and accessible to treat the individual's condition and that is a participating provider with respect to such treatment.

(E) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a plan or issuer refers an individual to a nonparticipating specialist pursuant to subparagraph (A), services provided pursuant to the approved treatment plan (if any) shall be provided at no additional cost to the individual beyond what the individual would otherwise pay for services received by such a specialist that is a participating provider.

(2) SPECIALISTS AS PRIMARY CARE PROVIDERS.—

(A) IN GENERAL.—A group health plan, or a health insurance issuer, in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has an ongoing special condition (as defined in subparagraph (C)) may receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's primary and specialty care. If such an individual's care would most appropriately be coordinated by such a specialist, such plan or issuer shall refer the individual to such specialist.

(B) TREATMENT AS PRIMARY CARE PROVIDER.—Such specialist shall be permitted to treat the individual without a referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services as the individual's primary care provider would otherwise be permitted to provide or authorize, subject to the terms of the treatment plan (referred to in paragraph (1)(C)(i)).

(C) ONGOING SPECIAL CONDITION DEFINED.—In this paragraph, the term ''special condition'' means a condition or disease that—

(i) is life-threatening, degenerative, or disabling, and

(ii) requires specialized medical care over a prolonged period of time.

(D) TERMS OF REFERRAL.—The provisions of subparagraphs (C) through (E) of paragraph (1) apply with respect to referrals under subparagraph (A) of this paragraph in the same manner as they apply to referrals under paragraph (1)(A).

(3) STANDING REFERRALS.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has a condition that requires ongoing care from a specialist may receive a standing referral to such specialist for treatment of such condition. If the plan or issuer, or if the primary care provider in consultation with the medical director of the plan or issuer and the specialist (if any), determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to such a specialist.

(B) TERMS OF REFERRAL.—The provisions of subparagraphs (C) through (E) of paragraph (1) apply with respect to referrals under subparagraph (A) of this paragraph in the same

manner as they apply to referrals under paragraph (1)(A).

SEC. ___105. CONTINUITY OF CARE.

(a) IN GENERAL.—

(1) TERMINATION OF PROVIDER.—If a contract between a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, and a health care provider is terminated (as defined in paragraph (3)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in a group health plan, and an individual who is a participant, beneficiary, or enrollee in the plan or coverage is undergoing a course of treatment from the provider at the time of such termination, the plan or issuer shall—

(A) notify the individual on a timely basis of such termination, and

(B) subject to subsection (c), permit the individual to continue or be covered with respect to the course of treatment with the provider during a transitional period (provided under subsection (b)).

(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) TERMINATION.—In this section, the term ''terminated'' includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by the plan or issuer for failure to meet applicable quality standards or for fraud.

(b) TRANSITIONAL PERIOD.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (4), the transitional period under this subsection shall extend for at least 90 days from the date of the notice described in subsection (a)(1)(A) of the provider's termination.

(2) INSTITUTIONAL CARE.—The transitional period under this subsection for institutional or inpatient care from a provider shall extend until the discharge or termination of the period of institutionalization and also shall include institutional care provided within a reasonable time of the date of termination of the provider status if the care was scheduled before the date of the announcement of the termination of the provider status under subsection (a)(1)(A) or if the individual on such date was on an established waiting list or otherwise scheduled to have such care.

(3) PREGNANCY.—If—

(A) a participant, beneficiary, or enrollee has entered the second trimester of pregnancy at the time of a provider's termination of participation, and

(B) the provider was treating the pregnancy before date of the termination,

the transitional period under this subsection with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

(4) TERMINAL ILLNESS.—If—

(A) a participant, beneficiary, or enrollee was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, and

(B) the provider was treating the terminal illness before the date of termination,

the transitional period under this subsection shall extend for the remainder of the individual's life for care directly related to the treatment of the terminal illness.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under subsection (a)(1)(B) upon the provider agreeing to the following terms and conditions:

(1) The provider agrees to accept reimbursement from the plan or issuer and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or issuer after the date of the termination of the contract with the health insurance issuer) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) CONSTRUCTION.—Nothing in this section shall be construed to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider.

SEC. ___106. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term ''qualified individual'' means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(B) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) PAYMENT.—

(1) IN GENERAL.—Under this section a group health plan or health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the Secretary) to be paid for by the sponsors of an approved clinical trial.

(2) PAYMENT RATE.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate, or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) APPROVED CLINICAL TRIAL DEFINED.—

(1) IN GENERAL.—In this section, the term ''approved clinical trial'' means a clinical research study or clinical investigation approved and funded (which may include funding through in-kind contributions) by one or more of the following:

(A) The National Institutes of Health.

(B) A cooperative group or center of the National Institutes of Health.

(C) Either of the following if the conditions described in paragraph (2) are met:

(i) The Department of Veterans Affairs.

(ii) The Department of Defense.

(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health, and

(B) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

(e) CONSTRUCTION.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

SEC. ___107. ACCESS TO NEEDED PRESCRIPTION DRUGS.

(a) IN GENERAL.—If a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits with respect to prescription drugs but the coverage limits such benefits to drugs included in a formulary, the plan or issuer shall—

(1) ensure participation of participating physicians and pharmacists in the development of the formulary;

(2) disclose to providers and, disclose upon request under section ___121(c)(6) to participants, beneficiaries, and enrollees, the nature of the formulary restrictions; and

(3) consistent with the standards for a utilization review program under section

___115, provide for exceptions from the formulary limitation when a non-formulary alternative is medically indicated.

(b) COVERAGE OF APPROVED DRUGS AND MEDICAL DEVICES.—

(1) IN GENERAL.—A group health plan (or health insurance coverage offered in connection with such a plan) that provides any coverage of prescription drugs or medical devices shall not deny coverage of such a drug or device on the basis that the use is investigational, if the use—

(A) in the case of a prescription drug—

(i) is included in the labeling authorized by the application in effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply under such Act; or

(ii) is included in the labeling authorized by the application in effect for the drug under section 351 of the Public Health Service Act, without regard to any postmarketing requirements that may apply pursuant to such section; or

(B) in the case of a medical device, is included in the labeling authorized by a regulation under subsection (d) or (3) of section 513 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any coverage of prescription drugs or medical devices.

SEC. ___108. ADEQUACY OF PROVIDER NETWORK.

(a) IN GENERAL.—Each group health plan, and each health insurance issuer offering health insurance coverage, that provides benefits, in whole or in part, through participating health care providers shall have (in relation to the coverage) a sufficient number, distribution, and variety of qualified participating health care providers to ensure that all covered health care services, including specialty services, will be available and accessible in a timely manner to all participants, beneficiaries, and enrollees under the plan or coverage.

(b) TREATMENT OF CERTAIN PROVIDERS.—The qualified health care providers under subsection (a) may include Federally qualified health centers, rural health clinics, migrant health centers, and other essential community providers located in the service area of the plan or issuer and shall include such providers if necessary to meet the standards established to carry out such subsection.

SEC. ___109. NONDISCRIMINATION IN DELIVERY OF SERVICES.

(a) APPLICATION TO DELIVERY OF SERVICES.—Subject to subsection (b), a group health plan, and health insurance issuer in relation to health insurance coverage, may not discriminate against a participant, beneficiary, or enrollee in the delivery of health care services consistent with the benefits covered under the plan or coverage or as required by law based on race, color, ethnicity, national origin, religion, sex, age, mental or physical disability, sexual orientation, genetic information, or source of payment.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed as relating to the eligibility to be covered, or the offering (or guaranteeing the offer) of coverage, under a plan or health insurance coverage, the application of any pre-existing condition exclusion consistent with applicable law, or premiums charged under such plan or coverage.

CHAPTER 2—QUALITY ASSURANCE

SEC. ___111. INTERNAL QUALITY ASSURANCE PROGRAM.

(a) REQUIREMENT.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall establish and maintain an ongoing, internal quality assurance and continuous quality improvement program that meets the requirements of subsection (b).

(b) PROGRAM REQUIREMENTS.—The requirements of this subsection for a quality improvement program of a plan or issuer are as follows:

(1) ADMINISTRATION.—The plan or issuer has a separate identifiable unit with responsibility for administration of the program.

(2) WRITTEN PLAN.—The plan or issuer has a written plan for the program that is updated annually and that specifies at least the following:

(A) The activities to be conducted.

(B) The organizational structure.

(C) The duties of the medical director.

(D) Criteria and procedures for the assessment of quality.

(3) SYSTEMATIC REVIEW.—The program provides for systematic review of the type of health services provided, consistency of services provided with good medical practice, and patient outcomes.

(4) QUALITY CRITERIA.—The program—

(A) uses criteria that are based on performance and patient outcomes where feasible and appropriate;

(B) includes criteria that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate;

(C) includes methods for informing covered individuals of the benefit of preventive care and what specific benefits with respect to preventive care are covered under the plan or coverage; and

(D) makes available to the public a description of the criteria used under subparagraph (A).

(5) SYSTEM FOR REPORTING.—The program has procedures for reporting of possible quality concerns by providers and enrollees and for remedial actions to correct quality problems, including written procedures for responding to concerns and taking appropriate corrective action.

(6) DATA ANALYSIS.—The program provides, using data that include the data collected under section ___112, for an analysis of the plan's or issuer's performance on quality measures.

(7) DRUG UTILIZATION REVIEW.—The program provides for a drug utilization review program in accordance with section ___114.

(c) DEEMING.—For purposes of subsection (a), the requirements of—

(1) subsection (b) (other than paragraph (5)) are deemed to be met with respect to a health insurance issuer that is a qualified health maintenance organization (as defined in section 1310(c) of the Public Health Service Act); or

(2) subsection (b) are deemed to be met with respect to a health insurance issuer that is accredited by a national accreditation organization that the Secretary certifies as applying, as a condition of certification, standards at least as stringent as those required for a quality improvement program under subsection (b).

(d) VARIATION PERMITTED.—The Secretary may provide for variations in the application of the requirements of this section to group health plans and health insurance issuers based upon differences in the delivery system among such plans and issuers as the Secretary deems appropriate.

SEC. ___112. COLLECTION OF STANDARDIZED DATA.

(a) IN GENERAL.—A group health plan and a health insurance issuer that offers health insurance coverage shall collect uniform quality data that include a minimum uniform data set described in subsection (b).

(b) MINIMUM UNIFORM DATA SET.—The Secretary shall specify (and may from time to time update) the data required to be included in the minimum uniform data set under subsection (a) and the standard format for such data. Such data shall include at least—

(1) aggregate utilization data;

(2) data on the demographic characteristics of participants, beneficiaries, and enrollees;

(3) data on disease-specific and age-specific mortality rates and (to the extent feasible) morbidity rates of such individuals;

(4) data on satisfaction of such individuals, including data on voluntary disenrollment and grievances; and

(5) data on quality indicators and health outcomes, including, to the extent feasible and appropriate, data on pediatric cases and on a gender-specific basis.

(c) AVAILABILITY.—A summary of the data collected under subsection (a) shall be disclosed under section ___121(b)(9). The Secretary shall be provided access to all the data so collected.

(d) VARIATION PERMITTED.—The Secretary may provide for variations in the application of the requirements of this section to group health plans and health insurance issuers based upon differences in the delivery system among such plans and issuers as the Secretary deems appropriate.

SEC. ___113. PROCESS FOR SELECTION OF PROVIDERS.

(a) IN GENERAL.—A group health plan and a health insurance issuer that offers health insurance coverage shall, if it provides benefits through participating health care professionals, have a written process for the selection of participating health care professionals, including minimum professional requirements.

(b) VERIFICATION OF BACKGROUND.—Such process shall include verification of a health care provider's license and a history of suspension or revocation.

(c) RESTRICTION.—Such process shall not use a high-risk patient base or location of a provider in an area with residents with poorer health status as a basis for excluding providers from participation.

(d) NONDISCRIMINATION BASED ON LICENSURE.—

(1) IN GENERAL.—Such process shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

(2) CONSTRUCTION.—Paragraph (1) shall not be construed—

(A) as requiring the coverage under a plan or coverage of particular benefits or services or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer; or

(B) to override any State licensure or scope-of-practice law.

(e) GENERAL NONDISCRIMINATION.—

(1) IN GENERAL.—Subject to paragraph (2), such process shall not discriminate with respect to selection of a health care professional to be a participating health care provider, or with respect to the terms and conditions of such participation, based on the

professional's race, color, religion, sex, national origin, age, sexual orientation, or disability (consistent with the Americans with Disabilities Act of 1990).

(2) RULES.—The appropriate Secretary may establish such definitions, rules, and exceptions as may be appropriate to carry out paragraph (1), taking into account comparable definitions, rules, and exceptions in effect under employment-based nondiscrimination laws and regulations that relate to each of the particular bases for discrimination described in such paragraph.

SEC. ___114. DRUG UTILIZATION PROGRAM.

A group health plan, and a health insurance issuer that provides health insurance coverage, that includes benefits for prescription drugs shall establish and maintain, as part of its internal quality assurance and continuous quality improvement program under section ___111, a drug utilization program which—

(1) encourages appropriate use of prescription drugs by participants, beneficiaries, and enrollees and providers, and

(2) takes appropriate action to reduce the incidence of improper drug use and adverse drug reactions and interactions.

SEC. ___115. STANDARDS FOR UTILIZATION REVIEW ACTIVITIES.

(a) COMPLIANCE WITH REQUIREMENTS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section.

(2) USE OF OUTSIDE AGENTS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(3) UTILIZATION REVIEW DEFINED.—For purposes of this section, the terms ''utilization review'' and ''utilization review activities'' mean procedures used to monitor or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) WRITTEN POLICIES AND CRITERIA.—

(1) WRITTEN POLICIES.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) USE OF WRITTEN CRITERIA.—

(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed pursuant to the program with the input of appropriate physicians. Such criteria shall include written clinical review criteria described in section ___111(b)(4)(B).

(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been specifically pre-authorized or approved for an enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

(c) CONDUCT OF PROGRAM ACTIVITIES.—

(1) ADMINISTRATION BY HEALTH CARE PROFESSIONALS.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions. In this subsection, the term ''health care professional'' means a physician or other health care practitioner licensed, accredited, or certified to perform specified health services consistent with State law.

(2) USE OF QUALIFIED, INDEPENDENT PERSONNEL.—

(A) IN GENERAL.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and, to the extent required, who have received appropriate training in the conduct of such activities under the program.

(B) PEER REVIEW OF SAMPLE OF ADVERSE CLINICAL DETERMINATIONS.—Such a program shall provide that clinical peers (as defined in section ___191(c)(2)) shall evaluate the clinical appropriateness of at least a sample of adverse clinical determinations.

(C) PROHIBITION OF CONTINGENT COMPENSATION ARRANGEMENTS.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that—

(i) provides incentives, direct or indirect, for such persons to make inappropriate review decisions, or

(ii) is based, directly or indirectly, on the quantity or type of adverse determinations rendered.

(D) PROHIBITION OF CONFLICTS.—Such a program shall not permit a health care professional who provides health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

(3) ACCESSIBILITY OF REVIEW.—Such a program shall provide that appropriate personnel performing utilization review activities under the program are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(4) LIMITS ON FREQUENCY.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary or appropriate.

(5) LIMITATION ON INFORMATION REQUESTS.—Under such a program, information shall be required to be provided by health care providers only to the extent it is necessary to perform the utilization review activity involved.

(d) DEADLINE FOR DETERMINATIONS.—

(1) PRIOR AUTHORIZATION SERVICES.—Except as provided in paragraph (2), in the case of a utilization review activity involving the prior authorization of health care items and services for an individual, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the cases, and in no event later than 3 business days after the date of receipt of information that is reasonably necessary to make such determination.

(2) CONTINUED CARE.—In the case of a utilization review activity involving authorization for continued or extended health care services for an individual, or additional services for an individual undergoing a course of continued treatment prescribed by a health care provider, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the cases, and in no event later than 1 business day after the date of receipt of information that is reasonably necessary to make such determination. Such notice shall include, with respect to continued or extended health care services, the number of extended services approved, the new total of approved services, the date of onset of services, and the next review date, if any.

(3) PREVIOUSLY PROVIDED SERVICES.—In the case of a utilization review activity involving retrospective review of health care services previously provided for an individual, the utilization review program shall make a determination concerning such services, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, within 30 days of the date of receipt of information that is reasonably necessary to make such determination.

(4) REFERENCE TO SPECIAL RULES FOR EMERGENCY SERVICES, MAINTENANCE CARE, AND POST-STABILIZATION CARE.—For waiver of prior authorization requirements in certain cases involving emergency services and maintenance care and post-stabilization care, see subsections (a)(1) and (b) of section ___101, respectively.

(e) NOTICE OF ADVERSE DETERMINATIONS.—

(1) IN GENERAL.—Notice of an adverse determination under a utilization review program shall be provided in printed form and shall include—

(A) the reasons for the determination (including the clinical rationale);

(B) instructions on how to initiate an appeal under section ___132; and

(C) notice of the availability, upon request of the individual (or the individual's designee) of the clinical review criteria relied upon to make such determination.

(2) SPECIFICATION OF ANY ADDITIONAL INFORMATION.—Such a notice shall also specify what (if any) additional necessary information must be provided to, or obtained by, the person making the determination in order to make a decision on such an appeal.

SEC. ___116. HEALTH CARE QUALITY ADVISORY BOARD.

(a) ESTABLISHMENT.—The President shall establish an advisory board to provide information to Congress and the administration on issues relating to quality monitoring and improvement in the health care provided under group health plans and health insurance coverage.

(b) NUMBER AND APPOINTMENT.—The advisory board shall be composed of the Secretary of Health and Human Services (or the Secretary's designee), the Secretary of Labor (or the Secretary's designee), and 20 additional members appointed by the President, in consultation with the Majority and Minority Leaders of the Senate and House of Representatives. The members so appointed shall include individuals with expertise in—

(1) consumer needs;

(2) education and training of health professionals;

(3) health care services;

(4) health plan management;

(5) health care accreditation, quality assurance, improvement, measurement, and oversight;

(6) medical practice, including practicing physicians;

(7) prevention and public health; and

(8) public and private group purchasing for small and large employers or groups.

(c) DUTIES.—The advisory board shall—

(1) identify, update, and disseminate measures of health care quality for group health

plans and health insurance issuers, including network and non-network plans;

(2) advise the Secretary on the development and maintenance of the minimum data set in section ___112(b); and

(3) advise the Secretary on standardized formats for information on group health plans and health insurance coverage.

The measures identified under paragraph (1) may be used on a voluntary basis by such plans and issuers. In carrying out paragraph (1), the advisory board shall consult and cooperate with national health care standard setting bodies which define quality indicators, the Agency for Health Care Policy and Research, the Institute of Medicine, and other public and private entities that have expertise in health care quality.

(d) REPORT.—The advisory board shall provide an annual report to Congress and the President on the quality of the health care in the United States and national and regional trends in health care quality. Such report shall include a description of determinants of health care quality and measurements of practice and quality variability within the United States.

(e) SECRETARIAL CONSULTATION.—In serving on the advisory board, the Secretaries of Health and Human Services and Labor (or their designees) shall consult with the Secretaries responsible for other Federal health insurance and health care programs.

(f) VACANCIES.—Any vacancy on the board shall be filled in such manner as the original appointment. Members of the board shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties. Administrative support, scientific support, and technical assistance for the advisory board shall be provided by the Secretary of Health and Human Services.

(g) CONTINUATION.—Section 14(a)(2)(B) of the Federal Advisory Committee Act (5 U.S.C. App.; relating to the termination of advisory committees) shall not apply to the advisory board.

CHAPTER 3—Patient Information

SEC. ___121. PATIENT INFORMATION.

(a) DISCLOSURE REQUIREMENT.—

(1) GROUP HEALTH PLANS.—A group health plan shall—

(A) provide to participants and beneficiaries at the time of initial coverage under the plan (or the effective date of this section, in the case of individuals who are participants or beneficiaries as of such date), and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to participants and beneficiaries, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to participants and beneficiaries, the applicable authority, and prospective participants and beneficiaries, the information described in subsection (b) or (c) in printed form.

(2) HEALTH INSURANCE ISSUERS.—A health insurance issuer in connection with the provision of health insurance coverage shall—

(A) provide to individuals enrolled under such coverage at the time of enrollment, and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to enrollees, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to the applicable authority, to individuals who are prospective enrollees, and to the public the information described in subsection (b) or (c) in printed form.

(b) INFORMATION PROVIDED.—The information described in this subsection with respect to a group health plan or health insurance coverage offered by a health insurance issuer includes the following:

(1) SERVICE AREA.—The service area of the plan or issuer.

(2) BENEFITS.—Benefits offered under the plan or coverage, including—

(A) covered benefits, including benefit limits and coverage exclusions;

(B) cost sharing, such as deductibles, coinsurance, and copayment amounts, including any liability for balance billing, any maximum limitations on out of pocket expenses, and the maximum out of pocket costs for services that are provided by non participating providers or that are furnished without meeting the applicable utilization review requirements;

(C) the extent to which benefits may be obtained from nonparticipating providers;

(D) the extent to which a participant, beneficiary, or enrollee may select from among participating providers and the types of providers participating in the plan or issuer network;

(E) process for determining experimental coverage; and

(F) use of a prescription drug formulary.

(3) ACCESS.—A description of the following:

(A) The number, mix, and distribution of providers under the plan or coverage.

(B) Out-of-network coverage (if any) provided by the plan or coverage.

(C) Any point-of-service option (including any supplemental premium or cost-sharing for such option).

(D) The procedures for participants, beneficiaries, and enrollees to select, access, and change participating primary and specialty providers.

(E) The rights and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers.

(F) The name, address, and telephone number of participating health care providers and an indication of whether each such provider is available to accept new patients.

(G) Any limitations imposed on the selection of qualifying participating health care providers, including any limitations imposed under section ___103(b)(2).

(H) How the plan or issuer addresses the needs of participants, beneficiaries, and enrollees and others who do not speak English or who have other special communications needs in accessing providers under the plan or coverage, including the provision of information described in this subsection and subsection (c) to such individuals and including the provision of information in a language other than English if 5 percent of the number of participants, beneficiaries, and enrollees communicate in that language instead of English.

(4) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan or issuer.

(5) EMERGENCY COVERAGE.—Coverage of emergency services, including—

(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

(B) the process and procedures of the plan or issuer for obtaining emergency services; and

(C) the locations of (i) emergency departments, and (ii) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care.

(6) PERCENTAGE OF PREMIUMS USED FOR BENEFITS (LOSS-RATIOS).—In the case of health insurance coverage only (and not with respect to group health plans that do not provide coverage through health insurance coverage), a description of the overall loss-ratio for the coverage (as defined in accordance with rules established or recognized by the Secretary of Health and Human Services).

(7) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in noncoverage or nonpayment.

(8) GRIEVANCE AND APPEALS PROCEDURES.—All appeal or grievance rights and procedures under the plan or coverage, including the method for filing grievances and the time frames and circumstances for acting on grievances and appeals, who is the applicable authority with respect to the plan or issuer, and the availability of assistance through an ombudsman to individuals in relation to group health plans and health insurance coverage.

(9) QUALITY ASSURANCE.—A summary description of the data on quality collected under section ___112(a), including a summary description of the data on satisfaction of participants, beneficiaries, and enrollees (including data on individual voluntary disenrollment and grievances and appeals) described in section ___112(b)(4).

(10) SUMMARY OF PROVIDER FINANCIAL INCENTIVES.—A summary description of the information on the types of financial payment incentives (described in section 1852(j)(4) of the Social Security Act) provided by the plan or issuer under the coverage.

(11) INFORMATION ON ISSUER.—Notice of appropriate mailing addresses and telephone numbers to be used by participants, beneficiaries, and enrollees in seeking information or authorization for treatment.

(12) AVAILABILITY OF INFORMATION ON REQUEST.—Notice that the information described in subsection (c) is available upon request.

(c) INFORMATION MADE AVAILABLE UPON REQUEST.—The information described in this subsection is the following:

(1) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, time frames, and appeal rights) under any utilization review program under section ___115, including under any drug formulary program under section ___107.

(2) GRIEVANCE AND APPEALS INFORMATION.—Information on the number of grievances and appeals and on the disposition in the aggregate of such matters.

(3) METHOD OF PHYSICIAN COMPENSATION.—An overall summary description as to the method of compensation of participating physicians, including information on the types of financial payment incentives (described in section 1852(j)(4) of the Social Security Act) provided by the plan or issuer under the coverage.

(4) SPECIFIC INFORMATION ON CREDENTIALS OF PARTICIPATING PROVIDERS.—In the case of each participating provider, a description of the credentials of the provider.

(5) CONFIDENTIALITY POLICIES AND PROCEDURES.—A description of the policies and procedures established to carry out section ___122.

(6) FORMULARY RESTRICTIONS.—A description of the nature of any drug formula restrictions.

(7) PARTICIPATING PROVIDER LIST.—A list of current participating health care providers.

(d) FORM OF DISCLOSURE.—

(1) UNIFORMITY.—Information required to be disclosed under this section shall be provided in accordance with uniform, national reporting standards specified by the Secretary, after consultation with applicable

State authorities, so that prospective enrollees may compare the attributes of different issuers and coverage offered within an area.

(2) INFORMATION INTO HANDBOOK.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from making the information under subsections (b) and (c) available to participants, beneficiaries, and enrollees through an enrollee handbook or similar publication.

(3) UPDATING PARTICIPATING PROVIDER INFORMATION.—The information on participating health care providers described in subsection (b)(3)(C) shall be updated within such reasonable period as determined appropriate by the Secretary. Nothing in this section shall prevent an issuer from changing or updating other information made available under this section.

(e) CONSTRUCTION.—Nothing in this section shall be construed as requiring public disclosure of individual contracts or financial arrangements between a group health plan or health insurance issuer and any provider.

SEC. ___122. PROTECTION OF PATIENT CONFIDENTIALITY.

Insofar as a group health plan, or a health insurance issuer that offers health insurance coverage, maintains medical records or other health information regarding participants, beneficiaries, and enrollees, the plan or issuer shall establish procedures—

(1) to safeguard the privacy of any individually identifiable enrollee information;

(2) to maintain such records and information in a manner that is accurate and timely, and

(3) to assure timely access of such individuals to such records and information.

SEC. ___123. HEALTH INSURANCE OMBUDSMEN.

(a) IN GENERAL.—Each State that obtains a grant under subsection (c) shall provide for creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers. Such Ombudsman shall be responsible for at least the following:

(1) To assist consumers in the State in choosing among health insurance coverage or among coverage options offered within group health plans.

(2) To provide counseling and assistance to enrollees dissatisfied with their treatment by health insurance issuers and group health plans in regard to such coverage or plans and with respect to grievances and appeals regarding determinations under such coverage or plans.

(b) FEDERAL ROLE.—In the case of any State that does not provide for such an Ombudsman under subsection (a), the Secretary shall provide for the creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers and that is responsible for carrying out with respect to that State the functions otherwise provided under subsection (a) by a Health Insurance Ombudsman.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Health and Human Services such amounts as may be necessary to provide for grants to States for contracts for Health Insurance Ombudsmen under subsection (a) or contracts for such Ombudsmen under subsection (b).

(d) CONSTRUCTION.—Nothing in this section shall be construed to prevent the use of other forms of enrollee assistance.

CHAPTER 4—GRIEVANCE AND APPEALS PROCEDURES

SEC. ___131. ESTABLISHMENT OF GRIEVANCE PROCESS.

(a) ESTABLISHMENT OF GRIEVANCE SYSTEM.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall establish and maintain a system to provide for the presentation and resolution of oral and written grievances brought by individuals who are participants, beneficiaries, or enrollees, or health care providers or other individuals acting on behalf of an individual and with the individual's consent, regarding any aspect of the plan's or issuer's services.

(2) SCOPE.—The system shall include grievances regarding access to and availability of services, quality of care, choice and accessibility of providers, network adequacy, and compliance with the requirements of this subtitle.

(b) GRIEVANCE SYSTEM.—Such system shall include the following components with respect to individuals who are participants, beneficiaries, or enrollees:

(1) Written notification to all such individuals and providers of the telephone numbers and business addresses of the plan or issuer personnel responsible for resolution of grievances and appeals.

(2) A system to record and document, over a period of at least 3 previous years, all grievances and appeals made and their status.

(3) A process providing for timely processing and resolution of grievances.

(4) Procedures for follow-up action, including the methods to inform the person making the grievance of the resolution of the grievance.

(5) Notification to the continuous quality improvement program under section ___111(a) of all grievances and appeals relating to quality of care.

SEC. ___132. INTERNAL APPEALS OF ADVERSE DETERMINATIONS.

(a) RIGHT OF APPEAL.—

(1) IN GENERAL.—A participant or beneficiary in a group health plan, and an enrollee in health insurance coverage offered by a health insurance issuer, and any provider or other person acting on behalf of such an individual with the individual's consent, may appeal any appealable decision (as defined in paragraph (2)) under the procedures described in this section and (to the extent applicable) section ___133. Such individuals and providers shall be provided with a written explanation of the appeal process and the determination upon the conclusion of the appeals process and as provided in section ___121(b)(8).

(2) APPEALABLE DECISION DEFINED.—In this section, the term ''appealable decision'' means any of the following:

(A) Denial, reduction, or termination of, or failure to provide or make payment (in whole or in part) for, a benefit, including a failure to cover an item or service for which benefits are otherwise provided because it is determined to be experimental or investigational or not medically necessary or appropriate.

(B) Failure to provide coverage of emergency services or reimbursement of maintenance care or post-stabilization care under section ___101.

(C) Failure to provide a choice of provider under section ___103.

(D) Failure to provide qualified health care providers under section ___103.

(E) Failure to provide access to specialty and other care under section ___104.

(F) Failure to provide continuation of care under section ___105.

(G) Failure to provide coverage of routine patient costs in connection with an approval clinical trial under section ___106.

(H) Failure to provide access to needed drugs under section ___107(a)(3) or ___107(b).

(I) Discrimination in delivery of services in violation of section ___109.

(J) An adverse determination under a utilization review program under section ___115.

(K) The imposition of a limitation that is prohibited under section ___151.

(b) INTERNAL APPEAL PROCESS.—

(1) IN GENERAL.—Each group health plan and health insurance issuer shall establish and maintain an internal appeal process under which any participant, beneficiary, enrollee, or provider acting on behalf of such an individual with the individual's consent, who is dissatisfied with any appealable decision has the opportunity to appeal the decision through an internal appeal process. The appeal may be communicated orally.

(2) CONDUCT OF REVIEW.—

(A) IN GENERAL.—The process shall include a review of the decision by a physician or other health care professional (or professionals) who has been selected by the plan or issuer and who has not been involved in the appealable decision at issue in the appeal.

(B) AVAILABILITY AND PARTICIPATION OF CLINICAL PEERS.—The individuals conducting such review shall include one or more clinical peers (as defined in section ___191(c)(2)) who have not been involved in the appealable decision at issue in the appeal.

(3) DEADLINE.—

(A) IN GENERAL.—Subject to subsection (c), the plan or issuer shall conclude each appeal as soon as possible after the time of the receipt of the appeal in accordance with medical exigencies of the case involved, but in no event later than—

(i) 72 hours after the time of receipt of an expedited appeal, and

(ii) except as provided in subparagraph (B), 30 business days after such time (or, if the participant, beneficiary, or enrollee supplies additional information that was not available to the plan or issuer at the time of the receipt of the appeal, after the date of supplying such additional information) in the case of all other appeals.

(B) EXTENSION.—In the case of an appeal that does not relate to a decision regarding an expedited appeal and that does not involve medical exigencies, if a group health plan or health insurance issuer is unable to conclude the appeal within the time period provided under subparagraph (A)(ii) due to circumstances beyond the control of the plan or issuer, the deadline shall be extended for up to an additional 10 business days if the plan or issuer provides, on or before 10 days before the deadline otherwise applicable, written notice to the participant, beneficiary, or enrollee and the provider involved of the extension and the reasons for the extension.

(4) NOTICE.—If a plan or issuer denies an appeal, the plan or issuer shall provide the participant, beneficiary, or enrollee and provider involved with notice in printed form of the denial and the reasons therefore, together with a notice in printed form of rights to any further appeal.

(c) EXPEDITED REVIEW PROCESS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer, shall establish procedures in writing for the expedited consideration of appeals under subsection (b) in situations in which the application of the normal timeframe for making a determination could seriously jeopardize the life or health of the participant, beneficiary, or enrollee or such an individual's ability to regain maximum function.

(2) PROCESS.—Under such procedures—

(A) the request for expedited appeal may be submitted orally or in writing by an individual or provider who is otherwise entitled to request the appeal;

(B) all necessary information, including the plan's or issuer's decision, shall be transmitted between the plan or issuer and the requester by telephone, facsimile, or other similarly expeditious available method; and

(C) the plan or issuer shall expedite the appeal if the request for an expedited appeal is submitted under subparagraph (A) by a physician and the request indicates that the situation described in paragraph (1) exists.

(d) DIRECT USE OF FURTHER APPEALS.—In the event that the plan or issuer fails to comply with any of the deadlines for completion of appeals under this section or in the event that the plan or issuer for any reason expressly waives its rights to an internal review of an appeal under subsection (b), the participant, beneficiary, or enrollee involved and the provider involved shall be relieved of any obligation to complete the appeal involved and may, at such an individual's or provider's option, proceed directly to seek further appeal through any applicable external appeals process.

SEC. ___133. EXTERNAL APPEALS OF ADVERSE DETERMINATIONS.

(a) RIGHT TO EXTERNAL APPEAL.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide for an external appeals process that meets the requirements of this section in the case of an externally appealable decision described in paragraph (2). The appropriate Secretary shall establish standards to carry out such requirements.

(2) EXTERNALLY APPEALABLE DECISION DEFINED.—For purposes of this section, the term ''externally appealable decision'' means an appealable decision (as defined in section ___132(a)(2)) if—

(A) the amount involved exceeds a significant threshold; or

(B) the patient's life or health is jeopardized as a consequence of the decision.

Such term does not include a denial of coverage for services that are specifically listed in plan or coverage documents as excluded from coverage.

(3) EXHAUSTION OF INTERNAL APPEALS PROCESS.—A plan or issuer may condition the use of an external appeal process in the case of an externally appealable decision upon completion of the internal review process provided under section ___132, but only if the decision is made in a timely basis consistent with the deadlines provided under this chapter.

(b) GENERAL ELEMENTS OF EXTERNAL APPEALS PROCESS.—

(1) CONTRACT WITH QUALIFIED EXTERNAL APPEAL ENTITY.—

(A) CONTRACT REQUIREMENT.—Subject to subparagraph (B), the external appeal process under this section of a plan or issuer shall be conducted under a contract between the plan or issuer and one or more qualified external appeal entities (as defined in subsection (c)).

(B) RESTRICTIONS ON QUALIFIED EXTERNAL APPEAL ENTITY.—

(i) BY STATE FOR HEALTH INSURANCE ISSUERS.—With respect to health insurance issuers in a State, the State may provide for external review activities to be conducted by a qualified external appeal entity that is designated by the State or that is selected by the State in such a manner as to assure an unbiased determination.

(ii) BY FEDERAL GOVERNMENT FOR GROUP HEALTH PLANS.—With respect to group health plans, the appropriate Secretary may exercise the same authority as a State may exercise with respect to health insurance issuers under clause (i). Such authority may include requiring the use of the qualified external appeal entity designated or selected under such clause.

(iii) LIMITATION ON PLAN OR ISSUER SELECTION.—If an applicable authority permits more than one entity to qualify as a qualified external appeal entity with respect to a group health plan or health insurance issuer and the plan or issuer may select among such qualified entities, the applicable authority—

(I) shall assure that the selection process will not create any incentives for external appeal entities to make a decision in a biased manner, and

(II) shall implement a procedures for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

(C) OTHER TERMS AND CONDITIONS.—The terms and conditions of a contract under this paragraph shall be consistent with the standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external appeal activities. Such contract shall provide that the direct costs of the process (not including costs of representation of a participant, beneficiary, or enrollee) shall be paid by the plan or issuer, and not by the participant, beneficiary, or enrollee.

(2) ELEMENTS OF PROCESS.—An external appeal process shall be conducted consistent with standards established by the appropriate Secretary that include at least the following:

(A) FAIR PROCESS; DE NOVO DETERMINATION.—The process shall provide for a fair, de novo determination.

(B) DETERMINATION CONCERNING EXTERNALLY APPEALABLE DECISIONS.—A qualified external appeal entity shall determine whether a decision is an externally appealable decision and related decisions, including—

(i) whether such a decision involves an expedited appeal;

(ii) the appropriate deadlines for internal review process required due to medical exigencies in a case; and

(iii) whether such a process has been completed.

(C) OPPORTUNITY TO SUBMIT EVIDENCE, HAVE REPRESENTATION, AND MAKE ORAL PRESENTATION.—Each party to an externally appealable decision—

(i) may submit and review evidence related to the issues in dispute,

(ii) may use the assistance or representation of one or more individuals (any of whom may be an attorney), and

(iii) may make an oral presentation.

(D) PROVISION OF INFORMATION.—The plan or issuer involved shall provide timely access to all its records relating to the matter of the externally appealable decision and to all provisions of the plan or health insurance coverage (including any coverage manual) relating to the matter.

(E) TIMELY DECISIONS.—A determination by the external appeal entity on the decision shall—

(i) be made orally or in writing and, if it is made orally, shall be supplied to the parties in writing as soon as possible;

(ii) be binding on the plan or issuer;

(iii) be made in accordance with the medical exigencies of the case involved, but in no event later than 60 days (or 72 hours in the case of an expedited appeal) from the date of completion of the filing of notice of external appeal of the decision;

(iv) state, in layperson's language, the basis for the determination, including, if relevant, any basis in the terms or conditions of the plan or coverage; and

(v) inform the participant, beneficiary, or enrollee of the individual's rights to seek further review by the courts (or other process) of the external appeal determination.

(c) QUALIFICATIONS OF EXTERNAL APPEAL ENTITIES.—

(1) IN GENERAL.—For purposes of this section, the term ''qualified external appeal entity'' means, in relation to a plan or issuer, an entity (which may be a governmental entity) that is certified under paragraph (2) as meeting the following requirements:

(A) There is no real or apparent conflict of interest that would impede the entity conducting external appeal activities independent of the plan or issuer.

(B) The entity conducts external appeal activities through clinical peers.

(C) The entity has sufficient medical, legal, and other expertise and sufficient staffing to conduct external appeal activities for the plan or issuer on a timely basis consistent with subsection (b)(3)(E).

(D) The entity meets such other requirements as the appropriate Secretary may impose.

(2) CERTIFICATION OF EXTERNAL APPEAL ENTITIES.—

(A) IN GENERAL.—In order to be treated as a qualified external appeal entity with respect to—

(i) a group health plan, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting the requirements of paragraph (1) by the Secretary of Labor (or under a process recognized or approved by the Secretary of Labor); or

(ii) a health insurance issuer operating in a State, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting such requirements by the applicable State authority (or, if the States has not established an adequate certification and recertification process, by the Secretary of Health and Human Services, or under a process recognized or approved by such Secretary).

(B) RECERTIFICATION PROCESS.—The appropriate Secretary shall develop standards for the recertification of external appeal entities. Such standards shall include a specification of—

(i) the information required to be submitted as a condition of recertification on the entity's performance of external appeal activities, which information shall include the number of cases reviewed, a summary of the disposition of those cases, the length of time in making determinations on those cases, and such information as may be necessary to assure the independence of the entity from the plans or issuers for which external appeal activities are being conducted; and

(ii) the periodicity which recertification will be required.

(d) CONTINUING LEGAL RIGHTS OF ENROLLEES.—Nothing in this subtitle shall be construed as removing any legal rights of participants, beneficiaries, enrollees, and others under State or Federal law, including the right to file judicial actions to enforce rights.

CHAPTER 5—PROTECTING THE DOCTOR-PATIENT RELATIONSHIP

SEC. ___141. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) PROHIBITION.—

(1) GENERAL RULE.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or restrict the provider from engaging in medical communications with the provider's patient.

(2) NULLIFICATION.—Any contract provision or agreement described in paragraph (1) shall be null and void.

(b) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to prohibit the enforcement, as part of a contract or agreement to which a health care provider is a party, of any mutually agreed upon terms and conditions, including terms and conditions requiring a health care provider to participate in, and cooperate with, all programs, policies, and procedures developed or operated by a group health plan or health insurance issuer to assure, review, or improve the quality and effective utilization of health care services (if such utilization is according to guidelines or protocols that are based on clinical or scientific evidence and the professional judgment of the provider) but only if the guidelines or protocols under such utilization do not prohibit or restrict medical communications between providers and their patients; or

(2) to permit a health care provider to misrepresent the scope of benefits covered under the group health plan or health insurance coverage or to otherwise require a group health plan health insurance issuer to reimburse providers for benefits not covered under the plan or coverage.

(c) MEDICAL COMMUNICATION DEFINED.—In this section:

(1) IN GENERAL.—The term ''medical communication'' means any communication made by a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) with respect to—

(A) the patient's health status, medical care, or treatment options;

(B) any utilization review requirements that may affect treatment options for the patient; or

(C) any financial incentives that may affect the treatment of the patient.

(2) MISREPRESENTATION.—The term ''medical communication'' does not include a communication by a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) if the communication involves a knowing or willful misrepresentation by such provider.

SEC. ___142. PROHIBITION AGAINST TRANSFER OF INDEMNIFICATION OR IMPROPER INCENTIVE ARRANGEMENTS.

(a) PROHIBITION OF TRANSFER OF INDEMNIFICATION.—

(1) IN GENERAL.—No contract or agreement between a group health plan or health insurance issuer (or any agent acting on behalf of such a plan or issuer) and a health care provider shall contain any provision purporting to transfer to the health care provider by indemnification or otherwise any liability relating to activities, actions, or omissions of the plan, issuer, or agent (as opposed to the provider).

(2) NULLIFICATION.—Any contract or agreement provision described in paragraph (1) shall be null and void.

(b) PROHIBITION OF IMPROPER PHYSICIAN INCENTIVE PLANS.—

(1) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1876(i)(8) of the Social Security Act) unless the requirements described in subparagraph (A) of such section are met with respect to such a plan.

(2) APPLICATION.—For purposes of carrying out paragraph (1), any reference in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

SEC. ___143. ADDITIONAL RULES REGARDING PARTICIPATION OF HEALTH CARE PROFESSIONALS.

(a) PROCEDURES.—Insofar as a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits through participating health care professionals, the plan or issuer shall establish reasonable procedures relating to the participation (under an agreement between a professional and the plan or issuer) of such professionals under the plan or coverage. Such procedures shall include—

(1) providing notice of the rules regarding participation;

(2) providing written notice of participation decisions that are adverse to professionals; and

(3) providing a process within the plan or issuer for appealing such adverse decisions, including the presentation of information and views of the professional regarding such decision.

(b) CONSULTATION IN MEDICAL POLICIES.—A group health plan, and health insurance issuer that offers health insurance coverage, shall consult with participating physicians (if any) regarding the plan's or issuer's medical policy, quality, and medical management procedures.

SEC. ___144. PROTECTION FOR PATIENT ADVOCACY.

(a) PROTECTION FOR USE OF UTILIZATION REVIEW AND GRIEVANCE PROCESS.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider based on the participant's, beneficiary's, enrollee's or provider's use of, or participation in, a utilization review process or a grievance process of the plan or issuer (including an internal or external review or appeal process) under this subtitle.

(b) PROTECTION FOR QUALITY ADVOCACY BY HEALTH CARE PROFESSIONALS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; or

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) GOOD FAITH ACTION.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed as part of the action—

(A) the disclosure is made on the basis of personal knowledge and is consistent with that degree of learning and skill ordinarily possessed by health care professionals with the same licensure or certification and the same experience;

(B) the professional reasonably believes the information to be true;

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable internal procedures of the plan, issuer, or institutional health care provider established or the purpose of addressing quality concerns before making the disclosure.

(3) EXCEPTION AND SPECIAL RULE.—

(A) GENERAL EXCEPTION.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by such law.

(B) NOTICE OF INTERNAL PROCEDURES.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) INTERNAL PROCEDURE EXCEPTION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) ADDITIONAL CONSIDERATIONS.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider taking the adverse action involved demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) NOTICE.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) CONSTRUCTIONS.—

(A) DETERMINATIONS OF COVERAGE.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) ENFORCEMENT OF PEER REVIEW PROTOCOLS AND INTERNAL PROCEDURES.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) RELATION TO OTHER RIGHTS.—Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) PROTECTED HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term ''protected health care professional'' means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

CHAPTER 6—PROMOTING GOOD MEDICAL PRACTICE

SEC. ___151. PROMOTING GOOD MEDICAL PRACTICE.

(a) PROHIBITING ARBITRARY LIMITATIONS OR CONDITIONS FOR THE PROVISION OF SERVICES.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, may not arbitrarily interfere with or alter the decision of the treating physician regarding the manner or setting in which particular services are delivered if the services are medically necessary or appropriate for treatment or diagnosis to the extent that such treatment or diagnosis is otherwise a covered benefit.

(2) CONSTRUCTION.—Paragraph (1) shall not be construed as prohibiting a plan or issuer from limiting the delivery of services to one or more health care providers within a network of such providers.

(3) MANNER OR SETTING DEFINED.—In paragraph (1), the term ''manner or setting'' means the location of treatment, such as whether treatment is provided on an inpatient or outpatient basis, and the duration of treatment, such as the number of days in a hospital, Such term does not include the coverage of a particular service or treatment.

(b) NO CHANGE IN COVERAGE.—Subsection (a) shall not be construed as requiring coverage of particular services the coverage of which is otherwise not covered under the terms of the plan or coverage or from conducting utilization review activities consistent with this subsection.

(c) MEDICAL NECESSITY OR APPROPRIATENESS DEFINED.—In subsection (a), the term ''medically necessary or appropriate'' means, with respect to a service or benefit, a service or benefit which is consistent with generally accepted principles of professional medical practice.

SEC. ___152. STANDARDS RELATING TO BENEFITS FOR CERTAIN BREAST CANCER TREATMENT.

(a) INPATIENT CARE.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in his or her professional judgment consistent with generally accepted medical standards, in consultation with the patient, to be medically appropriate following—

(A) a mastectomy;

(B) a lumpectomy; or

(C) a lymph node dissection for the treatment of breast cancer.

(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

(b) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

(1) deny to a woman eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

(2) provide monetary payments or rebates to women to encourage such women to accept less than the minimum protections available under this section;

(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

(5) subject to subsection (c)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

(c) RULES OF CONSTRUCTION.—

(1) Nothing in this section shall be construed to require a woman who is a participant or beneficiary—

(A) to undergo a mastectomy or lymph node dissection in a hospital; or

(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer.

(3) Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

(d) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

(e) EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 2723(d)(1) of the Public Health Service Act) for a State that regulates such coverage that is described in any of the following subparagraphs:

(A) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a mastectomy performed for treatment of breast cancer and at least a 24-hour hospital length of stay following a lymph node dissection for treatment of breast cancer.

(B) Such State law requires, in connection with such coverage for surgical treatment of breast cancer, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the woman involved.

(2) CONSTRUCTION.—Section 2723(a)(1) of the Public Health Service Act and section 731(a)(1) of the Employee Retirement Income Security Act of 1974 shall not be construed as superseding a State law described in paragraph (1).

SEC. ___153. STANDARDS RELATING TO BENEFITS FOR RECONSTRUCTIVE BREAST SURGERY.

(a) REQUIREMENTS FOR RECONSTRUCTIVE BREAST SURGERY.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for breast surgery in connection with a mastectomy shall provide coverage for reconstructive breast surgery resulting from the mastectomy. Such coverage shall include coverage for all stages of reconstructive breast surgery performed on a nondiseased breast to establish symmetry with the diseased when reconstruction on the diseased breast is performed and coverage of prostheses and complications of mastectomy including lymphedema.

(2) RECONSTRUCTIVE BREAST SURGERY DEFINED.—In this section, the term ''reconstructive breast surgery'' means surgery performed as a result of a mastectomy to reestablish symmetry between two breasts, and includes augmentation mammoplasty, reduction mammoplasty, and mastopexy.

(3) MASTECTOMY DEFINED.—In this section, the term ''mastectomy'' means the surgical removal of all or part of a breast.

(b) PROHIBITIONS.—

(1) DENIAL OF COVERAGE BASED ON COSMETIC SURGERY.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not deny coverage described in subsection (a)(1) on the basis that the coverage is for cosmetic surgery.

(2) APPLICATION OF SIMILAR PROHIBITIONS.—Paragraphs (2) through (5) of section ___152 shall apply under this section in the same manner as they apply with respect to section ___152.

(c) RULES OF CONSTRUCTION.—

(1) Nothing in this section shall be construed to require a woman who is a participant or beneficiary to undergo reconstructive breast surgery.

(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for mastectomies.

(3) Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for reconstructive breast surgery under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion may not be greater than such coinsurance or cost-sharing that is otherwise applicable with respect to benefits for mastectomies.

(e) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

(f) EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 2723(d)(1) of the Public Health Service Act) for a State that regulates such coverage and that requires coverage of at least the coverage of reconstructive breast surgery otherwise required under this section.

(2) CONSTRUCTION.—Section 2723(a)(1) of the Public Health Service Act and section 731(a)(1) of the Employee Retirement Income Security Act of 1974 shall not be construed as superseding a State law described in paragraph (1).

CHAPTER 7—DEFINITIONS

SEC. ___191. DEFINITIONS.

(a) INCORPORATION OF GENERAL DEFINITIONS.—The provisions of section 2971 of the Public Health Service Act shall apply for purposes of this subtitle in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the Secretary of the Treasury and the term ''appropriate Secretary'' means the Secretary of Health and Human Services in relation to carrying out this subtitle under sections 2706 and 2751 of the Public Health Service Act, the Secretary of Labor in relation to carrying out this subtitle under section 713 of the Employee Retirement Income Security Act of 1974, and the Secretary of the Treasury in relation to carrying out this subtitle under chapter 100 and section 4980D of the Internal Revenue Code of 1986.

(c) ADDITIONAL DEFINITIONS.—For purposes of this subtitle:

(1) APPLICABLE AUTHORITY.—The term ''applicable authority'' means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this subtitle, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(2) CLINICAL PEER.—The term ''clinical peer'' means, with respect to a review or appeal, a physician (allopathic or osteopathic) or other health care professional who holds a non-restricted license in a State and who is appropriately credentialed in the same or similar specialty as typically manages the medical condition, procedure, or treatment under review or appeal and includes a pediatric specialist where appropriate; except that only a physician may be a clinical peer with respect to the review or appeal of treatment rendered by a physician.

(3) HEALTH CARE PROVIDER.—The term ''health care provider'' includes a physician or other health care professional, as well as an institutional provider of health care services.

(4) NONPARTICIPATING.—The term ''nonparticipating'' means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(5) PARTICIPATING.—The term ''participating'' mean, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

SEC. ___192. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), this subtitle shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with group health insurance coverage except to the extent that such standard or requirement prevents the application of a requirement of this subtitle.

(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this subtitle shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(b) RULES OF CONSTRUCTION.—Except as provided in sections ___152 and ___153, nothing in this subtitle shall be construed as requiring a group health plan or health insurance coverage to provide specific benefits under the terms of such plan or coverage.

(c) DEFINITIONS.—For purposes of this section:

(1) STATE LAW.—The term ''State law'' includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) STATE.—The term ''State'' includes a State, the Northern Mariana Islands, any political subdivisions of a State or such Islands, or any agency or instrumentality of either.

SEC. ___193. REGULATIONS.

The Secretaries of Health and Human Services, Labor, and the Treasury shall issue such regulations as may be necessary or appropriate to carry out this subtitle. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this subtitle.

Subtitle B—Application of Patient Protection Standards to Group Health Plans and Health Insurance Coverage Under Public Health Service Act

SEC. ___201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

''SEC. 2706. PATIENT PROTECTION STANDARDS.

''(a) IN GENERAL.—Each group health plan shall comply with patient protection requirements under subtitle A of the Patients' Bill of Rights Act of 1998, and each health insurance issuer shall comply with patient protection requirements under such subtitle with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

''(b) NOTICE.—A group health plan shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) and a health insurance issuer shall comply with such notice requirement as if such section applied to such issuer and such issuer were a group health plan.''.

(b) CONFORMING AMENDMENT.—Section 2721(b)(1)(A) of such Act (42 U.S.C. 300gg–21(b)(1)(A)) is amended by inserting ''(other than section 2706)'' after ''requirements of such subparts''.

SEC. ___202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2751 the following new section:

''SEC. 2752. PATIENT PROTECTION STANDARDS.

''(a) IN GENERAL.—Each health insurance issuer shall comply with patient protection requirements under subtitle A of the Patients' Bill of Rights Act of 1998 with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

''(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of such subtitle as if such section applied to such issuer and such issuer were a group health plan.''.

Subtitle C—Amendments to the Employee Retirement Income Security Act of 1974

SEC. ___301. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

''SEC. 713. PATIENT PROTECTION STANDARDS.

''(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of subtitle A of the Patients' Bill of Rights Act of 1998 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

''(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

''(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of subtitle A of the Patients' Bill of Rights Act of 1998 with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

''(A) section ___101 (relating to access to emergency care).

''(B) Section ___102(a)(1) (relating to offering option to purchase point-of-service coverage), but only insofar as the plan is meeting such requirement through an agreement with the issuer to offer the option to purchase point-of-service coverage under such section.

''(C) Section ___103 (relating to choice of providers).

''(D) Section ___104 (relating to access to specialty care).

''(E) Section ___105(a)(1) (relating to continuity in case of termination of provider contract) and section ___105(a)(2) (relating to continuity in case of termination of issuer contract), but only insofar as a replacement

issuer assumes the obligation for continuity of care.

''(F) section ___106 (relating to coverage for individuals participating in approved clinical trials.)

''(G) section ___107 (relating to access to needed prescription drugs).

''(H) Section ___108 (relating to adequacy of provider network).

''(I) Chapter 2 (relating to quality assurance).

''(J) Section ___143 (relating to additional rules regarding participation of health care professionals).

''(K) Section ___152 (relating to standards relating to benefits for certain breast cancer treatment).

''(L) Section ___153 (relating to standards relating to benefits for reconstructive breast surgery).

''(2) INFORMATION.—With respect to information required to be provided or made available under section ___121, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide or make available the information (and is not liable for the issuer's failure to provide or make available the information), if the issuer is obligated to provide and make available (or provides and makes available) such information.

''(3) GRIEVANCE AND INTERNAL APPEALS.—With respect to the grievance system and internal appeals process required to be established under sections ___131 and ___132, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such system and process (and is not liable for the issuer's failure to provide for such system and process), if the issuer is obligated to provide for (and provides for) such system and process.

''(4) EXTERNAL APPEALS.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeal activities in accordance with section ___133, the plan shall be treated as meeting the requirement of such section and is not liable for the entity's failure to meet any requirements under such section.

''(5) APPLICATION TO PROHIBITIONS.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any of the following sections, the group health plan shall not be liable for such violation unless the plan caused such violation:

''(A) Section ___109 (relating to nondiscrimination in delivery of services).

''(B) Section ___141 (relating to prohibition of interference with certain medical communications).

''(C) Section ___142 (relating to prohibition against transfer of indemnification or improper incentive arrangements).

''(D) Section ___144 (relating to prohibition on retaliation).

''(E) Section ___151 (relating to promoting good medical practice).

''(6) CONSTRUCTION.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

''(7) APPLICATION TO CERTAIN PROHIBITIONS AGAINST RETALIATION.—With respect to compliance with the requirements of section ___144(b)(1) of the Patients' Bill of Rights Act of 1998, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care provider.

''(c) ENFORCEMENT OF CERTAIN REQUIREMENTS.—

''(1) COMPLAINTS.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section ___144(b)(1) of the Patients' Bill of Rights Act of 1998 may file with the Secretary a complaint within 180 days of the date of the alleged retaliation or discrimination.

''(2) INVESTIGATION.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of position, pay, or benefits in relation to the plan, issuer, or provider involved, as a result of the violation found by the Secretary.

''(d) CONFORMING REGULATIONS.—The Secretary may issue regulations to coordinate the requirements on group health plans under this section with the requirements imposed under the other provisions of this title.''.

(b) SATISFACTION OF ERISA CLAIMS PROCEDURE REQUIREMENT.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting ''(a)'' after ''SEC. 503.'' and by adding at the end the following new subsection:

''(b) In the case of a group health plan (as defined in section 733) compliance with the requirements of chapter 4 (and section ___115) of subtitle A of the Patients' Bill of Rights Act of 1998 in the case of a claims denial shall be deemed compliance with subsection (a) with respect to such claims denial.''.

(c) CONFORMING AMENDMENTS.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking ''section 711'' and inserting ''sections 711 and 713''.

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 712 the following new item:

''Sec. 713. Patient protection standards.''.

(3) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting ''(other than section 144(b))'' after ''part 7''.

SEC. ___302. ERISA PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS INVOLVING HEALTH INSURANCE POLICYHOLDERS.

(a) IN GENERAL.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended by adding at the end the following subsection:

''(e) PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS ARISING OUT OF PROVISION OF HEALTH BENEFITS.—

''(1) IN GENERAL.—Except as provided in this subsection, nothing in this title shall be construed to invalidate, impair, or supersede any cause of action brought by a plan participant or beneficiary (or the estate of a plan participant or beneficiary) under State law to recover damages resulting from personal injury or for wrongful death against any person—

''(A) in connection with the provision of insurance, administrative services, or medical services by such person to or for a group health plan (as defined in section 733), or

''(B) that arises out of the arrangement by such person for the provision of such insurance, administrative services, or medical services by other persons.

For purposes of this subsection, the term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

''(2) EXCEPTION FOR EMPLOYERS AND OTHER PLAN SPONSORS.—

''(A) IN GENERAL.—Subject to subparagraph (B), paragraph (1) does not authorize—

''(i) any cause of action against an employer or other plan sponsor maintaining the group health plan (or against an employee of such an employer or sponsor acting within the scope of employment), or

''(ii) a right of recovery or indemnity by a person against an employer or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action under paragraph (1).

''(B) SPECIAL RULE.—Subparagraph (A) shall not preclude any cause of action described in paragraph (1) against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment) if—

''(i) such action is based on the employer's or other plan sponsor's (or employee's) exercise of discretionary authority to make a decision on a claim for benefits covered under the plan or health insurance coverage in the case at issue; and

''(ii) the exercise by such employer or other plan sponsor (or employee) of such authority resulted in personal injury or wrongful death.

''(3) CONSTRUCTION.—Nothing in this subsection shall be construed as permitting a cause of action under State law for the failure to provide an item or service which is not covered under the group health plan involved.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to acts and omissions occurring on or after the date of the enactment of this title from which a cause of action arises.

Subtitle D—Application to Group Health Plans Under the Internal Revenue Code of 1986.

SEC. ___401. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (as amended by section 1531(a) of the Taxpayer Relief Act of 1997) is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

''Sec. 9813. Standard relating to patient freedom of choice.''; and

(2) by inserting after section 9812 the following:

''SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

''A group health plan shall comply with the requirements of subtitle A of the Patients' Bill of Rights Act of 1998 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.''.

Subtitle E—Effective Dates; Coordination in Implementation

SEC. ___501. EFFECTIVE DATES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by sections 2201(a) and 2301 (and subtitle A insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after July 1, 1999 (in this section referred to as the ''general effective date'').

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this title, the amendments made by sections 2201(a) and 2301 (and subtitle A insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this title), or

(B) the general effective date.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this title shall not be treated as a termination of such collective bargaining agreement.

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The amendments made by section ___202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

SEC. ___502. COORDINATION IN IMPLEMENTATION.

Section 104(1) of Health Insurance Portability and Accountability Act of 1996 is amended by inserting ''or under subtitle A of the Patients' Bill of Rights Act of 1998 (and the amendments made by such title)'' after ''section 401)''.

SEC. ___503. NO IMPACT ON SOCIAL SECURITY TRUST FUND.

Nothing in this title shall be construed to alter or amend the Social Security Act (or any regulation promulgated under that Act). To the extent that this title may have a negative effect on the balances of any trust fund established under the Social Security Act, such sums as may be necessary shall be transferred from the general revenues of the Federal Government to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of this title.

Subtitle F—Revenue

SEC. ___601. EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND TAXES.

(a) EXTENSION OF TAXES.—

(1) ENVIRONMENTAL TAX.—Section 59A(e) of the Internal Revenue Code of 1986 is amended to read as follows:

''(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after December 31, 1999, and before January 1, 2009.''

(2) EXCISE TAXES.—Section 4611(e) of such Code is amended to read as follows:

''(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after December 31, 1999, and before October 1, 2008.''

(b) EFFECTIVE DATES.—

(1) INCOME TAX.—The amendment made by subsection (a)(1) shall apply to taxable years beginning after December 31, 1999.

(2) EXCISE TAX.—The amendment made by subsection (a)(2) shall take effect on January 1, 2000.

SEC. ___602. CLARIFICATION OF DEFINITION OF SPECIFIED LIABILITY LOSS.

(a) IN GENERAL.—Subparagraph (B) of section 172(f)(1) of the Internal Revenue Code of 1986 (defining specified liability loss) is amended to read as follows:

''(B) Any amount (not described in subparagraph (A)) allowable as a deduction under this chapter which is attributable to a liability—

''(i) under a Federal or State law requiring the reclamation of land, decommissioning of a nuclear power plant (or any unit thereof), dismantlement of an offshore drilling platform, remediation of environmental contamination, or payment of workmen's compensation, and

''(ii) with respect to which the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of the taxable year.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to net operating losses for taxable years beginning after the date of the enactment of this Act.

SEC. ___603. PROPERTY SUBJECT TO A LIABILITY TREATED IN SAME MANNER AS ASSUMPTION OF LIABILITY.

(a) REPEAL OF PROPERTY SUBJECT TO A LIABILITY TEST.—

(1) SECTION 357.—Section 357(a) of the Internal Revenue Code of 1986 (relating to assumption of liability) is amended by striking '', or acquires from the taxpayer property subject to a liability'' in paragraph (2).

(2) SECTION 358.—Section 358(d)(1) of such Code (relating to assumption of liability) is amended by striking ''or acquired from the taxpayer property subject to a liability''.

(3) SECTION 368.—

(A) Section 368(a)(1)(C) of such Code is amended by striking '', or the fact that property acquired is subject to a liability,''.

(B) The last sentence of section 368(a)(2)(B) of such Code is amended by striking '', and the amount of any liability to which any property acquired from the acquiring corporation is subject,''.

(b) CLARIFICATION OF ASSUMPTION OF LIABILITY.—Section 357(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(4) DETERMINATION OF AMOUNT OF LIABILITY ASSUMED.—For purposes of this section, section 358(d), section 368(a)(1)(C), and section 368(a)(2)(B)—

''(A) a liability shall be treated as having been assumed to the extent, as determined on the basis of facts and circumstances, the transferor is relieved of such liability or any portion thereof (including through an indemnity agreement or other similar arrangement), and

''(B) in the case of the transfer of any property subject to a nonrecourse liability, unless the facts and circumstances indicate otherwise, the transferee shall be treated as assuming with respect to such property a ratable portion of such liability determined on the basis of the relative fair market values (determined without regard to section 7701(g)) of all assets subject to such liability.

(c) APPLICATION TO PROVISIONS OTHER THAN SUBCHAPTER C.—

(1) SECTION 584.—Section 584(h)(3) of the Internal Revenue Code of 1986 is amended—

(A) by striking '', and the fact that any property transferred by the common trust fund is subject to a liability,'' in subparagraph (A),

(B) by striking clause (ii) of subparagraph (B) and inserting:

''(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A).

''(C) ASSUMPTION.—For purposes of this paragraph, in determining the amount of any liability assumed, the rules of section 357(c)(4) shall apply.''

(2) SECTION 1031.—The last sentence of section 1031(d) of such Code is amended—

(A) by striking ''assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability'' and inserting ''assumed (as determined under section 357(c)(4)) a liability of the taxpayer'', and

(B) by striking ''or acquisition (in the amount of the liability)''.

(d) CONFORMING AMENDMENTS.—

(1) Section 351(h)(1) of the Internal Revenue Code of 1986 is amended by striking '', or acquires property subject to a liability,''.

(2) Section 357 of such Code is amended by striking ''or acquisition'' each place it appears in subsection (a) or (b).

(3) Section 357(b)(1) of such Code Is amended by striking ''or acquired''.

(4) Section 357(c)(1) of such Code is amended by striking '', plus the amount of the liabilities to which the property is subject,''.

(5) Section 357(c)(3) of such Code is amended by striking ''or to which the property transferred is subject''.

(6) Section 358(d)(1) of such Code is amended by striking ''or acquisition (in the amount of the liability)''.

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

SEC. ___604. EXCISE TAX ON PURCHASE OF STRUCTURED SETTLEMENT AGREEMENTS.

(a) IN GENERAL.—Subtitle D of the Internal Revenue Code of 1986 (relating to miscellaneous excise taxes) is amended by adding at the end the following:

''CHAPTER 48—STRUCTURED SETTLEMENT AGREEMENTS

''Sec. 5000A. Tax on purchases of structured settlement agreements.

''SEC. 5000A. TAX ON PURCHASES OF STRUCTURED SETTLEMENT AGREEMENTS.

''(a) IMPOSITION OF TAX.—There is hereby imposed on any person who purchases the right to receive payments under a structured settlement agreement a tax equal to 10 percent of the amount of the purchase price.

''(b) EXCEPTION FOR COURT-ORDERED PURCHASES.—Subsection (a) shall not apply to any purchase which is pursuant to a court order which finds that such purchase is necessary because of the extraordinary and unanticipated needs of the individual with the personal injuries or sickness giving rise to the structured settlement agreement.

''(c) STRUCTURED SETTLEMENT AGREEMENT.—For purposes of this section, the term 'structured settlement agreement' means—

''(1) any right to receive (whether by suit or agreement) periodic payments as damages on account of personal injuries or sickness, or

''(2) any right to receive periodic payments as compensation for personal injuries or sickness under any workmen's compensation act.

''(d) PURCHASE.—For purposes of this section, the term 'purchase' has the meaning given such term by section 179(d)(2).''

(b) CONFORMING AMENDMENT.—The table of chapters for subtitle D of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''CHAPTER 48. Structured settlement agreements.''

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

SEC. ___605. CLARIFICATION AND EXPANSION OF MATHEMATICAL ERROR ASSESSMENT PROCEDURES.

(a) TIN DEEMED INCORRECT IF INFORMATION ON RETURN DIFFERS WITH AGENCY RECORDS.—Section 6213(g)(2) of the Internal Revenue Code of 1986 (defining mathematical or clerical error) is amended by adding at the end the following flush sentence:

''A taxpayer shall be treated as having omitted a correct TIN for purposes of the preceding sentence if information provided by the taxpayer on the return with respect to the individual whose TIN was provided differs from the information the Secretary obtains from the person issuing the TIN.''

(b) EXPANSION OF MATHEMATICAL ERROR PROCEDURES TO CASES WHERE TIN ESTABLISHES INDIVIDUAL NOT ELIGIBLE FOR TAX

CREDIT.—Section 6213(g)(2) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of subparagraph (I), by striking the period at the end of the first subparagraph (J) (relating to higher education credit) and inserting a comma, by redesignating the second subparagraph (J) (relating to earned income credit) as subparagraph (K) and by striking the period at the end and inserting '', and'', and by adding at the end the following new subparagraph:

''(L) the inclusion of a TIN on a return with respect to an individual for whom a credit is claimed under section 21, 24, or 32 if, on the basis of data obtained by the Secretary from the person issuing the TIN, it is established that the individual does not meet any applicable age requirements for such credit.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. ___606. MODIFICATION TO FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS.

(a) IN GENERAL.—Section 904(c) of the Internal Revenue Code of 1986 (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, 2001.

SEC. ___607. DEPOSIT REQUIREMENTS FOR FUTA TAXES.

(a) IN GENERAL.—Section 6157 of the Internal Revenue Code of 1986 (relating to payment of Federal unemployment tax on quarterly or other time period basis) is amended by adding at the end the following new subsection:

''(d) DEPOSITS OF FUTA TAXES.—

''(1) GENERAL RULE.—Except as otherwise provided in this subsection or in regulations prescribed by the Secretary, the taxes imposed by section 3301 which are attributable to wages paid during any calendar quarter shall be deposited on or before the last day of the first month following the close of such calendar quarter.

''(2) MONTHLY DEPOSIT RULE.—

''(A) IN GENERAL.—In the case of a monthly depositor for any calendar year, the taxes imposed by section 3301 which are attributable to wages paid during any month in such calendar year shall be deposited on or before the last day of the following month.

''(B) MONTHLY DEPOSITOR.—For purposes of subparagraph (A), an employer is a monthly depositor for any calendar year if the employer's liability for taxes imposed by section 3301 for the preceding calendar year was equal to or greater than $1,100. All persons treated as one employer under subsection (a) or (b) shall be treated as one employer for purposes of this subparagraph.

''(C) SAFE HARBOR FOR MONTHLY DEPOSITORS.—No penalties shall be imposed under this title with respect to—

''(i) deposits required under this paragraph for the first month of a calendar quarter if the amount deposited by the last day of the second month of such quarter is at least equal to the lesser of—

''(I) 30 percent of the taxes imposed by section 3301 which are attributable to wages paid during such quarter, or

''(II) 90 percent of the taxes imposed by section 3301 which are attributable to wages paid during the first month of such quarter, and

''(ii) deposits required under this paragraph for the second month of a calendar quarter if the amount deposited by the last day of the third month of such quarter is at least equal to the lesser of—

''(I) 60 percent of the taxes imposed by section 3301 which are attributable to wages paid during such quarter, or

''(II) 90 percent of the taxes imposed by section 3301 which are attributable to wages paid during the first 2 months of such quarter.

''(3) DEPOSIT REQUIRED ONLY ON BANKING DAYS.—If taxes are required to be deposited under this subsection on any day which is not a banking day, such taxes shall be treated as timely deposited if deposited on the first banking day thereafter.

''(4) WAGES.—For purposes of this subsection, the term 'wages' has the meaning given to such term by section 3306(b).''

(b) APPLICATION TO DEPOSITS REQUIRED BY STATE GOVERNMENTS.—

(1) IN GENERAL.—Section 303 of the Social Security Act (42 U.S.C. 503) is amended by adding at the end the following new subsection:

''(k)(1) The State agency charged with the administration of the State law shall provide that any deposit required under the State law to the unemployment fund of the State with respect to wages paid for any month during a calendar year by an employer is required to be made by the last day of the following month if such employer is treated as a monthly depositor for such calendar year for purposes of section 6157(d) of the Internal Revenue Code of 1986 (or if the State so elects, at such other time as is not later than the time provided under subparagraph (C) of section 6157(d)(2) of such Code).

''(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until the Secretary is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, he shall make no further certification to the Secretary of the Treasury with respect to such State.''

(2) CONFORMING AMENDMENT.—Section 304(a)(2) of the Social Security Act (42 U.S.C. 504(a)(2)) is amended by striking ''or (j)'' and inserting ''(j), or (k)''.

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 6157(a) of the Internal Revenue Code of 1986 is amended by striking ''and such time''.

(2) Section 6157(b) of such Code is amended by striking ''referred to in paragraph (1) or (2) of subsection (a)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning after December 31, 2003.

SEC. ___608. INFORMATION REQUIREMENTS.

(a) INFORMATION FROM GROUP HEALTH PLANS.—Section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)) is amended by adding at the end the following:

''(7) INFORMATION FROM GROUP HEALTH PLANS.—

''(A) PROVISION OF INFORMATION BY GROUP HEALTH PLANS.—The administrator of a group health plan subject to the requirements of paragraph (1) shall provide to the Secretary such of the information elements described in subparagraph (C) as the Secretary specifies, and in such manner and at such times as the Secretary may specify (but not more frequently than four times per year), with respect to each individual covered under the plan who is entitled to any benefits under this title.

''(B) PROVISION OF INFORMATION BY EMPLOYERS AND EMPLOYEE ORGANIZATIONS.—An employer (or employee organization) that maintains or participates in a group health plan subject to the requirements of paragraph (1) shall provide to the administrator of the plan such of the information elements required to be provided under subparagraph (A), and in such manner and at such times as the Secretary may specify, at a frequency consistent with that required under subparagraph (A) with respect to each individual described in subparagraph (A) who is covered under the plan by reason of employment with that employer or membership in the organization.

''(C) INFORMATION ELEMENTS.—The information elements described in this subparagraph are the following:

''(i) ELEMENTS CONCERNING THE INDIVIDUAL.—

''(I) The individual's name.

''(II) The individual's date of birth.

''(III) The individual's sex.

''(IV) The individual's social security insurance number.

''(V) The number assigned by the Secretary to the individual for claims under this title.

''(VI) The family relationship of the individual to the person who has or had current or employment status with the employer.

''(ii) ELEMENTS CONCERNING THE FAMILY MEMBER WITH CURRENT OR FORMER EMPLOYMENT STATUS.—

''(I) The name of the person in the individual's family who has current or former employment status with the employer.

''(II) That person's social security insurance number.

''(III) The number or other identifier assigned by the plan to that person.

''(IV) The periods of coverage for that person under the plan.

''(V) The employment status of that person (current or former) during those periods of coverage.

''(VI) The classes (of that person's family members) covered under the plan.

''(iii) PLAN ELEMENTS.—

''(I) The items and services covered under the plan.

''(II) The name and address to which claims under the plan are to be sent.

''(iv) ELEMENTS CONCERNING THE EMPLOYER.—

''(I) The employer's name.

''(II) The employer's address.

''(III) The employer identification number of the employer.

''(D) USE OF IDENTIFIERS.—The administrator of a group health plan shall utilize a unique identifier for the plan in providing information under subparagraph (A) and in other transactions, as may be specified by the Secretary, related to the provisions of this subsection. The Secretary may provide to the administrator the unique identifier described in the preceding sentence.

''(E) PENALTY FOR NONCOMPLIANCE.—Any entity that knowingly and willfully fails to comply with a requirement imposed by the previous subparagraphs shall be subject to a civil money penalty not to exceed $1,000 for each incident of such failure. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as those provisions apply to a penalty or proceeding under section 1128A(a).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 180 days after the date of enactment of this Act.

PRODUCT LIABILITY REFORM ACT OF 1998

LOTT AMENDMENT NO. 3064

Mr. LOTT proposed an amendment to the bill, S. 648, supra; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Product Liability Reform Act of 1998''.

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

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) although damage awards in product liability actions can encourage the production of safer products, they also can have a direct effect on interstate commerce and our Nation's consumers by, among other things, increasing the cost and decreasing the availability of products;

(2) some of the rules of law governing product liability actions are inconsistent within and among the States, resulting in differences in State laws that can be inequitable to both plaintiffs and defendants and can impose burdens on interstate commerce;

(3) product liability awards can jeopardize the financial well-being of individuals and industries, particularly the Nation's small businesses;

(4) because the product liability laws of one State can have adverse effects on consumers and businesses in many other States, it is appropriate for the Federal Government to enact national, uniform product liability laws that preempt State laws; and

(5) it is the constitutional role of the Federal Government to remove barriers to interstate commerce.

(b) PURPOSES.—Based on the powers under clause 3 of section 8 of article I of the United States Constitution, the purposes of this Act are to promote the free flow of goods and services and to lessen burdens on interstate commerce by—

(1) establishing certain uniform legal principles of product liability that provide a fair balance among the interests of product users, manufacturers, and product sellers;

(2) providing for reasonable standards concerning, and limits on, punitive damages over and above the actual damages suffered by a claimant;

(3) ensuring the fair allocation of liability in product liability actions;

(4) reducing the unacceptable costs and delays in product liability actions caused by excessive litigation that harm both plaintiffs and defendants;

(5) establishing greater fairness, rationality, and predictability in product liability actions; and

(6) providing fair and expeditious judicial procedures that are necessary to complement and effectuate the legal principles established by this Act.

TITLE I—PRODUCT LIABILITY REFORM

SEC. 101. DEFINITIONS.

In this title:

(1) ALCOHOLIC PRODUCT.—The term ''alcoholic product'' includes any product that contains not less than ½ of 1 percent of alcohol by volume and is intended for human consumption.

(2) CLAIMANT.—The term ''claimant'' means any person who brings an action covered by this title and any person on whose behalf such an action is brought. If such an action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such an action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(3) CLAIMANT'S BENEFITS.—The term ''claimant's benefits'' means the amount paid to an employee as workers' compensation benefits.

(4) CLEAR AND CONVINCING EVIDENCE.—The term ''clear and convincing evidence'' is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. The level of proof required to satisfy that standard is more than that required under a preponderance of the evidence, but less than that required for proof beyond a reasonable doubt.

(5) COMMERCIAL LOSS.—The term ''commercial loss'' means—

(A) any loss or damage solely to a product itself;

(B) loss relating to a dispute over the value of a product; or

(C) consequential economic loss.

(6) COMPENSATORY DAMAGES.—The term ''compensatory damages'' means damages awarded for economic and noneconomic loss.

(7) DRAM-SHOP.—The term ''dram-shop'' means a drinking establishment where alcoholic products are sold to be consumed on the premises.

(8) DURABLE GOOD.—The term ''durable good'' means any product, or any component of any such product, which—

(A)(i) has a normal life expectancy of 3 or more years; or

(ii) is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986; and

(B) is—

(i) used in a trade or business;

(ii) held for the production of income; or

(iii) sold or donated to a governmental or private entity for the production of goods, training, demonstration, or any other similar purpose.

(9) ECONOMIC LOSS.—The term ''economic loss'' means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for that loss is allowed under applicable State law.

(10) HARM.—The term ''harm''—

(A) means any physical injury, illness, disease, or death, or damage to property caused by a product; and

(B) does not include commercial loss.

(11) INSURER.—The term ''insurer'' means the employer of a claimant if the employer is self-insured or if the employer is not self-insured, the workers' compensation insurer of the employer.

(12) MANUFACTURER.—The term ''manufacturer'' means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who—

(i) designs or formulates the product (or component part of the product); or

(ii) has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller—

(i) produces, creates, makes, constructs and designs, or formulates an aspect of the product (or component part of the product) made by another person; or

(ii) has engaged another person to design or formulate an aspect of the product (or component part of the product) made by another person; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the user of the product.

(13) NONECONOMIC LOSS.—The term ''noneconomic loss'' means subjective, nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation.

(14) PERSON.—The term ''person'' means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(15) PRODUCT.—

(A) IN GENERAL.—The term ''product'' means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state that—

(i) is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(ii) is produced for introduction into trade or commerce;

(iii) has intrinsic economic value; and

(iv) is intended for sale or lease to persons for commercial or personal use.

(B) EXCLUSION.—The term ''product'' does not include—

(i) tissue, organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood, and blood products (or the provision thereof) are subject, under applicable State law, to a standard of liability other than negligence; or

(ii) electricity, water delivered by a utility, natural gas, or steam.

(16) PRODUCT LIABILITY ACTION.—The term ''product liability action'' means a civil action brought on any theory for harm caused by a product.

(17) PRODUCT SELLER.—

(A) IN GENERAL.—The term ''product seller'' means a person who in the course of a business conducted for that purpose—

(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce; or

(ii) installs, repairs, refurbishes, reconditions, or maintains the harm-causing aspect of the product.

(B) EXCLUSION.—The term ''product seller'' does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the lessor does not initially select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product.

(18) PUNITIVE DAMAGES.—The term ''punitive damages'' means damages awarded against any person or entity to punish or deter that person or entity, or others, from engaging in similar behavior in the future.

(19) STATE.—The term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States or any political subdivision of any of the foregoing.

(20) TOBACCO PRODUCT.—The term ''tobacco product'' means—

(A) a cigarette, as defined in section 3 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332);

(B) a little cigar, as defined in section 3 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332);

(C) a cigar, as defined in section 5702(a) of the Internal Revenue Code of 1986;

(D) pipe tobacco;

(E) loose rolling tobacco and papers used to contain that tobacco;

(F) a product referred to as smokeless tobacco, as defined in section 9 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4408); and

(G) any other form of tobacco intended for human consumption.

SEC. 102. APPLICABILITY; PREEMPTION.

(a) PREEMPTION.—

(1) IN GENERAL.—Except as provided in paragraph (2) and title II, this title governs any product liability action brought in any Federal or State court on any theory for harm caused by a product.

(2) ACTIONS EXCLUDED.—

(A) ACTIONS FOR COMMERCIAL LOSS.—A civil action brought for commercial loss shall be governed only by applicable commercial law, including applicable State law based on the Uniform Commercial Code.

(B) ACTIONS FOR NEGLIGENT ENTRUSTMENT; NEGLIGENCE PER SE CONCERNING FIREARMS AND AMMUNITION; DRAM-SHOP.—

(i) NEGLIGENT ENTRUSTMENT.—A civil action for negligent entrustment shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

(ii) NEGLIGENCE PER SE CONCERNING FIREARMS AND AMMUNITION.—A civil action brought under a theory of negligence per se concerning the use of a firearm or ammunition shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

(iii) DRAM-SHOP.—A civil action brought under a theory of dram-shop or third-party liability arising out of the sale or providing of an alcoholic product to an intoxicated person or minor shall not be subject to the provisions of this title, but shall be subject to any applicable Federal or State law.

(C) ACTIONS INVOLVING HARM CAUSED BY A TOBACCO PRODUCT.—A civil action brought for harm caused by a tobacco product shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

(D) ACTIONS INVOLVING HARM CAUSED BY A BREAST IMPLANT.—A civil action brought for harm caused by either the silicone gel or the silicone envelope utilized in a breast implant containing silicone gel shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

(b) RELATIONSHIP TO STATE LAW.—This title supersedes a State law only to the extent that the State law applies to a matter covered by this title. Any matter that is not governed by this title, including any standard of liability applicable to a manufacturer, shall be governed by any applicable Federal or State law.

(c) EFFECT ON OTHER LAW.—Nothing in this title shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any law;

(2) supersede or alter any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief, for remediation of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(8)).

SEC. 103. LIABILITY RULES APPLICABLE TO PRODUCT SELLERS, RENTERS, AND LESSORS.

(a) GENERAL RULE.—

(1) IN GENERAL.—In any product liability action that is subject to this title, a product seller other than a manufacturer shall be liable to a claimant only if the claimant establishes that—

(A)(i) the product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller;

(ii) the product seller failed to exercise reasonable care with respect to the product; and

(iii) the failure to exercise reasonable care was a proximate cause of the harm to the claimant;

(B)(i) the product seller made an express warranty applicable to the product that allegedly caused the harm that is the subject of the complaint, independent of any express warranty made by a manufacturer as to the same product;

(ii) the product failed to conform to the warranty; and

(iii) the failure of the product to conform to the warranty caused the harm to the claimant; or

(C)(i) the product seller engaged in intentional wrongdoing, as determined under applicable State law; and

(ii) the intentional wrongdoing caused the harm that is the subject of the complaint.

(2) REASONABLE OPPORTUNITY FOR INSPECTION.—For purposes of paragraph (1)(A)(ii), a product seller shall not be considered to have failed to exercise reasonable care with respect to a product based upon an alleged failure to inspect the product, if—

(A) the failure occurred because there was no reasonable opportunity to inspect the product; or

(B) the inspection, in the exercise of reasonable care, would not have revealed the aspect of the product that allegedly caused the claimant's harm.

(b) SPECIAL RULE.—

(1) IN GENERAL.—A product seller shall be deemed to be liable as a manufacturer of a product for harm caused by the product, if—

(A) the manufacturer is not subject to service of process under the laws of any State in which the action may be brought; or

(B) the court determines that the claimant is or would be unable to enforce a judgment against the manufacturer.

(2) STATUTE OF LIMITATIONS.—For purposes of this subsection only, the statute of limitations applicable to claims asserting liability of a product seller as a manufacturer shall be tolled from the date of the filing of a complaint against the manufacturer to the date that judgment is entered against the manufacturer.

(c) RENTED OR LEASED PRODUCTS.—

(1) DEFINITION.—For purposes of paragraph (2), and for determining the applicability of this title to any person subject to that paragraph, the term ''product liability action'' means a civil action brought on any theory for harm caused by a product or product use.

(2) LIABILITY.—Notwithstanding any other provision of law, any person engaged in the business of renting or leasing a product (other than a person excluded from the definition of product seller under section 101(17)(B)) shall be subject to liability in a product liability action under subsection (a), but any person engaged in the business of renting or leasing a product shall not be liable to a claimant for the tortious act of another solely by reason of ownership of that product.

SEC. 104. DEFENSE BASED ON CLAIMANT'S USE OF ALCOHOL OR DRUGS.

(a) GENERAL RULE.—In any product liability action that is subject to this title, it shall be a complete defense to a claim made by a claimant, if the defendant proves that the claimant—

(1) was intoxicated or was under the influence of alcohol or any drug when the accident or other event which resulted in that claimant's harm occurred; and

(2) as a result of the influence of the alcohol or drug, was more than 50 percent responsible for that harm.

(b) CONSTRUCTION.—For purposes of subsection (a)—

(1) the determination of whether a person was intoxicated or was under the influence of alcohol or any drug shall be made pursuant to applicable State law; and

(2) the term ''drug'' means any controlled substance as defined in the Controlled Substances Act (21 U.S.C. 802(6)) that was not legally prescribed for use by the claimant or that was taken by the claimant other than in accordance with the terms of a lawfully issued prescription.

SEC. 105. REDUCTION IN DAMAGES FOR MISUSE OR ALTERATION.

(a) GENERAL RULE.—

(1) IN GENERAL.—In any product liability action that is subject to this title, the damages for which a defendant is otherwise liable under Federal or State law shall be reduced by the percentage of responsibility for the claimant's harm attributable to misuse or alteration of a product by any person if the defendant establishes that such percentage of the claimant's harm was proximately caused by a use or alteration of a product—

(A) in violation of, or contrary to, a defendant's express warnings or instructions if the warnings or instructions are adequate as determined pursuant to applicable Federal or State law; or

(B) involving a risk of harm which was known or should have been known by the ordinary person who uses or consumes the product with the knowledge common to the class of persons who used or would be reasonably anticipated to use the product.

(2) USE INTENDED BY A MANUFACTURER IS NOT MISUSE OR ALTERATION.—For purposes of this title, a use of a product that is intended by the manufacturer of the product does not constitute a misuse or alteration of the product.

(b) WORKPLACE INJURY.—Notwithstanding subsection (a), and except as otherwise provided in section 112, the damages for which a defendant is otherwise liable under State law shall not be reduced by the percentage of responsibility for the claimant's harm attributable to misuse or alteration of the product by the claimant's employer who is immune from suit by the claimant pursuant to the State law applicable to workplace injuries.

SEC. 106. STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Except as provided in subsection (b) and subject to section 107, a product liability action that is subject to this title may be filed not later than 2 years after the date on which the claimant discovered or, in the exercise of reasonable care, should have discovered, the harm that is the subject of the action and the cause of the harm.

(b) EXCEPTIONS.—

(1) PERSON WITH A LEGAL DISABILITY.—A person with a legal disability (as determined under applicable law) may file a product liability action that is subject to this title not later than 2 years after the date on which the person ceases to have the legal disability.

(2) EFFECT OF STAY OR INJUNCTION.—If the commencement of a civil action that is subject to this title is stayed or enjoined, the running of the statute of limitations under this section shall be suspended until the end of the period that the stay or injunction is in effect.

SEC. 107. STATUTE OF REPOSE FOR DURABLE GOODS USED IN A TRADE OR BUSINESS.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), no product liability action that is subject to this title concerning a durable good alleged to have caused harm (other than toxic harm) for which the claimant has received or is eligible to receive workers' compensation may be filed after the 18-year period beginning at the time of delivery of the durable good to its first purchaser or lessee.

(b) EXTENSION OF STATUTE OF REPOSE.—Notwithstanding any other provision of this section and except as provided in section 106(b), a product liability action may be commenced within 2 years after the date of discovery or date on which discovery should have occurred, if the harm, and the cause of the harm, leading to a product liability action described in subsection (a) are discovered or, in the exercise of reasonable care, should have been discovered, before the expiration of the 18-year period under this section.

(c) EXCEPTIONS.—

(1) IN GENERAL.—A motor vehicle, vessel, aircraft, or train, that is used primarily to transport passengers for hire, shall not be subject to this section.

(2) CERTAIN EXPRESS WARRANTIES.—Subsection (a) does not bar a product liability action against a defendant who made an express warranty in writing as to the safety or life expectancy of the specific product involved which was longer than 18 years, except that such subsection shall apply at the expiration of that warranty.

(3) AVIATION LIMITATIONS PERIOD.—Subsection (a) does not affect the limitations period established by the General Aviation Revitalization Act of 1994 (49 U.S.C. 40101 note).

SEC. 108. TRANSITIONAL PROVISION RELATING TO EXTENSION OF PERIOD FOR BRINGING CERTAIN ACTIONS.

If any provision of section 106 or 107 shortens the period during which a product liability action could be otherwise brought pursuant to another provision of law, the claimant may, notwithstanding sections 106 and 107, bring the product liability action not later than 1 year after the date of enactment of this Act.

SEC. 109. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) SERVICE OF OFFER.—A claimant or a defendant in a product liability action that is subject to this title may serve upon an adverse party an offer to proceed pursuant to any voluntary, nonbinding alternative dispute resolution procedure established or recognized under the law of the State in which the product liability action is brought or under the rules of the court in which that action is maintained, not later than 60 days after the later of—

(1) service of the initial complaint; or

(2) the expiration of the applicable period for a responsive pleading.

(b) WRITTEN NOTICE OF ACCEPTANCE OR REJECTION.—

(1) IN GENERAL.—Except as provided in subsection (c), not later than 20 days after the service of an offer to proceed under subsection (a), an offeree shall file a written notice of acceptance or rejection of the offer.

(2) EFFECT OF NOTICE.—The filing of a written notice under paragraph (1) shall not constitute a waiver of any objection or defense in the action, including any objection on the grounds of jurisdiction.

(c) EXTENSION.—

(1) IN GENERAL.—The court may, upon motion by an offeree made before the expiration of the 20-day period specified in subsection (b), extend the period for filing a written notice under such subsection for a period of not more than 60 days after the date of expiration of the period specified in subsection (b).

(2) PERMITTED DISCOVERY.—Discovery may be permitted during the period described in paragraph (1).

SEC. 110. PUNITIVE DAMAGES REFORMS.

(a) GENERAL RULE.—

(1) UNIFORM STANDARD FOR AWARD OF PUNITIVE DAMAGES.—To the extent punitive damages are permitted by applicable State law, punitive damages may be awarded against a defendant in any product liability action that is subject to this title if the claimant establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others.

(2) BIFURCATION AT REQUEST OF ANY PARTY.—

(A) IN GENERAL.—At the request of any party, the trier of fact in any action that is subject to this section shall consider in a separate proceeding, held subsequent to the determination of the amount of compensatory damages, whether punitive damages are to be awarded for the harm that is the subject of the action and the amount of the award.

(B) INADMISSIBILITY OF EVIDENCE RELATIVE ONLY TO A CLAIM OF PUNITIVE DAMAGES IN A PROCEEDING CONCERNING COMPENSATORY DAMAGES.—If any party requests a separate proceeding under paragraph (1), in a proceeding to determine whether the claimant may be awarded compensatory damages, any evidence, argument, or contention that is relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible.

(b) SPECIAL RULE FOR CERTAIN PERSONS AND ENTITIES.—

(1) IN GENERAL.—In any action described in subsection (a) against a person or entity described in paragraph (2), an award of punitive damages shall not exceed the lesser of—

(A) 2 times the amount of compensatory damages awarded; or

(B) $250,000.

(2) PERSONS AND ENTITIES DESCRIBED.—

(A) IN GENERAL.—A person or entity described in this paragraph is—

(i) an individual whose net worth does not exceed $500,000; or

(ii) an owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization that has—

(I) annual revenues of less than or equal to $5,000,000; and

(II) fewer than 25 full-time employees.

(B) ANNUAL REVENUES AND EMPLOYEES.—For the purpose of determining the applicability of this subsection to a corporation, the calculation of—

(i) the annual revenues of that corporation shall include the annual revenues of any parent corporation (or other subsidiary of the parent corporation), subsidiary, branch, division, department, or unit of that corporation; and

(ii) the number of employees of that corporation shall include the number of employees of any parent corporation (or other subsidiary of the parent corporation), subsidiary, branch, division, department, or unit of that corporation.

(C) REFERENCE POINT FOR DETERMINING APPLICABILITY.—In determining the applicability of this subsection, the standards in subparagraphs (A) and (B) shall be applied as of the date of commencement of any action that is subject to this title. The defendant shall have the burden of proving the applicability of this subsection.

SEC. 111. LIABILITY FOR CERTAIN CLAIMS RELATING TO DEATH.

(a) IN GENERAL.—Subject to subsection (b), a defendant may be liable for damages that are only punitive in nature without regard to section 110 in any product liability action that is subject to this title—

(1) in which the alleged harm to the claimant is death; and

(2) that is subject to an applicable State law that, as of the date of enactment of this Act, provides, or is construed to provide, for damages that are only punitive in nature.

(b) LIMITATION.—Subsection (a) shall apply to an action that meets the requirements of paragraphs (1) and (2) of that subsection only during such period as the State law provides, or is construed to provide, for damages that are only punitive in nature.

(c) SUNSET.—This section shall cease to be effective on September 1, 1999.

SEC. 112. WORKERS' COMPENSATION SUBROGATION.

(a) GENERAL RULE.—

(1) RIGHT OF SUBROGATION.—

(A) IN GENERAL.—An insurer shall have a right of subrogation against a manufacturer or product seller to recover any claimant's benefits relating to harm that is the subject of a product liability action that is subject to this title.

(B) WRITTEN NOTIFICATION.—To assert a right of subrogation under subparagraph (A), the insurer shall provide written notice to the court in which the product liability action is brought.

(C) INSURER NOT REQUIRED TO BE A PARTY.—An insurer shall not be required to be a necessary and proper party in a product liability action covered under subparagraph (A).

(2) SETTLEMENTS AND OTHER LEGAL PROCEEDINGS.—

(A) IN GENERAL.—In any proceeding relating to harm or settlement with the manufacturer or product seller by a claimant who files a product liability action that is subject to this title, an insurer may participate to assert a right of subrogation for claimant's benefits with respect to any payment made by the manufacturer or product seller by reason of that harm, without regard to whether the payment is made—

(i) as part of a settlement;

(ii) in satisfaction of judgment;

(iii) as consideration for a covenant not to sue; or

(iv) in another manner.

(B) WRITTEN NOTIFICATION.—Except as provided in subparagraph (C), an employee shall not make any settlement with or accept any payment from the manufacturer or product seller without written notification to the insurer.

(C) EXEMPTION.—Subparagraph (B) shall not apply in any case in which the insurer has been compensated for the full amount of the claimant's benefits.

(3) HARM RESULTING FROM ACTION OF EMPLOYER.—

(A) IN GENERAL.—If, with respect to a product liability action that is subject to this title, the manufacturer or product seller chooses to raise to the trier of fact pursuant to the provisions of this section that the harm to the claimant was caused in whole or in part by the claimant's employer, the issue of employer fault shall be submitted to the trier of fact, but only after the manufacturer or product seller has provided timely written notice to the insurer that it is proceeding pursuant to the provisions of this section.

(B) RIGHTS OF INSURER.—Notwithstanding any other provision of law, with respect to an issue of fault submitted to a trier of fact pursuant to subparagraph (A), an insurer shall, in the same manner as any party in the action (even though the insurer is not a named party in the action), have the right to—

(i) appear;

(ii) be represented;

(iii) introduce evidence;

(iv) cross-examine adverse witnesses; and

(v) present arguments to the trier of fact.

(C) REDUCTION OF DAMAGES.—If the trier of fact finds by clear and convincing evidence that the fault of the employer was a substantial factor in causing the harm to the claimant that is the subject of the product liability action—

(i) the court shall reduce by the amount of the claimant's benefits and amounts for which payment, prior to the date of final judgment in the product liability action, has not yet been made for workers' compensation benefits received prior to such date or is otherwise due pursuant to State workers' compensation law—

(I) the damages awarded against the manufacturer or product seller; and

(II) any corresponding insurer's subrogation lien; and

(ii) the manufacturer or product seller shall have no further right by way of contribution or otherwise against the employer.

(D) CERTAIN RIGHTS NOT AFFECTED.—Notwithstanding a finding by the trier of fact described in subparagraph (C), the insurer shall not lose—

(i) any right of subrogation related to any—

(I) intentional tort committed against the claimant by a coemployee; or

(II) act committed by a coemployee outside the scope of normal work practices; or

(ii) any rights to credits against future liability established pursuant to applicable State workers' compensation law.

(b) ATTORNEY'S FEES.—If, in a product liability action that is subject to this section, the manufacturer or product seller raises the issue of employer fault pursuant to this section and the trier of fact finds that the fault of the employer was not a substantial factor in causing the harm to the claimant, the court shall require the manufacturer or product seller to reimburse the insurer for reasonable attorney's fees and court costs, as determined by the court, incurred by the insurer in litigating the issue of employer fault, unless the court finds that the position of the manufacturer or product seller was substantially justified or that special circumstances make such a reimbursement unjust.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

SEC. 201. SHORT TITLE.

This title may be cited as the ''Biomaterials Access Assurance Act of 1998''.

SEC. 202. FINDINGS.

Congress find that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life-enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) move in interstate commerce;

(B) are not designed or manufactured specifically for use in medical devices; and

(C) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and component parts;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), manufacturers of medical devices are required to demonstrate that the medical devices are safe and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging inadequate—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices for a number of reasons, including concerns about the costs of such litigation;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; and

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) because medical devices and the raw materials and component parts used in their manufacture move in interstate commerce, a shortage of such raw materials and component parts affects interstate commerce;

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs;

(16) the several States and their courts are the primary architects and regulators of our tort system; Congress, however, must, in certain circumstances involving the national interest, address tort issues, and a threatened shortage of raw materials and component parts for life-saving medical devices is one such circumstance; and

(17) the protections set forth in this title are needed to assure the continued supply of materials for life-saving medical devices; however, negligent suppliers should not be protected.

SEC. 203. DEFINITIONS.

As used in this title:

(1) BIOMATERIALS SUPPLIER.—

(A) IN GENERAL.—The term ''biomaterials supplier'' means an entity that directly or indirectly supplies a component part or raw material for use in the manufacture of an implant.

(B) PERSONS INCLUDED.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce component parts or raw materials.

(2) CLAIMANT.—

(A) IN GENERAL.—The term ''claimant'' means any person who brings a civil action, or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action brought on behalf of or through the estate of an individual into whose body, or in contact with whose blood or tissue the implant is placed, such term includes the decedent that is the subject of the action.

(C) ACTION BROUGHT ON BEHALF OF A MINOR OR INCOMPETENT.—With respect to an action

brought on behalf of or through a minor or incompetent, such term includes the parent or guardian of the minor or incompetent.

(D) EXCLUSIONS.—Such term does not include—

(i) a provider of professional health care services, in any case in which—

(I) the sale or use of an implant is incidental to the transaction; and

(II) the essence of the transaction is the furnishing of judgment, skill, or services;

(ii) a person acting in the capacity of a manufacturer, seller, or biomaterials supplier;

(iii) a person alleging harm caused by either the silicone gel or the silicone envelope utilized in a breast implant containing silicone gel, except that—

(I) neither the exclusion provided by this clause nor any other provision of this title may be construed as a finding that silicone gel (or any other form of silicone) may or may not cause harm; and

(II) the existence of the exclusion under this clause may not—

(aa) be disclosed to a jury in any civil action or other proceeding; and

(bb) except as necessary to establish the applicability of this title, otherwise be presented in any civil action or other proceeding.

(3) COMPONENT PART.—

(A) IN GENERAL.—The term ''component part'' means a manufactured piece of an implant.

(B) CERTAIN COMPONENTS.—Such term includes a manufactured piece of an implant that—

(i) has significant nonimplant applications; and

(ii) alone, has no implant value or purpose, but when combined with other component parts and materials, constitutes an implant.

(4) HARM.—

(A) IN GENERAL.—The term ''harm'' means—

(i) any injury to or damage suffered by an individual;

(ii) any illness, disease, or death of that individual resulting from that injury or damage; and

(iii) any loss to that individual or any other individual resulting from that injury or damage.

(B) EXCLUSION.—The term does not include any commercial loss or loss of or damage to an implant.

(5) IMPLANT.—The term ''implant'' means—

(A) a medical device that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for any period of time,

(B) suture materials used in implant procedures; and

(C) containers and their related products to be used to collect fluids or tissue from the body or to infuse or otherwise introduce fluids or tissue into the body, in conjunction with a medical device described in the above subparagraph (A).

(6) MANUFACTURER.—The term ''manufacturer'' means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1)) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(a)(1)) of the implant; and

(B) is required—

(i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section.

(7) MEDICAL DEVICE.—The term ''medical device'' means a device, as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) and includes any device component of any combination product as that term is used in section 503(g) of such Act (21 U.S.C. 353(g)).

(8) RAW MATERIAL.—The term ''raw material'' means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(10) SELLER.—

(A) IN GENERAL.—The term ''seller'' means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) EXCLUSIONS.—The term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services, in any case in which the sale or use of an implant is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who acts in only a financial capacity with respect to the sale of an implant.

SEC. 204. GENERAL REQUIREMENTS; APPLICABILITY; PREEMPTION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—In any civil action covered by this title, a biomaterials supplier may raise as a defense the exclusion from liability set forth in section 205(a).

(2) PROCEDURES.—Notwithstanding any other provision of law, the Federal or State court in which a civil action covered by this title is pending shall, in connection with a motion for dismissal or judgment based on a defense described in paragraph (1), use the procedures set forth in section 206.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, this title applies to any civil action brought by a claimant, whether in a Federal or State court, against a manufacturer, seller, or biomaterials supplier, on the basis of any legal theory, for harm allegedly caused by an implant.

(2) EXCLUSION.—A civil action brought by a purchaser of a medical device for use in providing professional services against a manufacturer, seller, or biomaterials supplier for loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this title; and

(B) shall be governed by applicable commercial or contract law.

(c) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This title supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this title establishes a rule of law applicable to the recovery of such damages.

(2) APPLICABILITY OF OTHER LAWS.—Any issue that arises under this title and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) STATUTORY CONSTRUCTION.—Nothing in this title may be construed—

(1) to affect any defense available to a defendant under any other provisions of Federal or State law in an action alleging harm caused by an implant; or

(2) to create a cause of action or Federal court jurisdiction pursuant to sections 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

SEC. 205. LIABILITY OF BIOMATERIALS SUPPLIERS.

(a) IN GENERAL.—

(1) EXCLUSION FROM LIABILITY.—Except as provided in paragraph (2) or section 207, a biomaterials supplier shall not be liable for harm to a claimant caused by an implant.

(2) LIABILITY.—A biomaterials supplier that—

(A) is a manufacturer may be liable for harm to a claimant described in subsection (b);

(B) is a seller may be liable for harm to a claimant described in subsection (c); and

(C) furnishes raw materials or component parts that fail to meet applicable contractual requirements or specifications may be liable for harm to a claimant described in subsection (d).

(b) LIABILITY AS MANUFACTURER.—

(1) IN GENERAL.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) GROUNDS FOR LIABILITY.—The biomaterials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterials supplier—

(A)(i) has or should have registered with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included or should have included the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section;

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so; or

(C) is related by common ownership or control to a person meeting all the requirements described in subparagraph (A) or (B), if the court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a manufacturer because the related manufacturer meeting the requirements of subparagraph (A) or (B) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(3) ADMINISTRATIVE PROCEDURES.—

(A) IN GENERAL.—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

(i) notice to the affected persons; and

(ii) an opportunity for an informal hearing.

(B) DOCKETING AND FINAL DECISION.—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 120 days

after the petition is filed, the Secretary shall issue a final decision on the petition.

(C) APPLICABILITY OF STATUTE OF LIMITATIONS.—Any applicable statute of limitations shall toll during the period during which a claimant has filed a petition with the Secretary under this paragraph.

(c) LIABILITY AS SELLER.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller for harm to a claimant caused by an implant only if—

(1) the biomaterials supplier—

(A) held title to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(i) the manufacture of the implant; and

(ii) the entrance of the implant in the stream of commerce; and

(B) subsequently resold the implant; or

(2) the biomaterials supplier is related by common ownership or control to a person meeting all the requirements described in paragraph (1), if a court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(ii) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a seller because the related seller meeting the requirements of paragraph (1) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(d) LIABILITY FOR VIOLATING CONTRACTUAL REQUIREMENTS OR SPECIFICATIONS.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant, if the claimant in an action shows, by a preponderance of the evidence, that—

(1) the raw materials or component parts delivered by the biomaterials supplier either—

(A) did not constitute the product described in the contract between the biomaterials supplier and the person who contracted for delivery of the product; or

(B) failed to meet any specifications that were—

(i) accepted, pursuant to applicable law, by the biomaterials supplier;

(ii)(I) published by the biomaterials supplier;

(II) provided to the manufacturer by the biomaterials supplier; or

(III) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(iii) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j), and received clearance from the Secretary if such specifications were accepted, pursuant to applicable law, by the biomaterials supplier; and

(2) such conduct was an actual and proximate cause of the harm to the claimant.

SEC. 206. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.

(a) MOTION TO DISMISS.—In any action that is subject to this title, a biomaterials supplier who is a defendant in such action may, at any time during which a motion to dismiss may be filed under an applicable law, move to dismiss the action against it on the grounds that—

(1) the defendant is a biomaterials supplier; and

(2)(A) the defendant should not, for the purposes of—

(i) section 205(b), be considered to be a manufacturer of the implant that is subject to such section; or

(ii) section 205(c), be considered to be a seller of the implant that allegedly caused harm to the claimant; or

(B)(i) the claimant has failed to establish, pursuant to section 205(d), that the supplier furnished raw materials or component parts in violation of contractual requirements or specifications; or

(ii) the claimant has failed to comply with the procedural requirements of subsection (b).

(b) MANUFACTURER OF IMPLANT SHALL BE NAMED A PARTY.—The claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(1) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(2) an action against the manufacturer is barred by applicable law or rule of practice.

(c) PROCEEDING ON MOTION TO DISMISS.—The following rules shall apply to any proceeding on a motion to dismiss filed under this section:

(1) AFFIDAVITS RELATING TO LISTING AND DECLARATIONS.—

(A) IN GENERAL.—The defendant in the action may submit an affidavit demonstrating that the defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(B) RESPONSE TO MOTION TO DISMISS.—In response to the motion to dismiss, the claimant may submit an affidavit demonstrating that—

(i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 205(b)(2)(B); or

(ii) the defendant who filed the motion to dismiss is a seller of the implant who is liable under section 205(c).

(2) EFFECT OF MOTION TO DISMISS ON DISCOVERY.—

(A) IN GENERAL.—If a defendant files a motion to dismiss under paragraph (1) or (2) of subsection (a), no discovery shall be permitted in connection to the action that is the subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted by the parties in accordance with this section.

(B) DISCOVERY.—If a defendant files a motion to dismiss under subsection (a)(2)(B)(i) on the grounds that the biomaterials supplier did not furnish raw materials or component parts in violation of contractual requirements or specifications, the court may permit discovery, as ordered by the court. The discovery conducted pursuant to this subparagraph shall be limited to issues that are directly relevant to—

(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(3) AFFIDAVITS RELATING STATUS OF DEFENDANT.—

(A) IN GENERAL.—Except as provided in clauses (i) and (ii) of subparagraph (B), the court shall consider a defendant to be a biomaterials supplier who is not subject to an action for harm to a claimant caused by an implant, other than an action relating to liability for a violation of contractual requirements or specifications described in section 205(d).

(B) RESPONSES TO MOTION TO DISMISS.—The court shall grant a motion to dismiss any action that asserts liability of the defendant under subsection (b) or (c) of section 205 on the grounds that the defendant is not a manufacturer subject to such section 205(b) or seller subject to section 205(c), unless the claimant submits a valid affidavit that demonstrates that—

(i) with respect to a motion to dismiss contending the defendant is not a manufacturer, the defendant meets the applicable requirements for liability as a manufacturer under section 205(b); or

(ii) with respect to a motion to dismiss contending that the defendant is not a seller, the defendant meets the applicable requirements for liability as a seller under section 205(c).

(4) BASIS OF RULING ON MOTION TO DISMISS.—

(A) IN GENERAL.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings of the parties made pursuant to this section and any affidavits submitted by the parties pursuant to this section.

(B) MOTION FOR SUMMARY JUDGMENT.— Notwithstanding any other provision of law, if the court determines that the pleadings and affidavits made by parties pursuant to this section raise genuine issues concerning material facts with respect to a motion concerning contractual requirements and specifications, the court may deem the motion to dismiss to be a motion for summary judgment made pursuant to subsection (d).

(d) SUMMARY JUDGMENT.—

(1) IN GENERAL.—

(A) BASIS FOR ENTRY OF JUDGMENT.—A biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is no genuine issue concerning any material fact for each applicable element set forth in paragraphs (1) and (2) of section 205(d).

(B) ISSUES OF MATERIAL FACT.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) DISCOVERY MADE PRIOR TO A RULING ON A MOTION FOR SUMMARY JUDGMENT.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment made pursuant to this subsection, such discovery shall be limited solely to establishing whether a genuine issue of material fact exists as to the applicable elements set forth in paragraphs (1) and (2) of section 205(d).

(3) DISCOVERY WITH RESPECT TO A BIOMATERIALS SUPPLIER.—A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 205(d) or the failure to establish the applicable elements of section 205(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(e) STAY PENDING PETITION FOR DECLARATION.—If a claimant has filed a petition for a declaration pursuant to section 205(b)(3)(A) with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(f) DISMISSAL WITH PREJUDICE.—An order granting a motion to dismiss or for summary judgment pursuant to this section shall be entered with prejudice, except insofar as the moving defendant may be rejoined to the action as provided in section 207.

(g) MANUFACTURER CONDUCT OF LITIGATION.—The manufacturer of an implant that is the subject of an action covered under this title shall be permitted to conduct litigation

on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section on behalf of such supplier if the manufacturer and any other defendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such litigation or to conduct such litigation.

SEC. 207. SUBSEQUENT IMPLEADER OF DISMISSED DEFENDANT.

(a) IMPLEADING OF DISMISSED DEFENDANT.—A court, upon motion by a manufacturer or a claimant within 90 days after entry of a final judgment in an action by the claimant against a manufacturer, and notwithstanding any otherwise applicable statute of limitations, may implead a biomaterials supplier who has been dismissed from the action pursuant to this title if—

(1) the manufacturer has made an assertion, either in a motion or other pleading filed with the court or in an opening or closing statement at trial, or as part of a claim for contribution or indemnification, and the court makes a finding based on the court's independent review of the evidence contained in the record of the action, that under applicable law—

(A) the negligence or intentionally tortious conduct of the dismissed supplier was an actual and proximate cause of the harm to the claimant; and

(B) the manufacturer's liability for damages should be reduced in whole or in part because of such negligence or intentionally tortious conduct; or

(2) the claimant has moved to implead the supplier and the court makes a finding based on the court's independent review of the evidence contained in the record of the action, that under applicable law—

(A) the negligence or intentionally tortious conduct of the dismissed supplier was an actual and proximate cause of the harm to the claimant; and

(B) the claimant is unlikely to be able to recover the full amount of its damages from the remaining defendants.

(b) STANDARD OF LIABILITY.—Notwithstanding any preliminary finding under subsection (a), a biomaterials supplier who has been impleaded into an action subject to this title, as provided for in this section—

(1) may, prior to entry of judgment on the claim against it, supplement the record of the proceeding that was developed prior to the grant of the motion for impleader under subsection (a); and

(2) may be found liable to a manufacturer or a claimant only to the extent required and permitted by any applicable Federal or State law other than this title in an action alleging harm caused by an implant.

(c) DISCOVERY.—Nothing in this section shall give a claimant or any other party the right to obtain discovery from a biomaterials supplier defendant at any time prior to grant of a motion for impleader beyond that allowed under section 206.

TITLE III—LIMITATIONS ON APPLICABILITY; EFFECTIVE DATE

SEC. 301. FEDERAL CAUSE OF ACTION PRECLUDED.

The district courts of the United States shall not have jurisdiction pursuant to this Act based on section 1331 or 1337 of title 28, United States Code.

SEC. 302. EFFECTIVE DATE.

This Act shall apply with respect to any action commenced on or after the date of enactment of this Act without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before that date of enactment.

DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

BROWNBACK AMENDMENT NO. 3065

(Ordered to lie on the table.)

Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill, S. 2168, supra; as follows:

On page 93, between lines 18 and 19, insert the following:

SEC. 423. USE OF STATE REVOLVING LOAN FUNDS FOR MUNICIPALITIES FOR DEVELOPMENT OF WATER SYSTEMS.

Section 1452(a)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–12(a)(2)) is amended in the first sentence by striking ''community water systems and nonprofit noncommunity water systems'' and inserting ''community water systems, nonprofit noncommunity water systems, and municipalities for the development of such water systems''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. GORTON. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing Tuesday, July 7, 9:00 a.m., Hearing Room (SD–406) on the following wildlife legislation: S 2094, Fish and Wildlife Revenue Enhancement Act of 1998; S. 361, Rhino and Tiger Product Labeling Act; H.R. 2807, Rhino and Tiger Product Labeling Act; H.R. 3113, Rhinoceros and Tiger Conservation Reauthorization Act of 1998; S. 263, Bear Protection Act; S. 659, Great Lakes Fish and Wildlife Restoration Act of 1997; S. 2244, National Wildlife Refuge System Volunteer and Partnership Enhancement Act of 1998; and S. 1970, the Neotropical Migratory Bird Conservation Act.

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

COMMITTEE ON THE JUDICIARY

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Tuesday, July 7, 1998, at 10:30 a.m., in room 226, of the Senate Dirksen Office Building.

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

SUBCOMMITTEE ON ANTITRUST, BUSINESS RIGHTS, AND COMPETITION

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Business Rights, and Competition, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Tuesday, July 7, 1998 at 9:00 a.m. to hold a hearing in room 342, Senate Dirksen Building, on: ''Covergence and Consolidation in the Entertainment and Information Industries: What Does the Future Hold?''

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

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. GORTON. Mr. President, the Finance Committee Subcommittee on International Trade requests unanimous consent to conduct a hearing on Tuesday, July 7, 1998, beginning at 10:00 a.m. in room 215 Dirksen.

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

SUBCOMMITTEE ON SOCIAL SECURITY AND FAMILY POLICY

Mr. GORTON. Mr. President, the Finance Committee Subcommittee on Social Security and Family Policy requests unanimous consent to conduct a hearing on Tuesday, July 7, 1998, beginning at 2:00 p.m. in room 215 Dirksen.

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

ADDITIONAL STATEMENTS

TRIBUTE TO JENNY CHUASIRIPORN

● Ms. MIKULSKI. Mr. President, I rise today to pay tribute to an outstanding young Maryland woman, Jenny Chuasiriporn. Yesterday, Jenny, a 20-year-old amateur golfer, placed second in the U.S. Women's Open following a ''sudden death'' round with the ultimate winner, Se Ri Pak. Although Jenny did not place first in the U.S. Women's Open, she won a place in my heart and in the hearts of many others.

Jenny Chuasiriporn is a senior at Duke University and is from Timonium, Maryland. Her pursuit of excellence in golf is truly a family affair. Her 21-year-old brother, Joey, was her caddy and coach. Her parents were also at the Blackwolf Run Golf Course in Wisconsin to cheer on their daughter, having closed up their family business, the Bangkok Place restaurant on York Road, to be with her.

Now, I will be the first to admit that I do not share much with Jenny in regard to the quality of my golf game. My golf handicap is pretty close to the height of the Washington Monument! But I do think I'm a pretty good putter. And I know from first hand experience that the game of golf takes an extraordinary amount of concentration and consistency to drive down the fairway, angle that chip shot, and putt slowly and surely. Jenny has that great concentration and consistency. She is and will be a great golfer. I, on the other hand, will stick with the Senate!

Jenny also exhibited strong endurance. On Sunday, she hit a forty foot birdie putt that forced the tournament into a playoff round. After an 18-hole playoff round, the game was still tied between Jenny and Se Ri. Then the tournament went into what they call a ''sudden death'' round. It was the first sudden death round in the U.S. Women's Open 53-year history. Finally, on the second hole of ''sudden death'', Se Ri Pak hit an 18-foot birdie to win the tournament. But Jenny Chuasiriporn, the young Maryland amateur, had held on tight for five long days of golf and can surely call herself a winner.

More and more Americans are turning to golf as a recreational sport. Jenny Chuasiriporn's game is not recreational. Hers is a game of hard work. Jenny and Se Ri went through weeds and water trying to win the tournament. That is not your typical Saturday afternoon golf game. Jenny played tough golf against seasoned professionals for five days, on the tough Blackwolf Run Golf Course in Wisconsin. That does not even count the endless hours she put in at school and home practicing for this day. She takes this game seriously and works hard at being the best.

She went further in the 1998 U.S. Women's Open than any other amateur in 30 years. No one has done what Jenny Chuasiriporn did in 30 years. Once again Jenny, I pay tribute to your achievement, and your amazing concentration, endurance, and hard work. You make Maryland and our Nation proud.●

HEALTH CARE

● Mr. SPECTER. Mr. President, I am pleased to return to my Senate duties today after a relatively brief period of convalescence following by-pass surgery at Jefferson Medical College of Thomas Jefferson University, one of our nation's great medical institutions.

This experience has again led me to marvel at our health care system and to make me more determined than ever to support federal funding for biomedical research and to make health care available to all Americans.

At Jefferson Medical College of Thomas Jefferson University, I was the beneficiary of outstanding hospital care and a superbly qualified medical team headed by renowned cardiologist, Dr. Howard Weitz and distinguished surgeons Dr. Richard Edie and Dr. James Diehl. (Dr. Weitz has assisted me for many years going back to his student days when he volunteered for my campaign for Mayor of Philadelphia.)

My concern about health care has long pre-dated my own personal benefits from the MRI and other diagnostic and curative procedures. My concern about health care began many years ago and has been intensified by my service on the Appropriations Subcommittee on Labor, Health and Human Services and Education which I now have the honor to chair.

As the RECORD shows, I have introduced and cosponsored legislation going back to the 98th Congress designed to provide health care coverage to all Americans. Among my proposals were the Health Care Cost Containment Act of 1983 (S. 2051), the Community Based Disease Prevention and Health Promotion Projects Act of 1985 (S. 1873), the Health Care Affordability and Quality Improvement Act of 1992 (S. 3176), the Comprehensive Health Care Act of 1993 (S. 18), the Health Care Assurance Acts of 1995 and 1997 (S. 18 and S. 24), and the Healthy Children's Pilot Program Act of 1997.

In conjunction with the distinguished ranking member of the Subcommittee, Senator TOM HARKIN, our Subcommittee has taken the lead to increase NIH funding from $11.3 billion in FY95 to $11.9 billion in FY96 to $12.7 billion in FY97 to $13.6 billion in FY98. This year we are targeting an increase of $2 billion which will be difficult considering the Subcommittee's other priorities; but, I think, attainable.

I have long been convinced that our Federal budget of $1,700,000,000,000 could provide sufficient funding for America's needs if we establish our real priorities. The real question is whether we have enough doctors, hospitals, medical personnel, etc. to take care of Americans in need of medical attention. I am convinced that we do. The part which has yet to be accomplished is to work out the financing for the delivery of such health care. As specified in the legislation which I have introduced, I am convinced that sufficient savings are possible within the current system to provide health care to all Americans within the current expenditures.

I return to the Senate today with renewed commitment that every American should have the quality medical care I had at Jefferson Medical College of Thomas Jefferson University. In recognition of health care providers everywhere in America, I consider it appropriate to identify, compliment and thank members of the medical team which provided my superb medical care at Jefferson Medical College of Thomas Jefferson University:

Dr. Stephen McNulty, Dr. Michael Savage, Dr. Herbert Patrick, Dr. Beckie Michael, Dr. Geno Merli, Dr. Arnold Greenspon, Dr. A. J. DiMarino, Dr. Rodney Bell, Dr. Phyllis Flomemerg and the following nurses: Leslie Amme, Grace Baillargeon, Tara Baldino, Jenna Briggs, Kathleen Bryan–Donahue, Susan Burton, Joanne Cannon, Mary Cavanaugh, Stephanie Cozzi, Danielle Delpais, Nancy Derivan, Linda Dib, Pam Dioguardo, Tim Dunn, Diane Ellingsworth, Robin Estadt, Marcia Gazdzinski, Debbie Granese, Karen Hartnett, Suzanne Henrick, Kelly Hollenbach, Charles Huckel, Suzanne James-Harmon, Leonida Josue-Peralta, Eileen C. Kelly, Eileen M. Kelly, Matt Kuhar, Kate Kuhns, Tracey Lee, Hermie Lichtman, Esther Loyola, Debra Lynn-McHale, Ida Magee, Nancy McCash, Dennis McFadden, Kathy McGurk, Tricia McNichol, Mark Metropole, Michelle Munday, Tim Peal, Kellyanne Petrone, Don Rank, Tim Schultz, Margaret Shanks, Lori Smith, Meg Smith, Valerie Winn, Mina Yasuoka, Nancy Masterson, Wil Crew, Jason McConomy, Colleen Schuh, Bill Nicholl, Jackie Robinson, Karen Crisfulla, Elly Negron-Lopez, Pauline Heater, Diane Falk, Terry Meehan, Dolly Kowal, Dan Zaborowski, Joyce McGrory, Kathy Peterson, Patty Lynch, Rene Ekeland, Michelle Hellstem, Barb Salapata, Kathy Byrne, Erin Moran, Marlowe Macapagal, Cindy Miller, Susan Cook, Angela Dages, Nicki Hoffman, Bill Hepner, Chuck O'Toole, Dan Cifelle, Rose Shaffer, Selina Frazier and Mary Seals.●

TRIBUTE TO SHERRIE M. SUZUKI

● Mr. AKAKA. Mr. President, I rise today to honor Sherrie M. Suzuki of Hawaii Baptist Academy in Hawaii for winning first place in the 11th Annual National Peace Essay state-level competition. More than 5,000 participants from various countries around the world, including the United States and U.S. territories entered this contest. Each student wrote on issues concerning war crimes and human rights violations in various international conflicts.

Miss Suzuki's essay entitled, ''Cleansing the Wounds of War'', sheds light on an ongoing issue concerning how war criminals should be brought to justice. Her solution examines the United Nations' tribunal expected to be permanently implemented in 1998. She writes ''an international tribunal is one logical solution'' to the problem of making war criminals pay for their atrocities. Her essay discusses the positive outcomes of the Nuremberg trials and the negative effects of Rwanda's mistakes.

Mr. President, it is inspiring to witness the active role that young people play in enhancing their understanding about peace relations. Ms. Suzuki is proof that young students today are getting more involved in activities that address peacemaking issues. I am proud that Ms. Suzuki has received such a prestigious award. Her determination to expand her knowledge of peace and conflicts that arise in a changing global environment is admirable. I ask my colleagues to join me in honoring a young woman of outstanding potential and achievement.●

25TH ANNIVERSARY OF THE NATIONAL COMMITTEE FOR EMPLOYER SUPPORT OF THE GUARD AND RESERVE

● Mr. KEMPTHORNE. Mr. President, today I wish to congratulate the National Committee for Employer Support of the Guard and Reserve (NCESGR)—its 4,200 volunteers and DoD staff —marking 25 years of service to this Nation.

The National Committee for Employer Support of the Guard and Reserve was established in 1972, the year the United States ended the Selective Service System and established an all-volunteer military force. The Department of Defense realized that a loss of support from employers and communities could be a roadblock to maintaining Reserve component membership. NCESGR was created to obtain employer and community support for the National Guard and Reserve and to promote the role of Reserve forces in the national defense.

NCESGR has lived up to that task and accomplished much more. Since

1972, with the help of the Advertising Council, Inc., NCESGR has benefited from more than $591 million in pro bono advertising reaching the six million employers with one or more employees in the United States.

Employers have, in turn, signed NCESGR Statements of Support, publicly committing to support the National Guard and Reserve. The former Chairman of the Board and CEO of General Motors, Mr. James H. Roche signed the first Statement of Support in the Office of the Secretary of Defense on December 13, 1972. The next day, President Richard Nixon signed a Statement of Support covering all Federal civilian employees. Since the inception of this program, Presidents Ford, Carter, Reagan, Bush and Clinton have all signed Statements of Support, along with hundreds of thousands of employers. To date, over 300,000 employers have signed statements of support.

NCESGR offers Ombudsman services designed to provide information to employers and Reservists regarding their rights and responsibilities under the law and to resolve conflicts through informal mediation. This program is operated in cooperation with the Department of Labor, which is responsible for conducting formal investigations. Hundreds of thousands of hours and dollars are saved through the use of community volunteers.

Mr. President, the National Committee for Employer Support of the National Guard and Reserve is smart government in action. The small National Committee staff in Washington, DC, under the direction of the Assistant Secretary of Defense for Reserve Affairs, provides guidance and support to a network of 4,200 volunteer business, civic, and community leaders.

These volunteers educate employers on their rights and obligations under the law and recognize employers who actively support employee participation in the National Guard and Reserve. Volunteers also educate members of the National Guard and Reserve regarding their rights and responsibilities and the value of employer support. Committees can be found in all 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam.

With the end of the Cold War, the Reserve components have been called upon with increasing frequency. During the Gulf War in 1990–91, more than 250,000 Reserve component members were called to active duty to support military operations in the Persian Gulf. Last year, National Guardsmen and Reservists contributed nearly 13 million mandays in support of Active duty operations and exercises.

Mr. President, thousands of employers, local and State government officials, Active and Reserve component leaders, and military members from across the Nation and around the world request NCESGRs employer support expertise on a daily basis. When National Guardsmen and Reservists return home following mobilization, ESGR committee members are there to provide information and support services to those in need.

The U.S. Congress passed the Uniformed Services Employment and Reemployment Rights Act, (USERRA) of 1994, and updated it in 1996. This law completely revised the Veterans Reemployment Rights Act of 1940. USERRA articulates the rights and responsibilities of the Reservist with regard to job protection and explains employer rights under federal law. NCESGR helps employers and Reservists understand this law and helps them informally resolve any employment conflicts that may arise.

Mr. President, again, I want to congratulate NCESGR and its 54 ESGR committees on their 25 years of service and commend this network of over 4,200 volunteer patriots for their time and talent. They are serving their country and maintaining the much needed support of our employers and communities for the Guard and Reserve. Through the efforts of people like Mr. Robert J. Cameron, the State Chair of the Great State of Idaho, we can call on our Reserve forces to answer our Nations call without the fear of job loss. Thank you Mr. President, and thank you, NCESGR.●

TRIBUTE TO MAJOR GENERAL ROBERT A. McINTOSH

● Mr. CLELAND. Mr. President, today I want to recognize Major General Robert A. McIntosh for his distinguished service to our Nation. General McIntosh epitomizes our Air Force Reserve citizen-airman. He has demonstrated exceptional leadership as chief of Air Force Reserve, Headquarters U.S. Air Force, Washington, D.C., and commander, Air Force Reserve, Robins Air Force Base, Georgia for the past three and a half years.

General McIntosh served as the principal advisor to the Chief of Staff of the Air Force and to the Secretary of the Air Force on all Air Force Reserve matters. As commander of the Air Force Reserve Command, he had overall responsibility for the command, control, and supervision of all U.S. Air Force Reserve units around the world.

General McIntosh performed outstanding service and exhibited exceptional commitment to the Air Force Reserve. His in-depth knowledge of Air Force and Reserve Component issues was a tremendous asset to the Congress as we deliberated the major national defense issues impacting both our Active and Reserve Forces. His insight into Reserve issues was also instrumental in his well-deserved selection to this new position as the Assistant on Reserve Matters to the Chairman of the Joint Chiefs of Staff.

Commissioned through the Reserve Officer Training Corps Program at Ohio University in 1966, General McIntosh's early training prepared him well for his later assignments commanding Reserve fighter units in Louisiana, Missouri and Texas. Ultimately, he rose to command the more than 70,000 member Air Force Reserve.

He is a highly-decorated Vietnam veteran for his extraordinary aerial achievement and devotion to duty while assigned as an A–37 pilot with the 604th Special Operations Squadron at Bien Hoa Air Base in South Vietnam.

General McIntosh separated from active duty in August 1971 to join the air reserve technician program as a full-time civil service employee with active participation as an Air Force reservist. He is a command pilot with more than 4,000 flying hours in the A–10, A–37, C–130 and F–4. His military awards include the Distinguished Service Medal; Legion of Merit; Distinguished Flying Cross; Meritorious Service Medal with oak leaf cluster; Air Medal with 18 oak leaf clusters; Air Force Commendation Medal with oak leaf cluster; and Vietnam Service Medal with three service stars.

Throughout his distinguished career, he has commanded an Air Force Reserve wing, two Reserve numbered Air Forces, served as the vice commander of the Air Force Reserve, and his most recent position as the chief of the Air Force Reserve and commander of the Air Force Reserve Command—a dual hatted position.

General McIntosh's outstanding leadership, sense of purpose and singular dedication to duty was crucial in the continuing successful integration of the Air Force Reserve into the total Air Force, culminating in the Congressionally-directed activation of Air Force Reserve Command as the service's ninth major command.

Through initiatives he has sponsored, the Air Force Reserve has successfully entered new mission areas during his service as the chief of the Air Force Reserve, including the Reserve instructor pilot program; Space Command Group; Fighter Reserve Associate Test; Airborne Warning and Control System; and Combat Camera.

In today's environment of shrinking budgets, downsizing and the increased role the Reserve Component plays in the national defense of our country, General McIntosh has provided us with a clear and concise view of the contributions and the versatility of our citizen-airmen. In that regard, he has provided us with a full spectrum of Air Force Reserve issues which helped in our decision making process.

The United States is indebted to General McIntosh for his many contributions to this Nation. As his hallmark, he left a stronger Air Force Reserve. We thank Bob and his wife, Susie, for their selfless service to the men and women of the Air Force Reserve, and wish him the best in his new challenging position on the Joint Chiefs of Staff and their future endeavors.●

ANOKA POLICE DEPARTMENT JUVENILE JUSTICE ALTERNATIVE POLICE ACCOUNTABILITY CONFERENCING PROGRAM

• Mr. GRAMS. Mr. President, I rise today to congratulate the City of Anoka Police Department on its selection as a semifinalist in the 1998 Innovations in American Government Awards competition.

As my colleagues may know, Innovations in American Government is considered one of the most prestigious public-service awards granted each year in the United States. This awards program is sponsored by the Ford Foundation, and administered by Harvard University's John F. Kennedy School of Government in partnership with the Council for Excellence in Government.

Since 1986, Innovation awards have been given to those programs and policies that represent effective and innovative government initiatives. This year, the City of Anoka Police Department Juvenile Justice Alternative Police Accountability Conferencing Program has been selected as a semifinalist from among 1,400 applications submitted by federal, state, county, and city and town organizations. Later this year, the number of semifinalists will be narrowed to 25 finalists, ten of which will receive awards for $100,000 from the Ford Foundation. The remaining 15 finalists will each receive $20,000.

At a time when juvenile crime is on the rise in my home state of Minnesota and across the country, I am pleased that the Anoka Police Department has been recognized for its unique and effective efforts to address this important public safety issue in our communities. Initiatives such as those implemented by the Anoka Police Department will help to ensure that the young first-time offenders of today do not become the career criminals of tomorrow.

Through the leadership of Police Chief Andrew Revering, the Anoka Police Department developed a program in 1994 to address the challenge of rising juvenile crime and the increasing rate of repeat juvenile offenders. The Juvenile Justice Alternative Police Accountability Conferencing Program allows for specially trained police officers to facilitate and supervise meetings between first time offenders, so the offender can be held accountable for his or her actions such as minor theft, vandalism, assault or disorderly conduct.

Under this program, the offender is required to admit guilt to the police, and with parental consent, he or she takes part in a police accountability conference. The Police Accountability Conferencing Program ensures victims of crime, offenders, and communities a right to participate in the process of determining how to address the consequences which result from criminal behavior.

Through interaction with police and victims, offenders develop a greater understanding of the effect their actions have on a victim and his or her family. More importantly, this program has demonstrated a proven record of success since only a small number of those who have entered the Anoka Police Accountability Conferencing Program have become repeat offenders.

The Anoka Police Department's success with this program has led many agencies in Minnesota and throughout the country to begin implementing similar programs. To its credit, Anoka Police have also educated and trained officers from Arizona, Colorado, California, Iowa, Indiana, Minnesota and North Carolina about the police conferencing program. Clearly, the City of Anoka and its Police Department have demonstrated exceptional leadership in fulfilling a local government's primary responsibility: to protect citizens from crime and its debilitating effect on communities.

Mr. President, I am pleased to have shared the success of this innovative program with my colleagues in the Senate. I look forward to visiting this program in the future, and learning more about similar initiatives in Minnesota that will help to prevent crime and keep our citizens safe.•

IN HONOR OF PAUL O'DWYER

Mr. MOYNIHAN. Mr. President, on Saturday, June 28, as Congress began its most recent recess, New York City bid a fond farewell to one of County Mayo's finest gifts to our city and nation.

Paul O'Dwyer, former New York City Council President and champion of countless progressive causes, was a towering figure in our politics for well over half a century, playing a significant role in such disparate movements as the efforts to create a United Ireland and an independent State of Israel, the American civil rights and peace movements and the New York City reform movement that remade the face of our city's politics in the late 1950's.

From running guns to the Irgun in 1947 to organizing black voters in Mississippi in 1964, Paul O'Dwyer was on the cutting edge of every major social and political issue that shaped our nation's politics. He may have only won two of the dozen elections he contested in his long and colorful career, but his legacy lives on in the lives he touched and the issues he championed. Paul O'Dwyer and I were not always on the same side of every issue. You could question his strategy or even his judgement, but you could never question his abiding integrity or his remarkable capacity to sustain passion about human dignity and equal justice.

Paul O'Dwyer was born on June 29, 1907 in the Irish village of Behola, the eleventh and last surviving child of Patrick and Bridget McNicholas O'Dwyer. He arrived on our shores in 1925, working on the docks as he went to night classes, first at Fordham University and then at St. John's Law School.

It is a measure of how quickly he moved through life that he had to receive special permission from Chief Justice Benjamin Nathan Cordoza of the New York Court of Appeals to take his bar exam in 1929, four years after arriving from Ireland and two years before he could receive citizenship or be formally admitted to the bar. As the younger brother of Tammany Hall fixture (and future mayor) William O'Dwyer, he might have easily become a successfully well-connected lawyer. But that was simply not the way Paul O'Dwyer chose to live his life.

''If I thought at the end of the year that all I did was make a living, I'd regard it as a pretty incomplete year'', he once said of his rich life as an agitator within the system. He must, on retrospect, have had paying clients during his 67 years as an attorney, but they were hardly the reason every segment of New York City's diverse political and ethnic spectrum joined in mourning this remarkable individual.

New York City and our nation are inspired by the quality of Paul O'Dwyer's example and enriched by the legacy of his accomplishments. I ask to have printed in the CONGRESSIONAL RECORD The New York Times' report on Paul O'Dwyer's funeral.

The report follows:

[From the New York Times, June 28, 1998]

POLITICAL ELITE OUT IN FORCE TO MOURN DEMOCRAT O'DWYER

[By Mike Allen]

New York's political royalty packed an Upper West Side sanctuary yesterday for the funeral Mass of Paul O'Dwyer, the gritty liberal who once led the City Council.

Mr. O'Dwyer, who died Tuesday, was remembered for the crunch of his eyebrows and the splay of his glasses as he fought for causes as perpetual as Irish nationalism and as fleeting as a strike by flight attendants. Tomorrow, which would have been his 91st birthday, his ashes are to be scattered at his birthplace, his family's three-and-a-half-acre farmstead in County Mayo, in western Ireland.

The bagpipes and drums of the Police Department's Emerald Society led the cortege to Holy Trinity Roman Catholic Church, stepping off to the anthem of Irish rebellion, ''A Nation Once Again.''

Mayor Rudolph W. Giuliani sate with his arms folded in a front pew. He was separated from the recent nemesis, Peter F. Vallone, the Council Speaker, by Barrie Robinson, the Irish consul general.

Frank Durkan, a nephew and law partner of Mr. O'Dwyer, used his eulogy to reel off a list of public officials Mr. O'Dwyer had known and tormented.

''Mayor Giuliani,'' Mr. Durkan said, ''you're lucky, in a way, that you're not in his line of fire at the moment.'' The congregation of 700, mostly Mr. O'Dwyer's fellow Democrats, laughed and applauded.

In the homily, the Rev. Thomas P. Leonard, Holy Trinity's pastor, said Mr. O'Dwyer's style was ''confrontation, with wit and sagacity.'' Father Leonard told of a conversation he had overheard Thursday afternoon in the rectory between two friends who were reading Mr. O'Dwyer's obituary.

''One said, 'Wasn't he an anarchist?'' Father Leonard said. ''The other answered, 'No, no, no! He was Irish.' ''

Percy E. Sutton, the former Manhattan Borough President, remembered Mr. O'Dwyer's flights to help Soviet Jews, and bus rides to help elect a black man in Alabama.

''You see,'' Mr. Sutton said, ''Paul O'Dwyer was not just Irish. Paul O'Dwyer was Italian. Paul O'Dwyer was Jewish. Paul O'Dwyer was Greek. He was Polish. Paul O'Dwyer was also African-American. In his involvement in the causes that were not necessarily his, Paul O'Dwyer was us.''

Mr. Sutton concluded, ''At that place, where he should finally rest, you can bet one thing: There'll be an organizing of protests there. Because that is the nature of Paul O'Dwyer.''

A niece, Joan O'Dwyer Savarese, invoked the notion that at death, life plays back like a movie. ''Uncle Paul,'' she said, ''what a show you're in for.''

That show would have included boarding house life and night law school after immigrating to Manhattan, defense of Irish Republican Army members facing extradition, registration of black voters in Mississippi, marches against the Vietnam War, four losing races for United States Senate, and election as Councilman at Large in Manhattan and City Council President.

His wife, Patricia, recalled a Board of Estimate meeting when a fight broke out between landlords and tenants (''Odd, that,'' she said to appreciative laughter), and Mr. O'Dwyer descended into the skirmish as peacemaker. She went on to say that her husband ''is truly not dead.''

''We have evidence of his physical passing,'' Mrs. O'Dwyer said. ''But that spirit and that passion—it will stay alive if we all leave here today committed to making the lives of our fellow human beings better.''

At the service's close, the white pall that shrouded the coffin was replaced by the Irish flag. Friends, certain Mr. O'Dwyer would be delighted to be wrapped in the tricolor, gave a standing ovation as the casket passed by.●

TRIBUTE TO LAURIE DONOVAN

● Mr. BOND. Mr. President, I rise today to pay tribute to one of Missouri's finest legislators, State Representative Laurie Donovan. She has served Missouri's 74th District since 1982, and done so with a combination of conviction, compassion, and just plain good humor.

There is no question that Laurie has been a maverick. She has marched to her own drummer, voting only in accordance with her conscience. Laurie has stood second to no one in her support for early childhood education—a topic upon which I share her intense interest. Her efforts on behalf of the mentally ill likewise are the stuff of Missouri legislative legend.

It is clear that State Representative Laurie Donovan's retirement is a loss for every Missouri citizen. I join all Missourians in wishing her well, and thanking her for her many years of dedicated service.●

NORTH DAKOTANS DARIN ERSTAD AND RICK HELLING

● Mr. CONRAD. Mr. President, I want to call the Senate's attention today to two young men from my state who are making their marks this year where few North Dakotans have before: in major league baseball. They are Darin Erstad of the Anaheim Angels and Rick Helling of the Texas Rangers. A few weeks ago, ESPN referred to Darin Erstad as ''the all-star no one's heard of.'' That will change after his introduction tonight at the Major League Baseball All-Star Game in Denver. Although baseball fans did not elect Darin to the all-star team, the American League coaching staff recognized his brilliant play and named him as a reserve. So far this season, the Jamestown, North Dakota, native is batting .313, and his 115 hits ranks second in the American League. He currently leads his Angels' teammates in home runs (18) and runs batted in (59). I am sure that few who watched him play as a youngster in North Dakota, or as a college player with the Nebraska Cornhuskers, are surprised at his success at the major league level. He is clearly a disciplined, hard-working player, and his election to this year's all-star team is well deserved.

Rick Helling's success in Texas this summer has been no less spectacular. As a starting pitcher with the Rangers, the Devils Lake, North Dakota, native finished the first half of the season with an impressive record of 11 wins, 4 losses, and an earned run average of 4.40. Only two pitchers in the American League have posted more wins this season. Unfortunately, Rick was not chosen to the all-star squad. That is a shame, but the rosters for the game are limited and each year deserving players are left out. Rick deserved to be on the team and his omission should not overshadow what has so far been an outstanding year. He is well on a pace to win 20 games, the benchmark all starting major league pitchers strive for. I know he has the talent to do it and I wish him continued success.

Considering how few North Dakotans have ever played in the major leagues, my state is understandably proud that two of them are achieving such terrific success at the same time. But it is even more fitting that Darin Erstad and Rick Helling are having breakthrough seasons this year. Those who follow baseball know that the summer's biggest story has been the attempt by several players, most notably Mark McGwire, Ken Griffey, Jr., and Sammy Sosa, to break the single season record for most home runs. That enduring record of 61 home runs, which has stood for nearly four decades, was set by the New York Yankees' slugger Roger Maris. Roger Maris, I am very proud to say, was raised in Fargo, North Dakota.●

16TH ANNUAL METRO DETROIT YOUTH DAY

● Mr. ABRAHAM. Mr. President, I rise today to recognize a special event that will take place in the City of Detroit. July 8, 1998 will mark the 16th Annual Metro Detroit Youth Day on Belle Isle in Detroit. This event is designed to help improve relationships between young people and community businesses in the Metro Detroit area. More than 16,000 young people are expected to take part in the daylong activities.

This event is significant in that community volunteers, from across Metro Detroit, have come together to make a difference in young people's lives. The many organizers of this event have recognized the need for more youth activities, emphasizing physical education and good sportsmanship in improving the lives of Metro Detroit Youth. It is for this reason that they have sponsored this wonderful program that has grown more successful each year.

Over the course of the last 16 years, this event has garnered tremendous support from the people within the Metro Detroit community from both the private sector and from all levels of government. This year over ninety organizations serve as co-sponsors. At this time I would like to extend my appreciation and best wishes to Mr. Ed Deeb who has again chaired this event and brought it to new levels of success. I wish all the children participating and the sponsors tremendous success.●

IRAN MISSILE TECHNOLOGY

● Mrs. BOXER. Mr. President, I would like to express my serious concern about Iran's continuing efforts to obtain missile technology.

It has been widely reported that Iran has produced chemical weapons and is actively pursuing the development of biological and nuclear weapons. When these deadly technologies are coupled with advanced ballistic missiles, they become true weapons of mass destruction, posing a grave and direct threat to U.S. troops stationed in the Persian Gulf are as well as our key ally in the Middle East, the State of Israel.

Iran's quest to develop ballistic missiles has been aided by several Russian corporations, who have sold Iran key technology and provided important technical support. Public reports indicate that Iran is extremely close to deploying advanced ballistic missiles. If we fail to take meaningful action quickly, Iran could deploy chemical-tipped ballistic missiles within one year.

Congress reacted appropriately to this threat by passing the Iran Missile Proliferation Sanctions Act in May by a vote of 90–4. The bill would impose sanctions on individual companies—not governments—that assist Iran in developing ballistic missile technology.

To its credit, the government of Russia, after considerable prodding from the U.S. State Department, has taken meaningful steps toward halting the export of sensitive technology. Unfortunately, these measures alone are not sufficient to freeze the Iranian missile program. The Iran Missile Proliferation Sanctions Act is needed.

I regret the Administration's decision to veto this important bill. I understand its view that the Executive Branch alone should attempt to resolve

this issue. However, I believe the proliferation of weapons of mass destruction is an issue of such tremendous importance that legislation is warranted.

I hope the Majority Leader will schedule a vote on the veto message soon, and I hope my colleagues will continue to show strong support for the Iran Missile Proliferation Sanctions Act.●

TRIBUTE TO RICK METTS: 1998 GREATER DERRY CHAMBER OF COMMERCE ''CITIZEN OF THE YEAR''

● Mr. SMITH of New Hampshire. Mr. President, I rise today to congratulate Rick Metts of Derry, New Hampshire, on being named the 1998 ''Citizen of the Year'' by the Greater Derry Chamber of Commerce. Rick has earned this very special honor as a result of his many years of volunteer work for a variety of different organizations in the City of Derry.

At the Derry Village Rotary Club, Rick has been Sergeant at Arms for the past seven years and has participated in every fundraiser, project and event the club has held. As a member of the club's Social Committee, Rick has helped organize Pot-Luck suppers and Yankee Swaps, and has served as the Master of Ceremonies for Pictionary Games. Rick has also demonstrated his commitment to education, as he and his family have co-sponsored scholarships given to outstanding vocational students.

In addition to his work at the Rotary Club, Rick is also active in a number of other organizations in his community. He is currently serving his second three-year term on the Derry School Board and has held the position of Chair twice. Rick also has shown his true dedication to children through his work with the Boys & Girls Club of Greater Derry. For the past two years, Rick has chaired the Club's largest fundraiser, which features a gourmet dinner as well as both a silent and live auction. He has also coached and refereed many basketball games for the club and recreation teams. Rick has also been a longtime member and supporter of the Greater Derry Chamber of Commerce.

According to one of his close friends, Rick Metts ''never has to be asked, he always volunteers.'' The many ways Rick has found to be involved in his community are a true testament to that statement. Rick embodies that great spirit of volunteerism that helped make this nation great. I want to again congratulate Rick Metts on being named ''Citizen of the Year'' and it is with great pride that I represent him in the United States Senate.●

NEED FOR HMO REFORM

● Mr. DORGAN. Mr. President, our health care system is in a state of crisis—a crisis of confidence. Many Americans no longer believe that their insurance companies can provide them with the access to care or quality of service they need.

Today I continue our series of stories describing how some managed care plans seem to have put cost saving before life-saving. The experience of Jacqueline Lee is just one more example of the pressing need for Congress to act now to protect the rights of patients.

Jacqueline Lee lives in Bethesda, Maryland. A lover of the outdoors, she took a trip to hike in the Shenandoah Mountains in the summer of 1996. While walking on one of the trails, she lost her footing, and plummeted off of a 40-foot cliff to the ground below.

Luckily for Jacqueline, she was quickly airlifted from the mountain to a hospital in Virginia. Amazingly, she survived the fall, sustaining fractures in her arms, pelvis, and her skull.

Incredibly, her HMO refused to pay the more than $10,000 in hospital bills. They said Ms. Lee had failed to gain ''pre-authorization'' for her emergency room visit. To this insurer, the fact that she was unconscious was no exception. For over a year, she challenged her HMO and faced personal bankruptcy. Ultimately, the Maryland Insurance Administration ordered the insurer to pay the hospital and fined them as well for their initial refusal to cover Ms. Lee's medical expenses.

Yet her struggle wasn't over. Within a year, after follow-up surgery for her injuries, Ms. Lee found herself back in the emergency room, fearing that she was suffering complications from surgery. Not wanting to go through another ordeal, this time she called her HMO beforehand. They told her they would pay only for her screening fees because the visit was not considered ''a medical emergency.''

Mr. President, we must take up and pass meaningful patient protections this year. We have a bill, S. 1890, that would prevent situations like this from occurring. Under our bill, Jacqueline Lee would have access to emergency care without preauthorization, and when she feels her life is in danger—not when the insurance company tells her it's okay. Under our bill, Jacqueline would have been covered for her injuries—she would not have had the rug pulled out from under her by the HMO.

We have only a few weeks of legislative business left to act. Whatever we do will not alleviate the stress that Jacqueline Lee has endured, but we can ensure that others do not have to spend time fighting insurers that would be better spent fighting for their health. We must guarantee patients the peace of mind that comes with knowing that their health plan will be there to help them recuperate, not deny payment because it improves their bottom line.●

MEASURE READ FOR THE FIRST TIME—S. 2271

Mr. SESSIONS. Mr. President, I send to the desk a bill and ask that it be read for the first time.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2271) to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law, and for other purposes.

Mr. SESSIONS. Mr. President, I ask for its second reading, and I object to my own request.

The PRESIDING OFFICER. Objection is heard.

MEASURES PLACED ON THE CALENDAR—H.R. 2431 AND H.R. 3150

Mr. SESSIONS. Mr. President, I understand that there are two bills at the desk that are due for their second reading, and I ask that the first be read.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2431) to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes.

Mr. SESSIONS. I object to further proceedings on this matter at this time. I ask that the second bill be read.

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

The legislative clerk read as follows:

A bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes.

Mr. SESSIONS. Mr. President, I object to further proceedings on this matter at this time as well.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination on the Executive Calendar: Calendar No. 495.

I further ask unanimous consent that the nomination be confirmed; that the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate then return to legislative session.

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

The nomination considered and confirmed is as follows:

ENVIRONMENTAL PROTECTION AGENCY

Sallyanne Harper, of Virginia, to be Chief Financial Officer, Environmental Protection Agency.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR WEDNESDAY, JULY 7, 1998

Mr. SESSIONS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, July 8. I further ask unanimous consent that when the Senate reconvenes on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and that the Senate then resume consideration of the IRS reform conference report.

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

PROGRAM

Mr. SESSIONS. Mr. President, for the information of all Senators, tomorrow morning the Senate will immediately resume consideration of the IRS reform conference report. It is expected that there will be lengthy debate during Wednesday's session on the conference report with a final vote occurring by late afternoon. In addition to the conference report, the Senate may consider any other legislative or executive items that may be cleared for action. Members are reminded that a cloture motion was filed to the substitute amendment to the product liability bill, and, therefore, Senators have until 1 p.m. on Wednesday to file first-degree amendments to the substitute.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SESSIONS. 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.

There being no objection, the Senate, at 8:27 p.m., adjourned until Wednesday, July 7, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 7, 1998:

DEPARTMENT OF DEFENSE

CAROLYN H. BECRAFT, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY, VICE BERNARD DANIEL ROSTKER.

RUBY BUTLER DEMESME, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE, VICE RODNEY A. COLEMAN, RESIGNED.

DEPARTMENT OF DEFENSE

PATRICK T. HENRY, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE ARMY, VICE SARA E. LISTER, RESIGNED.

DEPARTMENT OF STATE

BERT T. EDWARDS, OF MARYLAND, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF STATE, VICE RICHARD L. GREENE, RESIGNED.

JOSEPH H. MELROSE, JR., OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SIERRA LEONE.

JOHN SHATTUCK, OF MASSACHUSETTS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CZECH REPUBLIC.

PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR COMPONENT OF THE PUBLIC HEALTH SERVICE COMMISSIONED CORPS SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

1. FOR APPOINTMENT

To be assistant surgeon

MARIE A. COFFEY
WILLIAM H. DUNN, JR.
DAVID R. GAHN
JOHN M. HARDIN
TANIA A. HURLBUTT
DOROTHY A. JENSON
PAUL D. MAHER
ANN M. SMITH
JOHN W. VANDERHOFF
JULIA C. WATKINS

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JOHN W. HANDY, 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. NICHOLAS B. KEHOE, III, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. MAXWELL C. BAILEY, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. JOHN N. ABRAMS, 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. DAVID H. OHLE, 0000

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. EDWARD A. FERGUSON, JR., 0000
BRIG. GEN. PAUL J. GLAZAR, 0000
BRIG. GEN. JOHN R. GROVES, JR., 0000
BRIG. GEN. DAVID T. HARTLEY, 0000
BRIG. GEN. LLOYD E. KRASE, 0000
BRIG. GEN. BENNETT C. LANDRENEAU, 0000
BRIG. GEN. BENNY M. PAULINO, 0000
BRIG. GEN. JEAN A. ROMNEY, 0000
BRIG. GEN. ALLEN E. TACKETT, 0000

To be brigadier general

COL. RICHARD W. AVERITT, 0000
COL. DANIEL P. COFFEY, 0000
COL. HOWARD A. DILLON, JR., 0000
COL. BARRY A. GRIFFIN, 0000
COL. LARRY D. HAUB, 0000
COL. ROBERT J. HAYES, 0000
COL. LAWRENCE F. LAFRENZ, 0000
COL. VICTOR C. LANGFORD III, 0000
COL. THOMAS P. MANCINO, 0000
COL. DENNIS C. MERRILL, 0000
COL. WALTER A. PAULSON, 0000
COL. ROBLEY S. RIGDON, 0000
COL. KENNETH B. ROBINSON, 0000
COL. ROY M. UMBARGER, 0000
COL. JIMMY R. WATSON, 0000
COL. PAUL H. WIECK, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. JOSEPH S. MOBLEY, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. EDWARD MOORE, JR., 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. JAMES S. ALLAN, 0000
CAPT. MAURICE B. HILL, JR., 0000
CAPT. DURET S. SMITH, 0000
CAPT. JAMES M. WALLEY, JR., 0000
CAPT. JERRY D. WEST, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS DIRECTOR OF ADMISSIONS, UNITED STATES AIR FORCE ACADEMY UNDER TITLE 10, U.S.C., SECTION 9333(C):

To be colonel

HEDY C. PINKERTON, 0000

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

To be colonel

WINSTON H. BLAKE, 0000
RICHARD G. GRIFFITH, 0000
COURTNEY D. SCOTT, JR., 0000

To be lieutenant colonel

MARK A. EDIGER, 0000
PHILIP M. SHUE, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

PAUL S. WEBB, 0000

To be lieutenant commander

WESLEY P. RITCHIE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S., SECTION 624:

To be lieutenant commander

KEVIN J. BEDFORD, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

JOHN J. ABBATIELLO, 0000
KENNETH F. ABEL, 0000
DAVID ABERCROMBIE, 0000
MARK A. ABRAMSON, 0000
MICHAEL T. ACOBA, 0000
DONALD R. ADAMS, JR., 0000
HERBERT P. ADAMS III, 0000
JORDAN C. ADAMS, 0000
DALE R. ADDINGTON, 0000
MICHAEL A. ADDISON, JR., 0000
REX E. ADEE, 0000
KEVIN P. ADELSEN, 0000
DEAN J. ADKINS, 0000
ANDREW J. ADRIAN, 0000
CARA A. AGHAJANIAN, 0000
DAVID M. AGINS, 0000
STEPHEN AHRENS, 0000
DERRICK A. AIKEN, 0000
ARCADIO ALANIZ, JR., 0000
SUSAN R. ALANIZ, 0000
MARY E. ALDRIAN, 0000
TERESA M. ALESCH, 0000
JAMES E. ALEXANDER, 0000
*RONALD W. ALEXANDER, JR., 0000
MARTIN ALEXIS, 0000
RONNY G. ALFORD, 0000
RODGER C. ALLEM, 0000
DIANE BREIVIK ALLEN, 0000
JAMES T. ALLEN, 0000
JARA N. ALLEN, 0000
LANNIE G. ALLEN, 0000
JONAS C. ALLMAN, 0000
*GREGORY C. ANDERS, 0000
ALBERT J. ANDERSON, 0000
BRUCE P. ANDERSON, 0000
DAVID J. ANDERSON, 0000
DAVID T. ANDERSON, 0000
DEAN J. ANDERSON, 0000
DONALD R. ANDERSON, 0000
JEFFREY L. ANDERSON, 0000
JOEL D. ANDERSON, 0000
JOHN H. ANDERSON, 0000
JOHN T. ANDERSON, 0000
JON K. ANDERSON, 0000
KEVIN J. ANDERSON, 0000
THEODORE B. ANDERSON, 0000
THOMAS M. ANDERSON, 0000
TIMOTHY A. ANDERSON, 0000
TIMOTHY C. ANDERSON, 0000
TIMOTHY J. ANDERSON, 0000
TERENCE S. ANDRE, 0000
LINDA M. ANDRY, 0000
MICHAEL J. ANGWIN, 0000
*RICHARD J. ANTOLIK, JR., 0000
JOHN B. APOSTOLIDES, 0000
TIMOTHY M. APPLEGATE, 0000
*JOSEPH E. ARCATE, 0000
GLEN E. ARCHER, 0000
RUTH A. ARCHER, 0000
DEBORA A. ARCHULETA, 0000
KENNETH A. ARCOLEO, 0000

CHARLES P. ARMENTROUT, 0000
JOHN N. ARMITSTEAD, 0000
BRENDA S. ARMSTRONG, 0000
DOUGLAS A. ARMSTRONG, 0000
DIANE M. ARNOLD, 0000
MICHAEL J. ARNOLD, 0000
MARVIN A. AROSTEGUI, 0000
WILLIAM C. ARTHUR, 0000
CHRISTINE H. ASHENFELTER, 0000
JOHN M. ASKEW, 0000
DANIEL H. ATCHLEY, 0000
KORVIN D. AUCH, 0000
GREG H. AULD, 0000
KURT L. AUSTIN, 0000
MARK A. AUSTIN, 0000
MARK A. AVERY, 0000
DAVID S. BABYAK, 0000
STEVEN E. BACHELOR, 0000
DAVID M. BACHLER, 0000
KENNETH W. BACKES, 0000
*MARK R. BACON, 0000
THOMAS N. BAILEY, 0000
THOMAS N. BAILEY, 0000
DAVID H. BAIRD, 0000
JAMES H. BAKER, 0000
LYLE D. BAKER, 0000
MATTHEW C. BAKER, 0000
SCOTT W. BAKER, 0000
CHRISTOPHER P. BAKKE, 0000
REGIS J. BALDAUFF, 0000
JOHN J. BALKE, 0000
*ROBERT W. BALLARD, 0000
RICHARD L. BALTES, 0000
MATTHEW W. BAMPTON, 0000
NEAL L. BANIK, 0000
BRENDAN EDWARD BANKOS, 0000
DARWYN O. BANKS, 0000
RONALD L. BANKS, 0000
*WILLIAM J. BANKS, 0000
GEORGE A. BARBER, JR., 0000
CHRIS BARGERY, 0000
DAVID R. BARKDULL, 0000
BARRY K. BARKER, 0000
KAREN L. BARLOW, 0000
*CLAYTON M. BARNARD, 0000
THOMAS E. BARRETT III, 0000
*WILLIAM M. BARRETT, 0000
BRADLEY D. BARTELS, 0000
MARK N. BARTELT, 0000
GEORGE C. BARTH, 0000
ALEXANDER R. BARTHE, 0000
PHILIP J. BARTON, 0000
ALAN J. BARYS, 0000
STEVEN L. BASHAM, 0000
EDWARD J. BASNETT, 0000
HARIDEV S. BASUDEV, 0000
STEVEN P. BATES, 0000
*RONALD J. BATTERSBY, 0000
PAUL D. BAUER, 0000
*KENNETH J. BAUMER, 0000
*JAMES R. BAUMGARDNER, 0000
PATRICK J. BAUMHOVER, 0000
PAUL A. BAXTER, 0000
*EDWIN S. BAYBA, 0000
JOHN T. BAYNES, JR., 0000
LONNY E. BEAL, 0000
ALAN K. BEATY, 0000
JOHN P. BEAUCHEMIN, 0000
THOMAS BECHT, 0000
JOHN P. BECK, 0000
JAMES M. BECKER, 0000
DAVID T. BECKWITH, 0000
MARK BEDNAR, 0000
JAMES M. BEEBE, 0000
DAVID B. BEEN, 0000
THOMAS W. BEHNKE, 0000
BRUCE C. BELCHER, 0000
JON A. BELIVEAU, 0000
*GARY W. BELL, 0000
SANDRA J. BENEWAY, 0000
BARRY D. BENNETT, JR., 0000
SCOTT N. BENSON, 0000
CLAY BENTON, 0000
BRETT E. BERG, 0000
CRAIG N. BERG, 0000
ZACHARY D. BERGAZIN, 0000
*MITCH L. BERGER, 0000
WILLIE A. BERGES, 0000
RODNEY K. BERK, 0000
BRENDA K. BERNAL, 0000
MICHAEL C. BERNERT, 0000
HARRY A. BERRY, 0000
JAMES B. BERRY, 0000
LAURA W. BERRY, 0000
WILLIAM A. BERRY, 0000
JOSEPH J. BERTE III, 0000
JOHN C. BERTHA, 0000
PATRICK D. BERTLSHOFER, 0000
DAVID ALLEN BETHANY, 0000
MICHAEL P. BETTNER, 0000
*ERNEST W. BIE, JR., 0000
JOHN D. BIEGGER, 0000
JOHN D. BIRD II, 0000
LINDA L. L. BIRGE, 0000
MICHAEL R. BIRGENHEIR, 0000
DANIEL J. BIRRENKOTT, 0000
BRUCE A. BLACK, 0000
STEVEN E. BLACK, 0000
*ROBERT B. BLANKE, 0000
DAVID P. BLANKS, 0000
DAVID W. BLIESNER, 0000
PETER J. BLOOM, 0000
ROBERT S. BLUE, 0000
THOMAS W. BLUHM, 0000
ALAN L. BLUMHAGEN, 0000
ERIC A. BOE, 0000
ROBERT BOLHA, 0000
JOHN A. BOLIN, 0000
BRADLEY J. BOLSTAD, 0000
RICHARD W. BOLTZ, 0000
MILDRED E. BONILLALUCIA, 0000
BARBARA R. BONNER, 0000
JOE B. BONORDEN, 0000
MARK D. BONTRAGER, 0000
AARON J. BOOHER, 0000
ALVIN L. BOONE, 0000
*DAVID R. BOONE, 0000
KEITH P. BOONE, 0000
DAVID M. BOOTS, 0000
MARK W. BORDEN, 0000
STEVEN M. BORDEN, 0000
THOMAS BOROWIEC, 0000
*ANDREW R. BOUCK, 0000
SCOTT J. BOURGEOIS, 0000
MARK A. BOVA, 0000
DAVID M. BOWER, 0000
DAVID E. BOYER, 0000
KEITH M. BOYER, 0000
PATRICK H. BOYKIN, 0000
*WILLIAM D. BRACKEN, 0000
MARK T. BRADLEY, 0000
MATTHEW C. BRAND, 0000
RICHARD H. BRANNAN, JR., 0000
JEFFREY G. BRANTING, 0000
DUWAYNE E. BREDVIK, 0000
DAVID SCOTT BREED, 0000
JOHN J. BREEDEN, 0000
MACK L. BREELAND, 0000
CHARLES R. BRENNAN, 0000
*TAMELA JO BRESLER, 0000
*RALPH J. BRESNAN, 0000
TIMOTHY O. BRETT, 0000
STEVEN G. BREWER, 0000
*JOHN M. BRIGHT, 0000
LISA A. BRIGHT, 0000
GUY J. BRILANDO, 0000
DONALD J. BRINKMAN, 0000
*DAROLD S. BRINLEY, 0000
DOUGLAS J. BRISTOW, 0000
KEVIN A. BRITT, 0000
KENNETH W. BROCKMANN, 0000
*SEAN C. BRODERICK, 0000
DARYL T. BRONDUM, 0000
JOHN P. BROOKER, 0000
KEVIN B. BROOKER, 0000
GARY S. BROOKS, 0000
KIM R. BROOKS, 0000
HAROLD E. BROSOFSKY, 0000
BYRON K. BROUSSARD, 0000
BENJAMIN B. BROWN, 0000
CRAIG E. BROWN, 0000
CYNTHIA ANN THON BROWN, 0000
DANIEL J. BROWN, 0000
EDWARD B. BROWN, JR., 0000
EDWARD R. BROWN, 0000
ELIZABETH A. BROWN, 0000
ERIC D. BROWN, 0000
JEFFREY D. BROWN, 0000
JEFFREY G. BROWN, 0000
JEFFREY S. BROWN, 0000
KELLEY A. BROWN, 0000
*LAWRENCE E. BROWN, 0000
MARK W BROWN, 0000
MICHAEL D BROWN, 0000
RICHARD H BROWN, 0000
ROGER A * BROWN, 0000
SCOTT F BROWN, 0000
STEPHEN E BROWN, 0000
BRENTON L BROWNING, 0000
STEPHEN M BROWNING, 0000
JAY E BRUHL, 0000
LAWRENCE A BRUNDIDGE, 0000
MARTIN F BRUNNER, 0000
ELSA S BRUNO, 0000
JAMES W BRUNS, 0000
SHAWN T BRYAN, 0000
JOSEPH P BUBULKA, 0000
SCOTT T BUCHANAN, 0000
ALAN R BUCK, 0000
DONALD R BUCKLEY, 0000
RONALD D BUCKLEY, 0000
ERIC N BUECHELE, 0000
CARL A BUHLER, 0000
ROBERT D BUNCH, 0000
SHERRY M BUNCH, 0000
RICHARD L BURCHFIELD, 0000
JON R BURGOYNE, 0000
CHRISTOPHER G BURKE, 0000
RANDALL D BURKE, 0000
ALAN BURKET, 0000
STEPHEN J * BURLING, 0000
ROLANDA BURNETT, 0000
JOHN P BURNS, 0000
DAVID M BURRIS, 0000
MICHAEL R BURTON, 0000
JOHN M BUSCH, 0000
WILLIAM C BUSCH, 0000
DAVID S BUSENITZ, 0000
MITCHEL H BUTIKOFER, 0000
LEWIS E * BUTLER, 0000
RHETT L BUTLER, 0000
ARTURO M BUXO, 0000
COREY T * BYRD, 0000
STEPHEN J BYRNES, 0000
WILLIAM B CADE, III, 0000
DEBORAH A CAFARELLI, 0000
DAVID A * CAFFEE, 0000
JOSEPH H CAGLE, 0000
SCOTT E CAINE, 0000
DEAN C CALDWELL, 0000
KATHLEEN D CALLAHAN, 0000
PAUL M CALTAGIRONE, 0000
ELIZABETH CALVANOCARPENTER, 0000
WALTER E CALVO, 0000
MARK D CAMERER, 0000
DAVID P CAMIRE, 0000
ROBERT S CAMPBELL, 0000
DAWN M CAMPBELLCURRIE, 0000
BRADY W CANFIELD, 0000
ARTHUR R CANNE, 0000
JOHN J CAPOBIANCO, 0000
JOSEPH J CAPPELLO, JR, 0000
RONALD E CARDEN, 0000
MANUEL A CARDENAS, 0000
CARL C CARHUFF, 0000
PAUL J CARLIN, 0000
LEWIS H CARLISLE, 0000
JOSEPH D CARLSON, 0000
LISA A CARNEY, 0000
COLIN N CARR, 0000
JOHN E * CARR, 0000
MARY F CARR, 0000
MICHAEL W CARRELL, 0000
RUSSELL G CARRIKER, 0000
PETER A CARRION, 0000
DAVID A CARROLL, 0000
JOHN M CARROLL, III, 0000
ORAN Y CARROLL, 0000
DAVID M CARTER, 0000
JR TED E CARTER, 0000
SCOTT A CARTER, 0000
EDWARD V CASSIDY, 0000
DOUGLAS C CATO, JR, 0000
MIKE S CAUDLE, 0000
PAUL M CAULWELL, 0000
SEAN M CAVANAUGH, 0000
PAUL E CAVE, 0000
DANNY A CECIL, 0000
JAMES M CENEY, 0000
MARK D CERROW, 0000
JACK M * CESSNA, 0000
WALTER S D CHAI, 0000
KENNETH M CHAISSON, 0000
JAMES G CHAMBERS, 0000
ALBERT T. CHAMILLARD, 0000
DAVID B. CHANDLER, 0000
SHELLEY Z. CHANDLER, 0000
STEVEN E. CHANDLER, 0000
*JAMES E. CHAPMAN, 0000
JOSEPH F. CHAPMAN, 0000
GEORGE G. CHAPPEL, JR, 0000
FREDERIC CHARLES, 0000
DENNIS L. CHARTRAW, 0000
BRADY C. CHEEK, 0000
EVANGELINE M. CHEEKS, 0000
JAMES A. CHERREY, 0000
DARREN E. CHILDERS, 0000
MICHAEL R. CHISHOLM, 0000
STANLEY F. CHMURA, JR, 0000
WALTER C. CHRISTIE, JR, 0000
TIMOTHY C. CHUSTZ, 0000
RICHARD A. CIARAMELLA, 0000
EVELYN M. CIRCEO, 0000
LEO D. CISSELL, 0000
CHARLES A. CIUZIO, 0000
GREGORY W. CLARK, 0000
MURRAY R. CLARK, 0000
*PATRICK J. CLARK, 0000
RANDALL J. CLARK, 0000
ROLAND D. CLARK, 0000
JOSEPH L. CLAVIN, 0000
GREGORY S. CLAWSON, 0000
TAMMY K. CLAY, 0000
TIMOTHY R. CLAYTON, 0000
PETER C. CLEMENT, 0000
SCOTT R. CLEVERINGA, 0000
ROBERT V. I. CLEWIS, 0000
JEFFREY C. CLIATT, 0000
*ELIZABETH ANN COATES, 0000
KENNETH E. COBURN, 0000
GEORGE A. COGGINS, 0000
DAVID M. COHEN, 0000
DONALD R. COLBY, 0000
KERRI A. COLE, 0000
ROBERT H. COLE, 0000
EDWARD J. COLEMAN, 0000
ROBERT M. COLEMAN, 0000
MICHAEL L. COLLAT, 0000
STEPHEN J. COLLINS, 0000
*JOSE E. COLON, 0000
JEFFREY R. COLPITTS, 0000
KEVIN E. COLYOTT, 0000
DANNY D. COMEAU, 0000
STEPHEN P. COMEAUX, 0000
MONICA K. CONCHOLAR, 0000
THOMAS J. CONNARE, 0000
JOSEPH P. CONNELL, 0000
DAVID M. CONNER, 0000
KIMERLEE L. CONNER, 0000
LYNN F. CONNETT, 0000
MARK S. CONNOLLY, 0000
EDWARD P. CONROY, 0000
RICHARD H. CONVERSE, 0000
*KATHLEEN A. COOK, 0000
JACK R. COOLEY, 0000
MARY M. COOLEY, 0000
JAMES M. COON, 0000
*TIMOTHY COONS, 0000
CRAIG A. COOPER, 0000
DANE S. COOPER, 0000
GARY L. COOPER, II, 0000
MICHAEL J. COOPER, 0000
HERBERT L. CORK, III, 0000
KAREN M. CORRENTE, 0000
BRIAN M. CORRY, 0000
JANELLE E. COSTA, 0000
ROBERT COSTA, 0000
DANIEL S. COSTELLO, JR, 0000
RICHARD M. COTMAN, 0000
JOHN E. COULAHAN, JR, 0000
RONALD C. COURNOYER, 0000

SHANE P. COURVILLE, 0000
RICHARD A. COVENO, 0000
JEFFREY L. COWAN, 0000
STEVEN A. COWLES, 0000
KAREN L. COX, 0000
KEITH M. COX, 0000
RICHARD K. COX, 0000
KENNETH B. CRAIB, JR, 0000
KEVIN L. CRAIG, 0000
PATRICIA M. CRAIG, 0000
GEORGE S. CRAWFORD, 0000
*MICHAEL W. CRAWFORD, 0000
BRET A. CRENWELGE, 0000
JONATHAN A. CRERIE, 0000
RORY C. CREWS, 0000
ROBERT B. CRONE, 0000
DANIEL J. CROSSLEY, 0000
FRANCIS M. CROTTY, 0000
RICHARD T. CROUCH, 0000
JEFFREY L. CROW, 0000
JAMES W. CROWHURST, 0000
MICHAEL E. CROWLEY, 0000
MICHAEL J. CRUPE, 0000
*DALERICK R. CRUVER, 0000
STEVEN R. CSABAI, 0000
EARL F. CULEK, 0000
CHARLES J. CUNNINGHAM, 0000
BRYAN J. CURRIER, 0000
HARMON H. CURRY, JR., 0000
JAMES J. CURTIS, 0000
*DAVID W. CZZOWITZ, 0000
KIMBERLY E. DAEGER, 0000
DANNY P. DAGHER, 0000
DAVID H. DAHL, 0000
MILES D. DAHLBY, 0000
KEITH A. DAHLGREN, 0000
PETER J. DAHLIN, 0000
KEVIN S. DAILEY, 0000
STEPHEN M. DALE, 0000
JOHN V. DALLIN, 0000
STEVEN D. DAMANDA, 0000
PETER DAMICO, 0000
THOMAS E. DANEK, JR., 0000
GARY R. DANIELSON, 0000
WILLIAM B. DANSKINE, 0000
ELISA L. DANTONIO, 0000
LAUREN E. DARE, 0000
MICHAEL J. DARGENIO, 0000
CHARLES W. DARNELL, JR., 0000
TODD S. DART, 0000
STEPHEN M. DASILVA, 0000
KEITH R. DASTUR, 0000
*BARBARA D. DAUERTY, 0000
*MICHAEL H. DAUSEL, 0000
TAYLOR ANDREW A. DAVIDSON, 0000
MARTINEZ KELLIE L. DAVILA, 0000
BRADFORD C. DAVIS, 0000
DANIEL W. DAVIS, 0000
HOWARD C. DAVIS, 0000
JAMES A. DAVIS, 0000
JAMES E. DAVIS, 0000
KATHY B. DAVIS, 0000
KENNETH R. DAVIS, 0000
MICHEAL D. DAVIS, 0000
REGINALD F. DAVIS, 0000
*RICKY A. DAVIS, 0000
ROBERT D. DAVIS, 0000
ROBERT R. DAVIS, 0000
MICHAEL T. DAVISON, 0000
*DENNIS R. DAVOREN, 0000
MARK A. DAWSON, 0000
ROBERT A. DAWSON, 0000
AMY L. DAYTON, 0000
DANIEL R. DEBREE, 0000
KEVIN G. DECKARD, 0000
DOUGLAS D. DECKER, 0000
SCOTT E. DECKER, 0000
JOHN C. DEEMS, 0000
FREDERICK DEFRANZA, 0000
DIANE S. DEGEER, 0000
MONTGOMERY C. DEIHL, 0000
BRADEN P. DELAUDER, 0000
JOHN C. DELBARGA, 0000
*RICHARD B. DELEON, 0000
MARK D. DELONG, 0000
NICHOLAS J. DEMARCO, 0000
WILLIAM C. DEMASO, 0000
BYRON G. DEMBY, 0000
KENNETH M. DEMKOWICZ, 0000
CHARLES E. DENMARK, 0000
JOSEPH B. DENNIS, 0000
*KENNETH A. DENNISON, 0000
RICHARD M. DENTON, 0000
WAYNE M. DESCHENEAU, 0000
ERNEST J. DESIMONE, 0000
ROBERT A. DESTASIO, 0000
DOUGLAS M. DEUITCH, 0000
MICHELE A. DEWERTH, 0000
DAVID L. DEY, 0000
ANGEL A. DIAZ, 0000
ROLANDO DIAZ, JR., 0000
JOEL C. DICKINSON, 0000
CRAIG ALAN DICUS, 0000
QUENTIN J. DIERKS, 0000
MARK S. DIERLAM, 0000
STEVEN D. DIESSNER, 0000
JAMES E. DILLARD, 0000
NORMAN B. DIMOND, 0000
LEVENCHI L. DINGLE, 0000
DONALD J. DISHONG, 0000
*DAVID C. DISIPIO, 8618
RHEA E. DOBSON, 0000
WAYNE S. DOCKERY, 0000
PETER A. DODGE, SR., 0000
CARRIE M. V. DODSON, 0000
PATRICK J. DOHERTY, 0000
MICHAEL J. DOLAN, 0000
JOSEPH S. DOMBROWSKI, 0000
JAMES M. DONNELLY, 0000
RICHARD E. DONNELLY, 0000
JIMMY D. DONOHUE, 0000
PAMELA S. DONOVAN, 0000
STUART L. DORNFELD, 0000
THOMAS R. DOSTER, 0000
PAUL T. DOUBLE, 0000
ANTONIO T. DOUGLAS, 0000
ROBERT A. DOUGLAS, 0000
JOHN C. DOWD, 0000
CONSTANCE A. DOWLER, 0000
DEBORAH A. DOWNES, 0000
ARTHUR L. DOZIER IV, 0000
JAMES K. DRAKE, 0000
JOHN P. DREHER, 0000
WILLIAM D. DRIES, JR., 0000
DANIEL A. DRISCOLL, 0000
MERVIN C. DRISKELL, 0000
VINCENT A. DRODDY, 0000
JOHN F. DROHAN, 0000
DONALD F. DUBOIS, 0000
WAYNE F. DUBOSE, 0000
FRANCIS A. DUCHARME III, 0000
KENNETH E. DUCK, 0000
JR DONALD P. DUCKETT, 0000
MAHENDER DUDANI, 0000
JOSEPH L. DUDGEON, 0000
JAMES R. DUDLEY, 0000
BRIAN K. DUFFEK, 0000
VALERIE LYNN DUFFY, 0000
STERLING K. DUGGER, 0000
ROBERT T. DUNCAN, 0000
ANDREW G. DUNNAM, 0000
THERESE C. DUNPHY, 0000
DAVID DUQUE, 0000
ERIN B. DURHAM, 0000
PHILLIP T. DUROCHER, 0000
THOMAS G. DUSEK, 0000
STEVEN A. DUTKUS, SR., 0000
DUNCAN A. DVERSDALL, 0000
MICHAEL J. DWYER, 0000
*RICHARD B. EAGIN, 0000
DAVID B. EASLEY, 0000
JAMES DAVID EATON III, 0000
MICHAEL R. EATON, 0000
STANLEY D. EBNER, 0000
JUAN C. ECHEVERRY, 0000
JAMES K. ECK, 0000
BRIAN K. ECKERSON, 0000
STEVEN B. EDINGTON, 0000
JAMES E. EDMONDS, 0000
GLORIA J. EDWARDS, 0000
PHILLIP T. EDWARDS, 0000
MICHAEL E. EFFERSON, 0000
BRAD R. EGGINTON, 0000
ROBERT S. EHLERS, JR., 0000
DAVID G. EHRHARD, 0000
TIMOTHY A. EICHHORN, 0000
MARK H. EICHIN, 0000
JOHN T. EICHNER, 0000
BRAXTON R. EISEL, 0000
LINDA L. EISEL, 0000
GOLDA T. ELDRIDGE, JR., 0000
ERIK H. ELIEL, 0000
GEOFFREY S. ELLAZAR, JR., 0000
RAYMOND A. ELLIOTT, 0000
WILLIAM A. ELLIS, 0000
CARSON A. ELMORE, 0000
KIRK E. EMIG, 0000
*TODD W. ENDERSON, 0000
LEE D. ENEMARK, 0000
*PETER A. ENGELMANN, 0000
SCOTT A. ENOLD, 0000
SCOTT B. ENRIGHT, 0000
MICHAEL A. EOVINE, 0000
JERI A. ERGINKARA, 0000
MARK A. ERICKSON, 0000
SCOTT J. ERICKSON, 0000
BLAINE E. ESCOE, 0000
JERRY ESQUENAZI, 0000
RICHARD E. ESS, 0000
ROBERT P. ESSAD, 0000
*ROBERT E. EUBANKS, 0000
DAVID P. EVANS, 0000
MATTHEW E. EVANS, 0000
TODD R. EVANS, 0000
JOSEPH L. EVERSOLE, 0000
JONATHAN E. FAIR, 0000
ROBERT S. FANEUFF, 0000
JOYCE D. FARAH, 0000
PAUL M. FARKAS, 0000
THOMAS R. FARLEIGH, 0000
RICHARD W. FARNUM, 0000
DAVID L. FARR, 0000
TIMOTHY A. FARRELL, 0000
WILLIAM E. FARRELL, 0000
JEFFREY E. FASON, 0000
ROBERT S. FAULK, JR, 0000
SCOTT A. FAWAZ, 0000
TIMOTHY G. FAY, 0000
THOMAS J. FELDHAUSEN, 0000
RUSSELL D. FELLERS, 0000
JAMES A. FELLOWS, 0000
SCOTT A. FENSTERMAKER, 0000
MICHAEL A. FERRIS, 0000
JOSEPH T. FETSCH, 0000
CHARLES R. FETTERS, 0000
MATTHEW P. FICK, 0000
DIANE C. FICKE, 0000
ROBERT G. FIDDLER, JR, 0000
WILLIAM A. FIEDLER, 0000
VINCENT L. FILIPKOWSKI, 0000
EDWARD M. FINCKE, 0000
CHRISTOPHER E. FINDALL, 0000
MERRILL P. FINK, 0000
*CHARLES E. FIQUETT, 0000
ERIC C. FIRKIN, 0000
BRADLEY J. FISHEL, 0000
JOHN A. FISHER, 0000
TYRON FISHER, 0000
WAYNE A. FISHER, 0000
*WILLIAM D. FISHER, 0000
NATHAN A. FITE, 0000
PHILIP R. FITTANTE, 0000
BRIAN W. FITZGERALD, 0000
FREDRIC S. FITZSIMMONS, 0000
PETER G. FITZSIMMONS, 0000
TIMOTHY C. FLACH, 0000
ROBERT P. FLEISHAUER, 0000
MARGARET N. FLEMING, 0000
KEITH W. FLETCHER, 0000
JOHN D. FLINT, 0000
JAMES A. FLORENCE, 0000
*THOMAS A. FLORING, 0000
JEFFREY J. FLORY, 0000
BERNARD FLOWERS, 0000
MARK T. FLYNN, 0000
GREGORY M. FOLCIK, 0000
MICHAEL J. FOLKERTS, 0000
PAUL E. FOLLETT, 0000
RIVERA JOSE M. FONSECA, 0000
NEAL D. FONTANA, 0000
KEITH K. FORMAN, 0000
ERIC S. FORREST, 0000
CHRISTOPHER E. FORSETH, 0000
ROGER L. FORSYTHE, 0000
JOHN A. FORTE, JR, 0000
JOSEPH C. FORTNEY, 0000
MYRON K. FORTSON, 0000
LAURENT J. FOX, 0000
SCOTT M. FOX, 0000
PAUL R. FRANCIS, 0000
MARK E. FRANCK, 0000
MICHAEL A. FRANCKOWIAK, 0000
MICHAEL R. FRANKEL, 0000
CEPHAS L. FRANKLIN, 0000
BERNADETTE I. FRASER, 0000
DARREN A. FRASER, 0000
ALEXANDER A. FREDERICK, 0000
GERALD A. FREDERICK, JR, 0000
TODD M. FREECE, 0000
RAY A. FREEDLINE, 0000
PHILIP B. FREELS, 0000
THOMAS H. FREEMAN, 0000
JONATHAN FRENCH, 0000
CHRIS T. FROEHLICH, 0000
JAMES A. FROM, 0000
FRANCIS X. FRONCEK, 0000
*JEFFREY L. FRYE, 0000
BRYAN A. KEA FUJIMOTO, 0000
LISA J. FULCHER, 0000
WALTER J. FULDA, 0000
HOLLY M. FUNK, 0000
STACY A.K. FURCINI, 0000
*KENNETH A. FURMAN, 0000
DOUGLAS A. FURST, 0000
ARNOLD FUST, 0000
SARAH R. FUTTERMAN, 0000
GREGORY S. GADDIS, 0000
ELLEN A. GALLAGHER, 0000
JOHN D. GALLOWAY, 0000
ROY D. GARCIA, 0000
ROD R. GARD, 0000
*PAUL R. GARDETTO, 0000
THEODORE E. GARDINER, 0000
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PETER M. GARDZINA, 0000
STEVEN D. GARLAND, 0000
CHRISTOPHER A. GARRETT, 0000
DAVID S. GARRETT, 0000
JAMES A. GARRETT, 0000
MICHAEL T. GARRICK, 0000
STEPHEN A. GARSTKA, 0000
STEPHANIE A. GASS, 0000
JAMES P. GATES, 0000
KENNETH E. GATES, 0000
WILLIAM B. GAUTIER, 0000
DAVID A. GEESEY, 0000
PAUL A. GEHRED, 0000
ANDREW J. GENCO, 0000
ADAM C. GEORGE, 0000
CEDRIC D. GEORGE, 0000
DAVID L. GEORGE, 0000
LAURA J. GEORGE, 0000
BASIL D. GEORGIADIS, 0000
SCOTT C. GERICKE, 0000
DANIEL W. GERNERT, 0000
PETER E. GERSTEN, 0000
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BERNARD L. GIEGLER, 0000
JEFFREY C. GILLEN, 0000
FRANK M. GILLESPIE, JR., 0000
SHEILA M. GILLIARD, 0000
COLLEEN A. GILMOUR, 0000
ROBERT J. GINGELL II, 0000
GREGG A. GIRTIN, 0000
JANET A. GIRTON, 0000
MARVIN J. GLASS, JR., 0000
DENNIS R. GLEASON, 0000
PAUL D. GLOYD, 0000
*MICHAEL R. GLUECK, 0000
FRANK J. GODSHALL, 0000
JAMES R. GOFF, 0000
JERRY C. GOFF, 0000
ANDREW L. GOGAN, 0000
JAMES P. GOLDEN, 0000
MACE CLARK GOLDEN, 0000
GARY P. GOLDSTONE, 0000
TERRY L. GOODRICH, 0000

DANIEL B. GORDON, 0000
ELAN M. GORDON, 0000
JAMES A. GORDON, 0000
MITCHELL R. GORDON, 0000
JOHN C. GORLA, JR., 0000
GREGORY S. GORSKI, 0000
TODD W. GOSSETT, 0000
GARY J. GOTTSCHALL, 0000
DAVID C. GOULD II, 0000
KEITH A. GRAHAM, 0000
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DEBRA J. GRAVELLE, 0000
TIMOTHY G. GRAVELLE, 0000
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PHILIP T. GRECO, 0000
FORREST G. GREEN, 0000
RODNEY F. GREEN, 0000
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JAMES W. GRISWOLD, 0000
MARY E. GRISWOLD, 0000
STEVEN M. GRISWOLD, 0000
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KAREN L. GROTH, 0000
RONALD L. GROVE, 0000
FUSUN S. K. GRUMBACH, 0000
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LARRY D. GUDGEL, 0000
PAUL H. GUEMMER, 0000
LAWRENCE R. GUICHARD, 0000
PHILIP W. GUILL, 0000
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AARON K. HAGAN, 0000
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THOMAS W. HALE, 0000
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LORING C. HARKEY, 0000
DOUGLAS H. HARLER, 0000
TIMOTHY W. HARMS, 0000
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MARK P. L. HARPER, 0000
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CARY A. HERRERA, 0000
MARGARET A. HERRING, 0000
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CLARK D. HINGA, 0000
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LEE C. HINRICHSEN, 0000
FRANKLIN J. HINSON, JR., 0000
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SUSAN L. HUFFAKER, 0000
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ROBERT P. HUNT, JR., 0000
TERRY E. HUNTER, 0000
RONALD L. HUNTLEY, 0000
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ROBERT D. HYDE, 0000
EDWARD L. ICENHOUR, 0000
HIROSHI N. IKEDA, 0000
MICHAEL T. IMBUS, 0000
KENNETH J. IMPERIAL, SR., 0000
GARY K. INGHAM, 0000
ALLEN B. INGLE, 0000
ALAN J. IOSSI, 0000
*PARLEY V. IPSON, 0000
JON C. IVERSON, 0000
HERBERT E. JACKSON, JR., 0000
JACQUELINE R. JACKSON, 0000
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TRACY E. JACKSON, 0000
YOLANDA JACKSON, 0000
DOUGLAS J. JAMES, 0000
SCOTT E. JAMES, 0000
MARC S. JAMISON, 0000
STEVEN J. JANECZKO, 0000
STEPHEN I.R. JANKELSON, 0000
SHAWN J. JANSEN, 0000
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DEREK A. JEFFRIES, 0000
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JIM E. JENNINGS, 0000
DAVID L. JENSEN, 0000
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TATE A. JOHNSON, 0000
*TODD S. JOHNSTON, 0000
ALAIN L.M. JONES, 0000
GREGORY C. JONES, 0000
ISAAC O. JONES, JR., 0000
JAMES R. JONES, JR., 0000
TONISH E. JONES, 0000
TRACY A. JONES, 0000
JACQUELINE R. JONESAMOS, 0000
ERIC A. JORDAN, 0000
DONALD S. JORGENSEN, 0000
ERIC A. JORGENSEN, 0000
RICHARD J. JORGENSEN, 0000
KEVIN D. JOST, 0000
WILLIAM E. JOY, 0000
MICHAEL S. JOYAL, 0000
JULIE E. JOYCE, 0000
DAVID L. JUDSON, JR., 0000
EMIL B. KABBAN, 0000
STEVEN T. KAEGI, 0000
EDWIN W. KALER III, 0000
CHRISTOPHER M. KALIVODA, 0000
JEFFREY K. KAMASAKI, 0000
PHYLLIS L. KAMPMEYER, 0000
DAVID H. KANESHIRO, 0000
SAMUEL S. KANG, 0000
ROSS A. KANTRA, 0000
RUSTAM KARMALI, 0000
JOSEPH C. KATUZIENSKI, 0000
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CHRISTOPHER J. KAUFMAN, 0000
PAMELA J. KAUFMAN, 0000
THOMAS J. KAUTH, 0000
SEAN E. KAVANAGH, 0000
CHARLES B. KEARNEY III, 0000
JOSEPH C. KEELON, 0000
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*KIRK L. KEHRLEY, 0000
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ANTOINETTE T. KEMPER, 0000
MICHAEL R. KENEMUTH, 0000
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SEAN L. KENNEDY, 0000
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JEFFREY D. KERSTEN, 0000
DOUGLAS J. KIESER, 0000
JOHN F. JOS. KIESLER, 0000
RICHARD E. KILLMEYER, 0000
WILLIAM J. KILROY, 0000
JOHN A. KIMBALL III, 0000
HANS M. KIMM, 0000
SCOTT A. KINDSVATER, 0000
JACK E. KING, JR., 0000
JAMES R. KING, JR., 0000

LEMUEL L. KING, 0000
SCOTT D. KING, 0000
MARK J. KINNEY, 0000
NEDIM KIRIMCA, 0000
DONALD E. KIRKLAND, 0000
BRIAN W. KIRKWOOD, 0000
ROBERT S. KITOWSKI, 0000
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JENNIFER M. KLEINSCHMIDT, 0000
THOMAS R. KLETT, 0000
ANDREA J. KLINE, 0000
MARK R. KLING, 0000
FREDERICK M. KMIECIK, 0000
MATTHEW A. KMON, 0000
KEVIN J. KNECHT, 0000
ANTONE A. KNETTER, 0000
TAMMY M. KNIERIM, 0000
JACK T. KNIGHT, JR., 0000
MALLORY P. KNIGHT, 0000
JEFFRY D. KNIPPEL, 0000
JOEL E. KNISELY, 0000
RICHARD L. KNOTT, 0000
MICHAEL R. KOBOLD, 0000
TAMI L. KOBOLD, 0000
JEFFREY A. KOCH, 0000
STEVEN M. KOKORA, 0000
ALAN L. KOLLIEN, 0000
DANIEL P. KOLOTA, 0000
ALLEN J. KONKEL, 0000
ANNE M. KONNATH, 0000
MONICA KOPF, 0000
MICHAEL W. KOPFER, 0000
KEVIN H. KOPPENHAVER, 0000
MUSTAFA R. KOPRUCU, 0000
JAMES M. KORMANIK, 0000
HOWARD N. KOSHT, 0000
DANIEL A. KOSIN, 0000
JOHN F. KOSMAN, 0000
RICHARD D. KOSOBUCKI, 0000
JAMES F. KOTT, 0000
EDWARD H. KRAFFT, 0000
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DAVID L. KRAL, 0000
WILLIAM J. KRALIK, 0000
TODD J. KRAMBEER, 0000
EDWARD R. KRAMER, 0000
RUSSELL E. KRAMER, 0000
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PAUL M. KUCHAREK, 0000
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LYNDEN C. KUNZ, 0000
FRANK J. KUSKA, 0000
EDGAR J. LABENNE, 0000
ROBERT D. LABRUTTA, 0000
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DEO A. LACHMAN, 0000
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MARK D. LAFOND, 0000
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JONATHAN G. LAMAR, 0000
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ANDREW J. LANDOCH, 0000
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RICHARD E. LEATHERMAN, 0000
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MARK D. LILLY, 0000
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JEFFREY S. LINN, 0000
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JACK R. LOCKHART, 0000
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STUART A. LUM, 0000
*TRACY B. LUNT, 0000
TERRENCE E. LUTHER, 0000
THOMAS J. LYGA, 0000
*EDWARD R. LYLE, 0000
MANBOI P. MA, 0000
MICHAEL P. MAAG, 0000
ROBERT P. MAC DONALD, 0000
MATTHEW M.D. MACE, 0000
JEFFREY MAC EACHRON, 0000
JAMES L. MAC FARLANE, 0000
RUSSELL L. MACK, 0000
DAVID R. MAC KENZIE, 0000
MARK J. MAC LEAN, 0000
MARY E. MAC LEOD, 0000
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ERIC P. MAGEE, 0000
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ANGEL M. MALDONADO, 0000
VICTOR L. MALLOY, 0000
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CHAD T. MANSKE, 0000
PETER J. MANTHEY, 0000
GENE D. MAPLES, JR., 0000
*STEVEN F. MARBLE, 0000
GEORGE W. MARCHESSEAULT, 0000
FRED H. MARHEINE, JR., 0000
THOMAS A. MARKLAND, 0000
JOHN M. MARKLE, 0000
PETER A. MARKLE, 0000
BRENT P. MARKOWSKI, 0000
JOHN P. MARKS, 0000
THOMAS ANTHONY MAROCCHINI, 0000
ROBERT A. MARRAZZO, 0000
ALLEN M. MARSHALL, JR., 0000
DAVID I. MARSHALL, 0000
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DAVID W. MARTTALA, 0000
MARK S. MARYAK, 0000
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SCOTT M. MASER, 0000
RODNEY M. MASON, 0000
GRIFFITH S. MASSEY, 0000
LIA MASTRONARDI, 0000
BYRON P. MATHEWSON, 0000
TIMOTHY J. MATSON, 0000
MARK J. MATSUSHIMA, 0000
VAN E. MATTHEWS, 0000
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*STEVEN P. MAUS, 0000
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PAUL J. MC ANENY, 0000
BRETT W. MC CANN, 0000
GREGORY S. MC CARTHY, 0000
PAUL MC CARTHY, 0000
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JEFFREY C. MC CONIE, 0000
*RICHARD I. MC COOL, 0000
MEGAN MC CORMICK, 0000
*RANDALL E. MC CORMICK, 0000
WILLIAM B. MC CORMICK, 0000
DOUGLAS P. MC COSH, 0000
TODD G. MC CREADY, 0000
JANI L. MC CREARY, 0000
ROBERT A. MC CRORY, JR., 0000
ERICK D. MC CROSKEY, 0000
TODD J. MC CUBBIN, 0000
MARK C. MC CULLOHS, 0000
BRIAN F. MC DERMOTT, 0000
*CHRISTOPHER C. MC DONALD, 0000
DANIEL J. MC DONALD, 0000
RICHARD L. MC DONALD, JR., 0000
ROBERT D. MC DONALD, 0000
JOHN P. MC DONNELL, 0000
JOSEPH P. MC DONNELL, 0000
PAUL J. MC DOWELL, 0000
KEVIN J. MC ELROY, 0000
DAVID V. MC ELVEEN, 0000
JAMES A. MC GANN, 0000
JENNIFER A. MC GARVA, 0000
MICHAEL P. MC GEE, 0000
JAMES R. MC GINN, 0000
MILES L. MC GINNIS, 0000
JAMES J. MC GOVERN, 0000
THOMAS R. MC GRAW, 0000
MICHAEL T. MC GUIRE, 0000
WILLIAM P. MC HUGH, 0000
ROBERT E. MC KEAND, 0000
SCOTT J. MC KENZIE, 0000
SHARON R. MC KENZIE, 0000
SCOTT E. MC KINNEY, 0000
MARTIN G. MC KINNON, 0000
MICHAEL T. MC LAUGHLIN, 0000
MARK A. MC LEAN, 0000
PATRICK K. MC LEOD, 0000
CATHERINE G. MC LOUD, 0000
NAOMI P. MC MILLAN, 0000
STEVEN D. MC NEELY, 0000
WILLIAM A. MC NEILL, 0000
ROSS T. MC NUTT, 0000
SHAWN K. MECHAM, 0000
TRACEY M. MECK, 0000
THOMAS C. MEDARA, 0000
RONALD S. MEDLEY, 0000
MICHAEL J. MEE, 0000
RACHEL M. MEEK, 0000
DONALD S. MEEKER, 0000
RONALD L. MELE, 0000
PABLO F. MELENDEZ, 0000
WILLIAM W. MELLING, 0000
EDWARD C. MELTON III, 0000
JAMES A. MELVIN, 0000
ROBERT C. MENARD, 0000
ROBERT K. MENDENHALL, 0000
TERRY L. MENELEY, 0000
WILLIAM E. MENGERS, 0000
BARBARA J. MERCER, 0000
KENNETH G. MERKEL II, 0000
LAURENCE D. MERKLE, 0000
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JOHN E. MESKEL, 0000
MICHAEL S. METRUCK, 0000
JEFFREY D. METZ, 0000
TAL W. METZGAR, 0000
ALAN R. METZLER, 0000
DAVID J. MEYER, 0000
MARK A. MEYER, 0000
RUSSELL W. MEYER, 0000
JEFFREY W. MEYERS, 0000
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RAYMONE G. MIJARES, 0000
GALEN W. MILLARD, 0000
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HUNTER H. MILLS, 0000
PATRICK G. MINTO, 0000
VINCENT J. MIRABITO, 0000
BRIAN K. MISIAK, 0000
SARAH L. MISIAK, 0000
MICHAEL MISTRETTA, JR., 0000
DONNA A. MITCHELL, 0000
MICHELE RM. MITCHELL, 0000
THOMAS L. MITCHELL, JR., 0000
*LEONARD A. MITCHNER, 0000
CRAIG S. MITTELSTADT, 0000
*ADAM M. MLOT, 0000
NORMAN R. MODLIN, 0000
PHILLIP M. MOESSNER, 0000
*PHILIP T. MOHACSI, 0000
STEPHEN P. MOLLICK, 0000
ROBERT M. MONARCH, 0000
RAFFAELE A. MONETTI, 0000
ANTHONY D. MONINSKI, 0000
KIRK A. MONTGOMERY, 0000
NOEL D. MONTGOMERY, 0000
RICHARD A. MOON, 0000
CAROLYN A. MOORE, 0000
CHARLES L. MOORE, JR., 0000
ELLEN M. MOORE, 0000
KENNETH R. MOORE, 0000
MICHAEL S. MOORE, 0000
STUART S. MOORE, 0000
HIRAM A. MORALES, JR., 0000
HUMBERTO E. MORALES, 0000

MICHAEL JOHN MORAN, 0000
PATRICK X. MORDENTE, 0000
ERIC MORGAN, 0000
STEVEN E. MORLEY, 0000
CHRISTINA M. MORRIS, 0000
MANSON O. MORRIS, 0000
MARK R. MORRIS, 0000
MICHAEL J. MORRIS, 0000
SHAUN Q. MORRIS, 0000
GREGORY J. MORRISON, 0000
MATTHEW H. MORROW, 0000
PATRICK L. MORROW, 0000
CHARLES C. MORSE, 0000
ROBERT M. MORSE, 0000
*SAMUEL P. MORTHLAND, 0000
LISA C. MOSHIER, 0000
EUGENE B. MOTY, JR., 0000
SEAN MOULTON, 0000
RICHARD S. MOUNTAIN, 0000
ANDRE J. MOUTON, 0000
THOMAS S. MOWLE, 0000
PAMELA A. MOXLEY, 0000
MARY E. MOYNIHAN, 0000
WALTER C. MOYNIHAN, 0000
STEVEN A. MOZEL, 0000
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AMANDA K. MULLINS, 0000
JAMES A. MULLINS, 0000
KEVIN W. MUNDORFF, 0000
ANTHONY J. MURCH, 0000
KENNETH R. MURPHY, 0000
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SCOTT L. MUSSER, 0000
CHARLES H. MYERS, 0000
GREGORY A. MYERS, 0000
LYNDA D. MYERS, 0000
ROBERT M. MYERS, JR., 0000
RUSSELL S. MYERS, 0000
DAVID W. MYHRE, JR., 0000
WILLIAM A. NACE, 0000
MICHAEL F. NAHORNIAK, 0000
TIMOTHY P. NALEWAIK, 0000
DOUGLAS R. NARMOUR, 0000
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STEVEN R. NIELSEN, 0000
LUCIAN L. NIEMEYER II, 0000
WILLIAM H. NOBLE, 0000
SALMAN M. NODJOMIAN, 0000
CRAIG W. NORDLIE, 0000
PAMELA J. NORKAITIS, 0000
DIAN L. NORRIS, 0000
ROGER K. NORRIS, 0000
PARKER W. NORTHRUP III, 0000
MICHAEL J. NOVOTNY, 0000
MICHAEL A. NOWACZYK, 0000
RONALD T. NOWALK, 0000
MICHAEL J. NUTTER, 0000
BARTON C. OAKS, 0000
MARY F. O'BRIEN, 0000
BRUCE E. O'CAIN, 0000
DANIEL J. O'CONNOR, 0000
STEPHEN D. O'CONNOR, 0000
JOHN S. OECHSLE, 0000
PETER R. OERTEL, 0000
MICHAEL W. OLDENKAMP, 0000
DANIEL R. O'LEARY, 0000
JEFFREY G. OLESEN, 0000
STEPHEN W. OLIVER, JR., 0000
TODD R. OLIVER, 0000
STEVEN A. OLMOS, 0000
DELBERT ROMAN OLMSCHEID, 0000
KENNETH M. OLSEN, 0000
RICHARD C. OLSON, 0000
RAYMOND P. O'MARA, 0000
BARBARA M. OMSTEAD, 0000
JIMMIE L. O'NEAL, JR., 0000
MARK S. OORDT, 0000
DAVID OPPEDISANO, 0000
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ALAN P. OSTENBERG, 0000
STEPHAN K. OTTO, 0000
BRIAN A. OUELLETTE, 0000
ALISON L. OVERBAY, 0000
BRETT L. OWENS, 0000
WILLIAM B. OWENS, JR., 0000
VINCENT A. PACELLA, JR., 0000
LAYNE B. PACKER, 0000
LYNN D. PAGE, 0000
JOHN M. PALMER, JR., 0000
ELIZABETH A. PANGRAC, 0000
KEITH J. PANNABECKER, 0000
TROY W. PANNEBECKER, 0000
DANIEL J. PARENT, 0000
ANN MARIE PARKER, 0000
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DALE P. PARTRIDGE, 0000
JOHN C. PASCHALL, 0000
PHILLIP G. PATE, 0000
RONALD J. PATRICK, 0000
JOHN T. PATRICOLA, 0000
MARK ALLAN PATTERSON, 0000
DOUGLAS J. PATTON, 0000
SAMUEL PAYAN, 0000
ERIC J. PAYNE, 0000
VALERIE S. PAYNE, 0000
RICHARD E. PEARCY, 0000
FRANK C. PEARSON II, 0000
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CHRISTOPHER J. PEHRSON, 0000
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RONALD L. PERRILLOUX, 0000
MONTY R. PERRY, 0000
PATRICK J. PETERS, 0000
MICHAEL E. PETERSON, 0000
ERIC L. PETSCH, 0000
DEAN E. PFAB, 0000
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CHARLENE A. PIERSONLASSITER, 0000
RICHARD A. PINGREY, 0000
CHRISTOPHER D. PIRKL, 0000
MICHAEL S. PITTS, 0000
DANIEL J. PIXLEY, 0000
CHRISTOPHER E. PLAMP, 0000
MATTHEW L. PLASS, 0000
FRANZ M. PLESCHA, 0000
SCOTT L. PLEUS, 0000
JOHN EDWARD POAST III, 0000
DANIEL J. POLAHAR, JR., 0000
BRENT G. POLGLASE, 0000
SUSAN L. POLLMAN, 0000
ADRIAN C. PONE, 0000
ALEJANDRO R. PONTAOE, JR., 0000
DAVID L. POOLE, JR., 0000
LAURA R. POPE, 0000
RONALD E. PORTE, 0000
TODD J. POSPISIL, 0000
*KENNETH S. POST, 0000
CARLOS POVEDA, 0000
DANA POWELL, 0000
GLENN E. POWELL, JR., 0000
MARK W. POWER, 0000
SCOTT A. POWERS, 0000
JOHN C. PRATER, 0000
PHILLIP R.J. PRATZNER, 0000
JOHN B. PRECHTEL, 0000
LANCE S. PRESS, 0000
TIMOTHY P. PRESS, 0000
DAVID L. PRESTON, 0000
ARTHUR C. PRICE, 0000
JEFFREY K. PRICE, 0000
JODY A. PRICE, 0000
LARRY G. PRICE, 0000
ROBERT J. PROVOST, 0000
HELEN PRUITT, 0000
JEFFREY N. PRUITT, 0000
SHARON K. PRUITT, 0000
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JAMES A. PRYOR, 0000
JEANNA L. PRYOR, 0000
CLIFFORD T. PUCKETT, 0000
*MICHAEL W. PUFFENBARGER, 0000
MARY M. PULLIAM, 0000
HOWARD P. PURCELL, 0000
ALDON E. PURDHAM, JR., 0000
JOHN R. QUATTRONE, 0000
STEVEN P. QUIGLEY, 0000
MARY L. QUINT, 0000
ROGER ARLANTICO QUINTO, 0000
RAYMOND S. SM RABANO, 0000
NICK P. RADOVCICH, 0000
DAVID J. RAGGIO, 0000
*GEORGE R. RAIHALA, 0000
KIMBERLEY A. RAMOS, 0000
STEVEN A. RANALLI, 0000
PAMELA J. RANDALL, 0000
WESLEY S. RANDALL, 0000
*DEAN J. RASDALL, 0000
THOMAS F. RATHBUN, 0000
GLENN R. RATTELL, 0000
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JAMES A. RAULERSON, 0000
RONALD M. RAWLINGS, 0000
*DAVID G. RAY, 0000
STEPHEN A. RAY, 0000
RICHARD M. REDDECLIFF, 0000
DON L. REDFORD, 0000
STEPHEN D. REDMOND, 0000
MICHAEL D. REED, 0000
RICHARD N. REED, 0000
TIMOTHY S. REED, 0000
DONALD REESE, 0000
MARC E. REESE, 0000
WILLIAM A. REESE, 0000
MARTIN D. REGISTER, 0000
DANIEL S. REIFSCHNEIDER, 0000
ROBERT W. REIMAN, 0000
PAUL E. REIMERS, 0000
CHRISTOPHER E. RENNER, 0000
ROBERT A. RENNER, 0000
ROBERT P. REPASS, 0000
ELONZO D. REYES, 0000
DALE D. REYNOLDS, JR., 0000
NELSON J. REYNOLDS, 0000
MARK A. RHONEMUS, 0000
ROBERT L. RHYNE, 0000
LANCE G. RIBORDY, 0000
ARTHUR E. RICE, 0000
CARLOS F. RICE, 0000
LAURENCE H. RICE, JR., 0000
TIMOTHY S. RICE, 0000
JOHN C. RICHARD, 0000
LONDON S. RICHARD, 0000
ROBERT S. RICHARDS, 0000
*ALTON R. RICHARDSON, 0000
DUKE Z. RICHARDSON, 0000
LISA D. RICHTER, 0000
VICTOR L. RICK, 0000
TIMOTHY L. RILEY, 0000
ANTHONY P. RING, 0000
WAYNE M. RINGELBERG, 0000
LLOYD E. RINGGOLD, JR., 0000
RICHARD J. RINI, 0000
TIMOTHY M. RIORDAN, 0000
PAUL M. RITCHIE, 0000
CYNTHIA M. RIVERAPRESTGARD, 0000
JOHN D. ROACH, 0000
KEVIN J. ROBBINS, 0000
MICHAEL G. ROBBINS, 0000
DAVID W. ROBERTS, 0000
*GERALD V. ROBERTS, 0000
GLENN E. ROBERTS, 0000
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LESTER N. ROBERTS, 0000
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RANDY K. ROBERTSON, 0000
AARON N. ROBINSON, 0000
BRIAN S. ROBINSON, 0000
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CHRISTOPHER S. ROBINSON, 0000
JAMES H. ROCKHILL, 0000
TIMOTHY J. ROCKWELL, 0000
VENANCIO RODARTE, JR., 0000
RONALD K. ROESEBERG, 0000
RAYMOND E. ROESSLER, 0000
GEORGE M. ROGERS, 0000
HAROLD E. ROGERS, JR., 0000
JOSEPH S. ROGERS, 0000
KENNETH H. ROGERS, 0000
MARK D. ROGERS, 0000
PAUL J. ROGERSON, 0000
PETER C. ROLLER, 0000
WILLIAM H. RONES, JR., 0000
KRIS G. RONGONE, 0000
JENNIFER L. ROOKE, 0000
DARLENE M. ROQUEMORE, 0000
LUIS E. ROSABERRIOS, 0000
ORLANDO ROSADO, 0000
STEVEN V. ROSE, 0000
DEAN E. ROSENQUIST, 0000
DAVID A. ROSS, 0000
DONALD W. ROSS, 0000
WILLIAM G. ROSS, 0000
KURT S. ROSSELIT, 0000
JOSEPH W. ROTH, 0000
ROBERT W. ROTH, 0000
JAMES A. ROTHENFLUE, 0000
STEPHEN D. ROTTA, 0000
WILLIAM G. ROUTT, 0000
RANDALL S. ROWE, 0000
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WILLIAM H. RUDD III, 0000
DON A. RUFFIN, 0000
STEVEN A. RUGG, 0000
JEFFREY N. RUMRILL, 0000
BRADFORD L. RUPERT, 0000
MARK A. RUSE, 0000
BARBARA J. RUSNAK, 0000
MICHAEL J. RUSSEL, 0000
DAVID L. RUSSELL II, 0000
GRANT G. RUTLIN, 0000
JOHN D. RYAN, 0000
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PER I. SAELID, 0000
KATHLEEN C. SAKURA, 0000
ARLENE L. SALMON, 0000
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MICHAEL J. SALYARDS, 0000
JOHN R. SAMMARTINO, 0000
JOE M. SANCHEZ, 0000
WILLIAM G. SANDERS, 0000
DERREK D. SANKS, 0000
JOHN A. SANTANIELLO, 0000

DEXTER M. SAPINOSO, 0000
DIANE W. SARTORI, 0000
CATHERINE J. SAUCHUK, 0000
SCOTT H. SAUL, 0000
ROBERT K. SAUNDERS, 0000
SCOTT A. SAVOIE, 0000
BARBARA L. SAWYER, 0000
THOMAS R. SAXON, 0000
FRANK W. SCHADDELEE, 0000
THOMAS P. SCHADEGG, 0000
GREGORY SCHAELLING, 0000
GEORGE P. SCHAUB, 0000
DONALD M. SCHAUBER, JR., 0000
CAMERON J. SCHEEL, 0000
GEORGE E. SCHERZER, JR., 0000
STEPHEN B. J. SCHIFANI, 0000
JON SCHILDER, 0000
ANDREW J. SCHLACHTER, 0000
SCOTT H. SCHLIEPER, 0000
DANIEL M. SCHMIDT, 0000
JOHN J. SCHMITT, JR., 0000
LAWRENCE J. SCHMITT, 0000
JAMES C. SCHNEIDER, 0000
KIRK A. SCHNEIDER, 0000
JEFFREY R. SCHOLLMEYER, 0000
RICHARD L. SCHOONMAKER, 0000
DAVID M. SCHROEDER, 0000
PHIL J. SCHROEDER, 0000
RICK E. SCHROEDER, 0000
JOEL J. SCHUBBE, 0000
PAUL F. SCHULTZ, 0000
WILLIAM F. SCHUPP, JR., 0000
JAMES B. SCHUSTER, 0000
GREGORY J. SCHWARTZ, 0000
MARK F. SCHWARZ, 0000
DAVID A. SCHWARZE, 0000
CHRIS H. SCHWEINSBERG, 0000
SHANE P. SCOGGINS, 0000
BRYON L. SCOTT, 0000
JEFFERY C. SCOTT, 0000
SHELIA P. SCOTT, 0000
BRETT H. SCUDDER, 0000
KURT A. SEARFOSS, 0000
SCOTT D. SEAVERS, 0000
KENNETH D. SEBEK, 0000
BARRE R. SEGUIN, 0000
JAMES P. SELADIS, 0000
KERRY W. SELF, 0000
DAVID K. SELLARS III, 0000
SCOTT E. SENTER, 0000
KENNETH C. SERSUN, 0000
SHAWN P. SHANLEY, 0000
SCOTT D. SHAPIRO, 0000
JOHN S. SHAPLAND, 0000
GRANT M. SHARP, 0000
MARC S. SHAVER, 0000
ANTHONY C. SHAW, 0000
WAYNE K. SHAW, 0000
WAYNE L. SHAW III, 0000
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WILLIAM K. SHEDD, 0000
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JEFFREY A. SHEPPARD, 0000
DANIEL J. SHERIDAN, 0000
BRADLEY D. SHERLOCK, 0000
CYNTHIA A. SHEWELL, 0000
LEE D. SHIBLEY, 0000
JOHN R. SHIELDS, 0000
DAVID K. SHINTAKU, 0000
DAVID H. SHIPLEY, 0000
ARNETHA R. SHIPMAN, 0000
DAVID R. SHONK, JR., 0000
HOWARD A SHRUM III, 0000
PAUL D. SIEBELS, 0000
ERIC SILKOWSKI, 0000
ALBERT A. SILVANI, 0000
FRANK W. SIMCOX IV, 0000
SCOTT P. SIMCOX, 0000
KEVIN HUGH SIMMONS, 0000
*SAMUEL A. SIMPLICIANO, 0000
NIGEL J. SIMPSON, 0000
WILSON T. SIMS, JR., 0000
PAUL L. J. SINOPOLI, 0000
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ROBERT D. SKELTON, 0000
LYNDEN P. SKINNER, 0000
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MICHAEL B. SLACK, 0000
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RICHARD E. SLOOP, JR., 0000
STEVEN E. SMILEY, 0000
ANDREW J. SMITH, 0000
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JEFFREY D. SMITH, 0000
*JEFFREY J. SMITH, 0651
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THOMAS L. SMITH, 0000
WESLEY E. SMITH, 0000
DAVID A. SMITHHART, 0000
TAMI A. SMOLIK, 0000
AARON D. SMOLLER, 0000
DAVID M. SNOW, 0000
CARL R. SNYDER, 0000
DONALD A. SNYDER, 0000
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MARTIN SOLIS, 0000
MIGUEL A. SOLIS, 0000
PATRICE A. SOLORZANO, 0000
INEZ A. SOOKMA, 0000
JAY C. SORENSEN, 0000
CRAIG A. SOUZA, 0000
CHRISTOPHER F. SPAGNUOLO, 0000
DONALD R. SPAIN, 0000
KAY L. SPANNUTH, 0000
KEVIN L. SPARKS, 0000
RANDALL A. SPEAR, JR., 0000
JENNIFER LYNN SPEARS, 0000
*COY R. SPEER, 0000
LAWRENCE P. SPEER, 0000
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JOSEPH M. SPIESS, 0000
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DAVID G. STAMOS, 0000
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VALISE A. STANTON, 0000
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WAYNE W. STARK, 0000
DON C. STARKWEATHER, 0000
JAMES M. STARLING, 0000
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PETER D. STAVROS, 0000
GERALD C. STCYR, 0000
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DENIS F. STEELE, 0000
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BRUCE C. STINAR, 0000
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RONALD K. STORY, 0000
FERDINAND B. STOSS, 0000
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MICHAEL K. STOWERS, 0000
WALTER W. STRADER, JR., 0000
JESSE L. STRICKLAND, III, 0000
LEWIS H. STROUGH, 0000
RONALD R. STUMBO, 0000
BOBBY F. SUELL, 0000
MICHAEL SULEK, 0000
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RUSSELL E. SULLIVAN, 0000
SEAN M. SULLIVAN, 0000
STEPHEN T. SULLIVAN, 0000
JOHNNY D. SUMMERS, 0000
THOMAS A. SUMMERS, 0000
DAVID G. SVEDEN, JR., 0000
AARON R. SWAIN, 0000
CARLTON L. SWANEY, 0000
BRADLEY A. SWANSON, 0000
BRANDON E. SWEAT, 0000
MARK J. SWEENEY, 0000
GERALD A. SWIFT, 0000
*JEFFREY S. SWINEY, 0000
ALAN J. SWYGERT, 0000
MICHAEL T. SYMOCK, 0000
JOHN A. TALARICO, 0000
MICHAEL J. TAMBOS, 0000
WILLIAM M. TART, 0000
RICHARD W. TATEM, 0000
RICHARD D. TAVENNER, 0000
ANDREW M. TAYLOR, 0000
DARRYL S. TAYLOR, 0000
JAMES M. TAYLOR, 0000
JOHN W. TAYLOR, JR., 0000
MARK J. TAYLOR, 0000
PATRICK W. TAYLOR, 0000
ROBERT L. TAYLOR, JR., 0000
RODERICK K. TAYLOR, 0000
RODNEY L. TAYLOR, 0000
CHESTER M. TEEL, 0000
BRETT P. TELFORD, 0000
SCOTT J. TEW, 0000
KENNETH R. THERIOT, 0000
*JAMES M. THOMAS, 0000
JON T. THOMAS, 0000
SAM E. THOMAS, 0000
SHARON C. THOMAS, 0000
TRAIRONG P. THOMAS, 0000
WALTER D. THOMAS, 0000
BILLY D. THOMPSON, 0000
CHRISTOPHER E. THOMPSON, 0000
DEBORAH E. THOMPSON, 0000
HENRY C. THOMPSON, 0000
JEFFREY A. THOMPSON, 0000
ROBERT A. THOMPSON, 0000
ROBERT E. THOMPSON, 0000
STEPHEN R. THOMPSON, 0000
ROBERT C. THOMSON, 0000
ANGELA V. THRASHER, 0000
MICHAEL D. THURBER, 0000
GREGORY S. THURGOOD, 0000
ANDREW J. THURLING, 0000
LISA M. TICE, 0000
MICHAEL A. TICHENOR, 0000
KATHLEEN V. TIGHESMITH, 0000
MICHAEL J. TILLEMA, 0000
ROBERT C. TILLEY, 0000
*JOHN L. TILLMAN, 0000
*WILLIAM R. TIMMONS, 0000
FREDERICK C. TINDAL, 0000
BRIAN J. TINGSTAD, 0000
MICHAEL D. TISDEL, 0000
JAMES M. TITTINGER, 0000
RICHARD G. TOBASCO, 0000
JULIAN H. TOLBERT, 0000
JOHN S. TOMJACK, 0000
JEFFREY S. TOMLINSON, 0000
CHARLES F. TOPLIKAR, 0000
GARY A. TOPPERT, 0000
EDWARD M. TOPPS, 0000
*DAVID K. TORRACA, 0000
*TIMOTHY M. TORRES, 0000
ANDREW J. TOTH, 0000
JOHN H. TOUCHTON III, 0000
TIMOTHY P. TOWNES, 0000
NHAT D. TRAN, 0000
JAMES D. TRAVERSE, 0000
JAMES E. TRELEAVEN, 0000
MICHAEL B. TRINCHITELLA, 0000
MATTHEW A. TRIPPY, 0000
KEVIN T. TRISSELL, 0000
GERALD J. TROMBLEY, 0000
*MARIO J. TRONCOSO, 0000
TODD M. TRUAX, 0000
MARK TRUCHAN, 0000
RICHARD G. TRUSSELL II, 0000
BRIAN L. TUCK, 0000
GIOVANNI K. TUCK, 0000
EDSON C. TUNG, JR., 0000
MARK J. TURCOTTE, 0000
SHAUN B. TURNER, 0000
STEPHEN E. TURNER, JR., 0000
RICHARD E. UNIS, 0000
DAVID S. URE, 0000
MARK H. USTASZEWSKI, 0000
MICHAEL J. VACCARO, 0000
VICTOR J. VALDEZ, 0000
DAVID D. VALLIERE, 0000
DE WALLE CURT ALAN VAN, 0000
LJ VANBELKUM, 0000
KRISTEN M. VANCE, 0000
PETER L. VANDEUSEN, 0000
MICHAEL A. VANDOREN, 0000
ALVIN M. VANN, JR., 0000
GILLES K. VANNEDERVEEN, 0000
PETER W. VANPELT, 0000
GLENN R. VANVLIET, 0000
JUAN R. VASQUEZ, 0000
BRIAN T. VAUGHN, 0000
OSCAR R. VAUGHN, 0000
*ROBBIN F. VAUGHN, 0000
ROBERT S. VAUGHN, 0000
AGUSTIN E. VELEZ, 0000
PATRICIA O. VELEZ, 0000
THOMAS A. VENTRIGLIA, 0000
LEE A. VENTURINO, 0000
LASZLO A. VERES, 0000
SCOTT A. VESPER, 0000
EDWARD J. VEST, 0000
RICHARD A. VETSCH, 0000
PATRICK H. VETTER, 0000
GEORGE VICARI, JR., 0000
THOMAS B. VICHOT II, 0000
JOSEPH H. VIERECKL, 0000
JOSEPH A. VILLACREZ, JR., 0000
*STEPHEN H. VINING, 0000
STEVEN A. VLASAK, 0000
*ROBERT A. VOEGTLY, 0000
RANDALL L. VOGEL, 0000
WILLIAM J. VOGT, JR., 0000
JESSIE H. VOISIN, JR., 0000
DAVID J. VOLLMER, 0000
DAVID C. VONBROCK, 0000
PAUL C. VONOSTERHELDT, 0000
CHRISTINE M. VOSS, 0000
PAUL E. WADE, 0000
KEITH C. WAGNER, 0000
*THEODORE M. WAGNER, 0000
DONALD R. WAHONICK, JR., 0000
BARRY C. WAITE, 0000
MARK K. WAITE, 0000
SCOTT A. WAITE, 0000

SCOTT E. WALCHLI, 0000
FEDERICO G. WALDROND, 0000
RENEE G. WALDROP, 0000
CHRISTOPHER P. WALKER, 0000
DOUGLAS M. WALKER, 0000
MALCOLM C. WALKER, 0000
MICHAEL J. WALKER, 0000
THOMAS M. WALKER, 0000
WARD A. WALKER, 0000
TODD T. WALKOWICZ, 0000
DAVID E. WALLACE, 0000
DARRELL E. WALLIS, JR., 0000
DANIEL J. WALTER, 0000
STEPHEN D. WALTERS, 0000
MARK A. WARACK, 0000
CARL E. WARD, 0000
MICHAEL T. WARD, 0000
MICHAEL T. WARD, 0000
WILLIAM R. WARD, 0000
MICHAEL S. WASSON, 0000
DOUGLAS A. WATKINS, 0000
ERIC E. WATKINS, 0000
*CECELIA R. WATSON, 0000
PHILIP R. WATSON, 0000
BRYAN C. WATT, 0000
HOSEA R. WEARING, 0000
SHANNON D. WEATHERMAN, 0000
JOSEPH G. WEAVER, 0000
*WILLIAM M. WEAVER, 0000
JEROME G. WEBB, 0000
JOLISA WEBB, 0000
JEFFERY D. WEBBER, 0000
SCOTT D. WEBER, 0000
THOMAS J. WEBER, 0000
TIMOTHY F. WEBER, 0000
RAYMOND J. WEBSTER III, 0000
JEFFREY R. WEED, 0000
JAMES C. WEIGLE, 0000
JAMES L. WEINGARTNER, 0000
RICHARD A. WEIR, 0000
CLYDE A. WEIRICK, 0000
REBECCA E. WEIRICK, 0000
DOUGLAS P. WEITZEL, 0000
*JAMES H. WELBORN, JR., 0000
PATRICIA K. WELCH, 0000
*SUSAN K. WELCH, 0000
STEVEN M. WELD, 0000
DOUGLAS H. WELLS, 0000
SCOTT R. WELLS, 0000
RUSSELL P. WELSCH, 0000
DERON L. WENDT, 0000
MICHAEL R. WENZL, 0000
GUY C. WERNER, 0000
GARY F. WESSELMANN, 0000
KENNETH T. WESSELS, JR., 0000
DENISE M. WEST, 0000
JOHN E. WEST, JR., 0000
JOHN W. WEST, 0000
RITCHIE L. WEST, 0000
ROBERT A. WEST, 0000
KERSHAW L. WESTON, 0000
JAMES E. WEYER, 0000
MARK S. WHINNERY, 0000
ANDREW C. WHITE, 0000
DAVID T. WHITE, 0000
NATHAN A. WHITE, 0000
NATHAN T. WHITE, 0000
RANDALL G. WHITE, 0000
TODD D. WHITE, 0000
WILLIAM G. WHITE, 0000
SHANNON L. WHITED, 0000
STEPHEN N. WHITING, 0000
JAMIE S. WHITLEY, 0000
*JAMES T. WHITLOW, 0000
JAMES T. WICKER, 0000
*MICHAEL H. WIDMER, 0000
JIM R. WIEDE, 0000
JEFFREY J. WIEGAND, 0000
MARSHA W. WIERSCHKE, 0000
STEVEN D. WILCOX, 0000
LEAF SANDRA L. WILKERSON, 0000
WILLIAM D. WILKIE, 0000
JOHN W. WILKINSON, 0000
JOHN A. WILLCOCKSON, 0000
CHARLES D. WILLIAMS III, 0000
CHRISTOPHER R. WILLIAMS, 0000
DARRYL R. WILLIAMS, 0000
GRETCHEN D. WILLIAMS, 0000
JOHN A. WILLIAMS, 0000
JOHN A. WILLIAMS II, 0000
JOHN D. WILLIAMS, 0000
STEPHEN H. WILLIAMS, 0000
TIMOTHY N. WILLIAMS, 0000
WALTER B. WILLIAMS, 0000
WILLIE J. WILLIAMS, JR., 0000
DAVID D. WILLIS, 0000
STEVEN E. WILLIS, 0000
ROBERT W. WILLOUGHBY, 0000
MARK E. WILLS, 0000
BRYAN L. WILMUNEN, 0000
CRAIG D. WILSON, 0000
EVA C. WILSON, 0000
GAVIN P. WILSON, 0000
HAROLD L. WILSON, 0000
JEFFREY H. WILSON, 0000
KENNEDY B. WILSON, JR., 0000
PAUL G. WILSON, 0000
ROBERT D. WILSON, 0000
*TRISHA L. WILSON, 0000
WILLIAM J. WILSON, 0000
DAVID W. WIMS, 0000
DONALD W. WINGATE, JR., 0000
JAMES D. WINGO, JR., 0000
MARK S. WINGREEN, 0000
ANNE M. WINKLER, 0000
JOHN S. WINSTEAD, 0000
ROHINI T. S. WINTERS, 0000
JON K. WISHAM, 0000
JAMES W. WISNOWSKI, 0000
ROGER J. WITEK, 0000
RANDY L. WITHAM, 0000
DANNY R. WOLF, 0000
JULIA A. WOLF, 0000
DANIEL D. WOLFER, JR., 0000
JOHN C. WOLLSLAGER, 0000
DIANE C. WOLTERING, 0000
THOMAS J. WOLVERTON, 0000
DAVID P. WONCHALA, 0000
WILLIAM P. WONDRA, 0000
ENOCH K. WONG, 0000
DAVID R. WOOD, 0000
KENTON T. WOOD, 0000
PAUL R. WOOD, 0000
DOUGLAS A. WOODBURY, 0000
WILLIAM A. WOODCOCK, 0000
CHRISTOPHER R. WOODHEAD, 0000
THIERRY C. WOODS, 0000
TIMOTHY A. WOODS, 0000
RONALD J. WORTMAN, 0000
COLIN J. WRIGHT, 0000
CONNIE L. WRIGHT, 0000
DAVID C. WRIGHT, 0000
DEAN N. WRIGHT, 0000
CHRISTOPHER J. WYMAN, 0000
JOHN P. WYNNE, 0000
JOSEPH M. YAKUBIK, 0000
KAREN C. YAMAGUCHI, 0000
BARBARA J. YANCEY, 0000
THOMAS W. YARGER, JR., 0000
BRIAN E. YATES, 0000
ROBERT E. YATES, 0000
*ROGER C. YGBUHAY, 0000
*FRANK C. D. YOUNG, 0000
MONTE W. YOUNG, 0000
ROBERT B. YOUNG, JR., 0000
SEANTA C. YOUNG, 0000
STEPHANIE P. YOUNG, 0000
MICHAEL S. YOUNGLING, 0000
MICHAEL J. YOUNGSON, 0000
DAVID R. YOUTSEY, 0000
SARAH E. ZABEL, 0000
JAMES RICHARD ZAGATA, 0000
JOSEPH A. ZAHN, 0000
*ANTHONY M. ZANCA, 0000
*JOSEPH S. ZAREN, 0000
PAUL ALBERT ZAVISLAK, JR., 0000
CATHERINE M. ZEITLER, 0000
BRIAN P. ZEMBRASKI, 0000
ARTHUR E. ZEMKE, 0000
LEON D. ZERA, 0000
WILLIAM H. ZIENER, JR., 0000
JAMES A. ZIETLOW, 0000
TIMOTHY A. ZOERLEIN, 0000
DAVID R. ZORZI, 0000
JEFFREY R. ZOUBEK, 0000
MICHEL P. ZUMWALT, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT IN THE MEDICAL CORPS AND DENTAL CORPS (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

To be lieutenant colonel

KEVIN C. ABBOTT, 0000
MAUREEN A. ARENDT, 0000
GREGORY J. ARGYROS, 0000
JOHN H. ARMSTRONG, 0000
KENNETH S. AZAROW, 0000
MATTHEW S. BACHINSKI, 0000
DEAN E. BAIRD, 0000
*GEORGE R. BARBER, 0000
CAROL L. BAREKMAN, 0000
DAVID J. BARILLO, 0000
*MARK R. BAUS, 0000
JEFFREY A. BECKER, 0000
CONRAD S. BELNAP, 0000
RICHARD H. BIRDSONG, 0000
CHRISTOPHER P. BLACK, 0000
ERIN M. BOHEN, 0000
PAMELA S. BOSTIC, 0000
DAVID J. BOWER, 0000
KERRY M. BRADY, 0000
STEVEN E. BRAVERMAN, 0000
JOHN J. BROZETTI, 0000
MICHAEL R. BRUMAGE, 0000
THOMAS R. BURKLOW, 0000
KAREN L. BURMEISTER, 0000
LOUIS F. CAMPANA II, 0000
KEVIN R. CANNARD, 0000
VALERIE A. CARREGAL, 0000
FRED A. CARUSO, 0000
JOHN M. CHO, 0000
*GEORGE H. CLAYTON, 0000
KIMBERLY P. COCKERHAM, 0000
MARY C. CONAWAY, 0000
*LARRINGTON R. CONNELL, 0000
JAMES E. COOK, 0000
LISE A. COTE, 0000
THOMAS G. CRABTREE, 0000
BRIAN J. CRISP, 0000
DAVID J. CROYLE, 0000
PAUL J. CUTTING, 0000
LYNN F. DAHL, 0000
*DEBORAH L. DALVIT, 0000
MELVIN J. DAVIS, 0000
HARRIETT E. DEISSLER, 0000
DAVID J. DESILETS, 0000
CARROLL J. DIEBOLD, 0000
RICHARD T. DOMBROSKI, 0000
PAUL J. DOUGHERTY, 0000
*RICHARD F. DRUCKMAN, 0000
DARYL G. DYKES, 0000
JAMES M. ECKLUND, 0000
RANDALL A. ESPINOSA, 0000
MARY F. FARLEY, 0000
*CHRISTOPHER G. FIELDING, 0000
MICHAEL J. FINGER, 0000
JOEL T. FISHBAIN, 0000
*LARRY B. FISHER, 0000
DIANE M. FLYNN, 0000
JOHN L. FONTANA, 0000
JEFFREY M. GAMBEL, 0000
THOMAS P. GARIGAN, JR., 0000
*MICHAEL E. GARVIN, 0000
BENNY T. GEE, 0000
ROGER K. GEORGE, 0000
CARL A. GIBSON, 0000
WILLIAM R. GILLILAND, 0000
*JIHAD I. HADDAD, 0000
KATHY L. HARRINGTON, 0000
KENNETH C. HARRIS, 0000
ROBERT M. HARRIS, 0000
ROMAN A. HAYDA, 0000
PATRICK T. HEALEY, 0000
ARTHUR HERPOLSHEIMER, 0000
KENNETH HIGBY, 0000
ROGER M. HINSON, 0000
DALLAS W. HOMAS, 0000
*NAOMI J. HOROWITZ, 0000
JAMES S. HU, 0000
CRAIG M. HUDAK, 0000
RICHARD A. JORDAN, 0000
WILLIAM J. KAISER, 0000
ROBERT J. KAZRAGIS, JR., 0000
CHRISTOPHER K. KIM, 0000
*KENNETH R. KLIER, 0000
RICHARD W. KNIGHT, 0000
STEVEN J. KNORR, 0000
PHILLIP KOHANSKI, 0000
JOHN F. KRAGH, JR., 0000
STEPHEN J. KRIVDA, 0000
TIMOTHY R. KUKLO, 0000
ALEXANDER L. LAMBERT, 0000
WILLIAM L. LANG, 0000
KEVIN E. LEAHY, 0000
HON S. LEE, 0000
MARK R. LEE, 0000
ERNEST G. LOCKROW, 0000
ARTHUR W. LOESEVITZ, 0000
DANIEL I. LOUBE, 0000
MARK A. LOWRY, 0000
MICHAEL H. LUSZCZAK, 0000
*JULIA A. LYNCH, 0000
*MICHAEL P. MAHONEY, 0000
*RANDALL J. MALCHOW, 0000
*TIMOTHY M. MALLON, 0000
*GONZALEZ R. MARIN, 0000
*JESUS A. MARQUEZ, 0000
*WILLIAM S. MARSH, III, 0000
*JOHN P. MATLOCK, 0000
*MICHAEL D. MATTHEWS, 0000
*JOSEPH F. MC KEON, 0000
*JENNIFER J. MC NEIL, 0000
*MARK D. MENICH, 0000
*ROBERT J. MILLER, 0000
*WILLIAM J. MILUSZUSKY, 0000
*JOHN H. MITCHELL, 0000
*JOHN C. MOAD, 0000
*WILLIAM T. MONACCI, 0000
*PAUL D. MONGAN, 0000
*JOHN B. MOODY, 0000
*LEON E. MOORES, 0000
*ALLEN F. MOREY, 0000
*MICHAEL J. MORRIS, 0000
*KEVIN P. MURPHY, 0000
*MARK A. MYERS, 0000
*ROBERTO N. NANG, 0000
*JAMES F. NEWCITY, 0000
*JOHN D. NG, 0000
*PETER E. NIELSEN, 0000
*JOSE E. OLAZAGASTI, 0000
*JOSEPH PAFUMY, 0000
*PHILIP J. PANDOLFI, 0000
*CATHY J. PARSELLS, 0000
*MARK F. PEAKE, 0000
*FELICIA F. PEHRSON, 0000
*JONATHAN A. PERKINS, 0000
*STEPHEN C. PHILLIPS, 0000
*JOSEPH C. PIERSON, 0000
*JOSEPH S. PINA, 0000
*SIMON H. PINCUS, 0000
*JOSEPH P. PULCINI, 0000
*WILLIAM B. REECE, 0000
*KEVIN G. RODGERS, 0000
*NEREIDA ROMERO, 0000
*JOHN R. ROWE, 0000
*ERIC J. RUBEL, 0000
*WILLIAM F. RUNYON, JR., 0000
*DAVID T. SCHACHTER, 0000
*DOMINIQUE H. SCHIFFER, 0000
*RICHARD B. SCHWARTZ, 0000
*KEVIN C. SHANDERA, 0000
*MICHAEL J. SIGMON, 0000
*RONALD E. SMITH, JR., 0000
*SCOTT A. STANEK, 0000
*WILLIAM R. STEVENS, 0000
*CAROLYN A. SULLIVAN, 0000
*ALLEN J. TAYLOR, JR., 0000
*RAY N. TAYLOR, 0000
*STEVEN A. TAYLOR, 0000
*JOACHIM J. TENUTA, 0000
*JOHN A. THAYER, 0000
*ASHTON C. * TRIER, 0000
*RICHARD F. TROTTA, 0000
*RICHARD P. VINSON, 0000
*VINCENT P. VISSICHELLI, 0000
*DOUGLAS S. WALSH, 0000

*WINSTON J. WARME, 0000
*PETER V. WEBER, 0000
*THOMAS G. WICHGERS, 0000
*RICHARD J. WINDHORN, 0000
*MARK G. ZIEMBA, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT IN THE ARMY NURSE CORPS, MEDICAL SERVICE CORPS, ARMY MEDICAL SPECIALIST CORPS, AND VETERINARY CORPS (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

To be major

*CELETHIA M. ABNER, 0000
*KENNETH N. ABNEY, 0000
*BARBARA A. AGEN, 0000
*EDWIN M. ALBERTO, 0000
*SUZANNE D. ALEXANDER, 0000
*JAMES R. ANDREWS, 0000
*IAN R. ASHCROFT, 0000
*THELDA J. ATKIN, 0000
*SCOTT B. AVERY, 0000
*THOMAS P. AXTMAN, 0000
*TIMOTHY L. BAKER, 0000
*BRENDA J. BALL, 0000
*DONALD W. BANKS, 0000
*KENNETH L. BATEY, 0000
*RISA D. BATOR, 0000
*MICHAEL P. BEATTY, 0000
*TANYA M. BEECHER, 0000
*CONSTANCE A. BELL, 0000
*THERESA L. BIRON, 0000
*CASSANDRA E. BLAKLEY, 0000
*PAUL D. BLIESE, 0000
*KARL C. BOLTON, 0000
*JODY L. BORG, 0000
*CAROL A. BOSSONE, 0000
*ANTHONY C. BOSTICK, 0000
*CLANHOPE A. BOWLIN, 0000
*CARLTON C. BRINKLEY, 0000
*KRISTINE M. BRISTOW, 0000
*RAE M. BROADNAX, 0000
*EDYTHE A. BROWNE, 0000
*STEVEN H. BULLOCK, 0000
*M. L. BULLOCK, 0000
*KARL D. BUSCH, 0000
*JOHN D. BUTLER, 0000
*MYRNA C. CALLISON, 0000
*NOEL J. CARDENAS, 0000
*VICKI L. CARR, 0000
*MARY K. CARSON, 0000
*KENNETH J. CARTER, 0000
*JOSE M. CASTRO, 0000
*LEE A. CEBULA, 0000
*JOHN G. CHARBONNEAU, 0000
*JULIANN M. CHAVEZ, 0000
*SATURNINO CHAVEZ, 0000
*GREGORY Q. CHEEK, 0000
*PLACIDIA M. CLARK, 0000
*DEBRA L. CLISE, 0000
*WALTER H. CONNERY, 0000
*MARY F. COOPER, 0000
*SONYA J. CORUM, 0000
*PAULA A. COUGHLIN, 0000
*RUTH G. CRAMPTON, 0000
*KIMBERLY A. CROSLAND, 0000
*STEPHANIE E. DAUGHERTY, 0000
*GRETCHEN L. DEMMIN, 0000
*RICK G. DICKINSON, 0000
*PAMELA A. DILL, 0000
*RAYMOND S. DINGLE, 0000
*MARGARET A. DIXON, 0000
*MARSHA M. DOROUGH, 0000
*MARY J. DORSCHNER, 0000
*ROGER W. DOUGHERTY, 0000
*WILLIAM S. DRENNON, 0000
*CYNTHIA G. DUCKETT, 0000
*JOSEPH G. ECKERT, 0000
*DAWN B. ERCKENBRACK, 0000
*PAMELA M. EVANS, 0000
*PHREDD J. EVANS, 0000
*RICHARD L. EVANS, JR., 0000
*ALLESA J. EWELL, 0000
*MYRON L. FAY, 0000
*EMERY B. FEHL, 0000
*TRACI E. FERGUSON, 0000
*LINDA W. FISHER, 0000
*HELEN FORD, 0000
*JONATHAN M. FRADKIN, 0000
*CYNTHIA M. FRASER, 0000
*MICHAEL D. FRAVELL, 0000
*TAMARA J. FREEMAN, 0000
*LARRY M. FREYBERGER, 0000
*JONATHAN C. FRISTOE, 0000
*DAVID S. GALLOWAY, 0000
*KEVIN T. GALLOWAY, 0000
*RUTH GARBETT, 0000
*ANN M. GARVEY, 0000
*EVELYN GAVIN, 0000
*PETRINA E. GAVRILIS, 0000
*ELIZABETH A. GELINAS, 0000
*LISA S. GENTES, 0000
*BRIAN J. GENTILE, 0000
*DAVID M. GILES, 0000
*WILLIAM T. GOFORTH, 0000
*DONOVAN G. GREEN, 0000
*TARRA L. GREEN, 0000
*JOHN T. GROVES, 0000
*GERALD J. GRUBER, 0000
*LINDA L. GUTHRIE, 0000
*RICHARD K. HANISCH, 0000
*CHRIS E. HANSON, 0000
*DEBORAH L. HASTINGS, 0000
*SONIA T. HAUCK, 0000
*SHARON E. HEALY, 0000
*RONALD B. HENRY, 0000
*EDMUNDO M. HERNANDEZ, 0000
*MARK R. HICKMAN, 0000
*PAUL A. HIRD, 0000
*RUTH E. HOLJE, 0000
ROY D. HORNE, 0000
TONI D. JACKMAN, 0000
*DANNY B. JAGHAB, 0000
*BEVERLY JEFFERSON, 0000
*MARY C. JEFFERSON, 0000
*ERIC M. JOHNSON, 0000
*KINDALL L. JONES, 0000
*IVETTE JUSTICE, 0000
*MELISSA W. KAUFMAN, 0000
*RICHARD T. KELLER, 0000
*BRETT J. KELLY, 0000
*JOHN E. KENT, 0000
*KEITH W. KETTELL, 0000
*VICTORIA S. KILCAWLEY, 0000
*HYELAN KIM, 0000
*REBECCA R. KITZMILLER, 0000
*TIMOTHY L. KNICKERBOCKER, 0000
*LORRAINE M. KNIGHT, 0000
ANGELA A. KOELSCH, 0000
SHERYL M. KOELTZOW, 0000
*JOHN V. KORBY, 0000
*AMY K. KORMAN, 0000
*WAYNE E. KOSTOLNI, 0000
GIOVANNI T. KOTORIY, 0000
*RONALD L. KROGH, 0000
JANET L. KUBAS, 0000
*PATRICK A. KUNTZ, 0000
WILLIAM P. LACHANCE, 0000
*GREGORY T. LA FRANCOIS, 0000
*TAMARA J. LA FRANCOIS, 0000
*GARY M. LANG, 0000
*JOSEPH E. LAUNDREE, 0000
*STEPHEN P. LAYMAN, 0000
*MARC A. LEWIS, 0000
*LORRAINE L. LINN, 0000
*JENEVIE G. LLANES, 0000
*JOHN W. LONCZAK, 0000
*MICHAEL J. LOPATKA, 0000
*DUKE A. LOPEZ, 0000
*KYU S. LUND, 0000
MARIO C. MALLARI, 0000
*STACEY C. MANGANA, 0000
PETER V. MARKS, JR., 0000
DOUGLAS M. MARR, 0000
*SAMUEL L. MARTIN, 0000
TEDDY H. MARTIN, 0000
MATTHEW E. MATTNER, 0000
*BARBARA L. MAUFAS, 0000
NEDRICK L. MC DADE, 0000
*MICHAEL W. MC DOUGAL, 0000
*MADELYN S. MC KENNAN, 0000
*GESELLE M. MC KNIGHT, 0000
*JAMES D. MC LAIN, 0000
*ERIN C. MC LAUGHLIN, 0000
*MICHAEL A. MC MAHON, 0000
*GARY G. MC NEILL, 0000
KAREN J. MEADOWS, 0000
JOHN F. MERKLE, 0000
*PATRICIA MERRILL, 0000
STEVEN P. MIDDLECAMP, 0000
*JAMES R. MILLER, 0000
*STEVEN G. MILLWARD, 0000
*ERIC L. MOORE, 0000
*BRIAN D. MOORE, 0000
*DONNA E. MOORE, 0000
*RICARDO D. MORALES, 0000
*WILLIAM J. MORAN, JR., 0000
*MARK E. MORGAN, 0000
*SEAN T. MORGAN, 0000
*THOMAS S. MORGAN, 0000
FINK C. MOSER, 0000
*WANDA R. MOULTRIE, 0000
*LUIS A. MUNIZ, 0000
*KRISTIN A. MURPHY, 0000
*LEN E. MURRAY, 0000
*FAULKNER G. MURRAY, 0000
*WILLIAM G. MYERS, 0000
TIMOTHY L. NAPORA, 0000
*KATHLEEN M. NENNINGER, 0000
*JOHN A. NERGES, 0000
*JAMES B. NIX, 0000
*ERIC D. OSTREM, 0000
*EDDIE J. PALINSKY, 0000
*SUSAN M. PALMER, 0000
*RALPH P. PARKER, JR., 0000
JOHN C. PASTINO, 0000
FRANCISCO C. PAULINO, JR., 0000
*RICHARD D. PAZ, 0000
*ROBERT K. PELL, JR., 0000
*KELLY L. PEROUTKA, 0000
MICHAEL P. PETERMAN, 0000
*DEXEL V. PETERS, 0000
*JENNIFER L. PETERSEN, 0000
*COREY R. PETERSON, 0000
*HAMILTON PLAZAGARCIA, 0000
*CHERYLN A. POLLARD, 0000
REBECCA PORTER I, 0000
*BRADLEY G. PREDMORE, 0000
*RICHARD J. PROBST, 0000
*DEBRA A. RAMP, 0000
*TERRESA S. RANDOLPH, 0000
*JOANNA J. REAGAN, 0000
*KENNETH W. REESE, 0000
*DANIEL G. RENDEIRO, 0000
*EDWARD J. RICE, 0000
*SHELLEY A. RICE, 0000
DAVID G. RICHARDSON, 0000
*JEFFREY ROOS, 0000
*DANYLO O. RUDAKEVYCH, 0000
*CAROL Z. RYMER, 0000
*LESLEE F. SANDERS, 0000
*EVELYN J. SANGSTERCLARKE, 0000
*ROBERT P. SAVAGE, 0000
*THERESA A. SCHERFF, 0000
*MARK W. SCHIERENBECK, 0000
LEE H. SCHILLER, JR, 0000
*MATTHEW J. SCHOFIELD, 0000
*JACQUELINE R. SCHULER, 0000
*JEFFREY D. SCHULTZ, 0000
*CHARLOTTE W. SCOTT, 0000
*GARY A. SEAL, 0000
*PATRICK G. SHANNON, 0000
*KENNETH S. SHAW, 0000
*DAVID V. SHEAFFER, 0000
*JAMES T. SHEETS, 0000
*DAVID W. SHEPHERD, 0000
*MARY K. SHULER, 0000
*ANNE S. SIGOUIN, 0000
*KATHLEEN M. SILKA, 0000
*BETTY J. SIMMONS, 0000
*THOMAS SIMPKINS, 0000
*JAMES K. SJOVALL, 0000
*BRUCE A. SLACK, 0000
JOHN A. SMITH, 0000
*OLIVE M. SMITH, 0000
*STEVEN D. SMITH, 0000
*JAMES B. SNOW, 0000
*BEVERLY K. SNYDER, 0000
*IVAN D. SPEIGHTS, SR, 0000
*MIRIAM A. SPELLS, 0000
*SARA T. SPROAT, 0000
ANDREA M. STAHL, 0000
*JOHN M. STANG, 0000
KEVIN J. STEVENS, 0000
*BENJAMIN STINSON, 0000
*RANDY STORY, 0000
*GREGORY D. STYLES, 0000
*CELIA G. SUKON, 0000
BOBBI K. SUNDERLAND, 0000
*JOHN E. SUTTON, 0000
CHARLES K. TANNER, 0000
*JERRY S. THOMAS, 0000
SONDRA S. THOMPSON, 0000
*ORTIZ S. TILLMAN, 0000
*WILLIAM B. TILSON, 0000
*JAMES D. TONER, 0000
JORGE TORRES, 0000
*GARY W. TRYNISZEWSKI, 0000
*RANDY H. TUREK, 0000
*JAMES B. UPTON, 0000
JOSEPH J. VANCOSKY, JR, 0000
*PAULA A. VINCENT, 0000
*TERSCH R. VON, 0000
*MICHAEL R. VOORHIES, 0000
ROBERT M. WALKER, JR, 0000
*TROY L. WALKER, 0000
*FRANCES K. WARD, 0000
*JANET L. WASHINGTON, 0000
SANDRA D. WASHINGTON, 0000
*LORNA L. WEBER, 0000
HOBERT W. WELLS, III, 0000
*LARRY D. WEST, 0000
*NEVA J. WESTHOFF, 0000
MARK R. WHITE, 0000
*WATRINA W. WHITE, 0000
HARRY L. WHITLOCK, II, 0000
*CHRISTINE E. WIECZOREK, 0000
*RUSSELL L. WIESSINGER, 0000
ROBERT A. WIKE, 0000
*ERIN V. WILKINSON, 0000
*STACEY A. WILLIAMS, 0000
*CHERUB I. WILLIAMSON, 0000
*KARL O. WILSON, 0000
*MARK T. WORD, 0000
*JULIO A. ZAYAS, 0000
*SUSAN C. ZAYASGRUBER, 0000
*ALEX P. ZOTOMAYOR, 0000
*SHANDA M. ZUGNER, 0000

DEPARTMENT OF STATE

DAVID G. CARPENTER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE, VICE ERIC JAMES BOSWELL, RESIGNED.

DAVID G. CARPENTER, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF FOREIGN MISSIONS, AND TO HAVE THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE, VICE ERIC JAMES BOSWELL.

RICHARD HENRY JONES, OF NEBRASKA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KAZAKHSTAN.

CHARLES F. KARTMAN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS SPECIAL ENVOY FOR THE KOREAN PEACE TALKS.

KATHRYN DEE ROBINSON, OF TENNESSEE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GHANA.

ROBERT PATRICK JOHN FINN, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TAJIKISTAN.

CONFIRMATION

Executive nomination confirmed by the Senate July 7, 1998:

ENVIRONMENTAL PROTECTION AGENCY

SALLYANNE HARPER, OF VIRGINIA, TO BE CHIEF FINANCIAL OFFICER, ENVIRONMENTAL PROTECTION AGENCY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.